

## Address

Ward P.D. ELCOCK\*

Thank you very much for inviting me to participate on this panel. It's a pleasure for me to be here with two such well known and distinguished colleagues, albeit from different disciplines. In that context, I represent, I suppose, the practitioners, which presents me with a challenge in the sense that I am unable, for obvious reasons, to be quite as open as they have been, although I will try to be as informative as I can.

Prior to September 11, two-thirds of CSIS's resources were already directed to our Counter-Terrorism program. Also prior to the events of September 11, Sunni Islamic extremism was already the major focus of investigation within CSIS's Counter-Terrorism program, as it had been for a number of years.

The events of September 11 did not change our focus; they only intensified existing investigations against Sunni extremists in Canada.

In the past, I have been quoted as saying that Canada is a haven for terrorists. The only difficulty is that I did not say it. What I have said is that such people have sought to find a haven in Canada. Hardly surprising, given our reputation, as with other wealthy Western democracies, for openness along with probably the most multi-ethnic population in the world drawn in part from areas of conflict around the world.

The issue focus, therefore, is what we do as a country to prevent those who seek such haven from succeeding and has less to do with the fact that they do seek to come here. In other words, the problem is common to *all* Western democracies, some of which face as big or bigger challenges than we do.

---

\* Director, Canadian Security Intelligence Service, Ottawa, Ontario.

I have also been quoted as saying that CSIS is investigating approximately 50 organizational groups and upwards of 300 individual targets under the Counter-Terrorism program. Those numbers—perhaps because no one had ever provided numbers in the past—quickly became gospel. What few understood at the time was that those numbers were simply a snapshot at a particular moment intended to respond to those who, depending on which side of the fence they were, thought either that there were thousands of terrorists in Canada, or that we were watching everyone in Canada.

The point of the response was that neither was true. While I believe that one member of a terrorist group in Canada is one too many, it is nevertheless important, in my view, to not lose sight of reality as we respond to the events of September 11 and beyond.

To put the numbers in perspective, it is important to keep in mind that the number of people we are looking at in Canada is not large, whether you look at targets of serious concern or even the broader group that would include less serious targets. It is also important to understand that of the broad spectrum of groups or individuals that qualify as threats to the security of Canada in the sense of our Act, few of those groups or individuals pose a threat of a direct terrorist attack in Canada or, indeed, to our closest neighbour, although they may pose such a threat elsewhere in the world. Finally, I would simply reiterate Mark Twain's notorious lament about "lies, damn lies, and statistics". Numbers, however intriguing they appear or however important they may be to a good newspaper story, are often less useful than they appear. On any given day, our number of targets could vary considerably, in either direction, as we look at, or discard or acquire new or different targets. The numbers on any given day, therefore, reveal little or nothing about our level of success or, indeed, the nature of the problem.

That said, most of the world's terrorist groups, including Oussama Ben Laden's Al-Qaeda, have adherents in Canada. Islamic terrorists from Algerian, Egyptian, Libyan and Somali groups also have sympathizers in Canada and it behoves us to deal with that reality.

Our efforts are crucial, not only with respect to expectations by our Government and by Canadians, but just as significantly in the international arena, as the fight against terrorism is an international effort.

Most of CSIS's more committed Sunni targets are products of the Jihad. They have fought with the Arab Mujahedin in Afghanistan, Bosnia and Chechnya, and have participated in Oussama Ben Laden's terrorist training camps. Many of the people trained in those camps have since dispersed to 60 countries around the world, including Canada.

Indeed, the willingness of Islamic terrorists to use Canada as a staging ground was clearly demonstrated by the case of Ahmed Ressam who, as you will recall, was convicted in April 2001 for attempting to cross into the United States with bomb-making material in December of 1999.

Most of these targets are very security conscious and operate in cell-like structures. The nature of the links between individuals makes them very difficult to investigate. In addition, many of the Canada-based Sunni extremists are also well educated and highly computer-literate. They take advantage of encrypted e-mails, cell phones and satellite communications. Those skills pose a real challenge for CSIS and, indeed, other intelligence services around the world, as well as presaging the threat from those who will seek to use those skills as more than operational tools.

Do I believe we have a good grasp on the nature of the threat in Canada? I would say yes, but I have to add to that the caveat that we are in the business of trying to find out what we do not know. By definition, therefore, there is risk in making such a statement, so the largest part of our assets and resources are dedicated to the investigation of the threat, and they are working very, very hard at it.

In the weeks following the September 11 attacks, the Service operated in an around-the-clock mode to enable us to gauge any change in the threat posed by Sunni Islamic extremist elements in Canada and, as time went on, to closely monitor the potential for any retaliatory attacks against the United States or coalition partners. As well, we did so to respond to any and all requests for assistance from, in particular, US agencies, of which there have been many. The Service remains in a heightened state of alert, and we expect to be for the foreseeable future.

This threat is not going to go away in the short to medium term. Rather, we believe that the Sunni extremist threat continues to be a real one, and that key structures or elements of their organizations remain capable of operating, even if we have not seen additional terrorist attacks, and even if we are right in believing that the structures of the extremist groups have been degraded, or disrupted, by the impact of the war and heightened vigilance worldwide.

Given what we know about the number of individuals who have gone through Ben Laden/Al-Qaeda terrorist training camps, and the fact that many are now entrenched around the world, even though their capacity has been degraded or disrupted, it will take some time, perhaps years, to deal with those elements and assure ourselves that the threat has been defeated.

As George Tenet, the Director of the CIA, has indicated in public testimony, there are indications that Sunni Islamic extremist groups such as Al-Qaeda still have plans to strike against US and allied targets.

The important point here is that the war on terrorism has not yet destroyed Al-Qaeda. It remains willing and able to strike. Many Al-Qaeda leaders are still at large and are working to reconstitute the organization and resume its terrorist operations.

Turning to some of the challenges that lie ahead, some may think that because I have said that the numbers of terrorist elements in Canada relative to our population are not large, it means that I think the new anti-terror legislation is unnecessary. Far from it. Indeed, it was a success, in terms of prevention, the moment it was tabled. As an example, we are already seeing some groups, particularly those engaged in the collection of funds for terrorist organizations, retreating. As well, we have seen individuals we regarded as hardcore members of various groups who are now willing to talk to us and, in some cases, to assist us.

There will, in addition, be some successful prosecutions with the new tools provided under *Bill C-36*,<sup>1</sup> although the numbers may not be large. In part, this relates to the difficulty of the targets, as I mentioned earlier, but also because terrorism is not always easily amenable to legal processes, as some of the debate in the United States over the past months makes clear.

It is often said that terrorists are criminals. Absolutely true, in the sense that the terrorist *act* is criminal. But—and this is a very important but—the reality is that many of the people who would be of concern to CSIS will actively avoid committing any crime in Canada so as not to come to the attention of

---

<sup>1</sup> *Anti-terrorism Act*, S.C. 2001 [hereinafter *Bill C-36*].

authorities in Canada. There are people who commit criminal acts which will allow police to deal with them, but that is not true in most cases.

As well, in many cases, the only information that might support a prosecution in Canada may be information that is extremely sensitive because of the way in which it was acquired. For example: a human source operating in a foreign country, or collection using highly classified technology, or a sensitive foreign intelligence operation. There may also be cases where the information is obtained from a foreign service which we would regard as credible for our purposes to undertake an investigation, but which in a Canadian court would be quickly challenged and would not likely provide a basis for a prosecution.

It may also be true that the individuals here are a small part of a larger conspiracy more often than not based somewhere else and targeted somewhere else. In such cases, the balance between detection and forewarning and enforcement efforts in Canada becomes crucial. Does one move on a more minor criminal prosecution if a more major success is achievable? There are similar issues in the investigation of terrorists. How do we detect a very difficult target and contribute to successful efforts to deal with it around the world, if the results of the enforcement efforts here will have the effect of further obscuring the targets and their ongoing plans, both of which are already difficult to find?

How, then, will terrorists be dealt with, to the extent that they are identified in Canada? It is not my intention to be exhaustive, and while I am a lawyer by background, I learned long ago not to give myself legal advice. To canvass some of the possibilities, some will be dealt with under Immigration legislation. New provisions will, for example, allow the use of classified information in dealing with refugee claimants in a process analogous to the section 40.1 process of the *Immigration Act*.<sup>2</sup> As well, section 40.1 of the existing *Immigration Act* will allow us to continue to expel those who do not have Canadian citizenship.

In the latter case, we have succeeded in expelling some 14 major terrorist *targets*. Each of these cases was carefully selected because the individual was regarded as a major threat, since it costs about a million dollars to succeed in such an investigation and the ensuing court costs.

---

<sup>2</sup> R.S.C. 1985, c. I-2.

Those cases have drawn repeated legal challenges, but more resources and a very solid body of successful jurisprudence, particularly after the Supreme Court's decisions concerning the Suresh/Ahani deportations,<sup>3</sup> should allow this option to be used more frequently. As well, where individuals are wanted abroad and can be extradited or are arrested abroad, these will also be options to adopt.

In some cases, disruption will be crucial. There are instances in the past months where extensive interviews or other actions have been carried out with targets of concern to try and disrupt any operation they might be planning. Similar tactics may also be necessary in the future, particularly where there are serious warnings but not enough to justify any other action.

However, the decision to undertake such action is frequently not simply a Canadian choice. As I said at the beginning, not all the targets here are major targets, but they may be connected to others abroad who are. As a result, such action has to be coordinated carefully with other foreign agencies. Secondly, such action has to be very carefully considered where one is dealing with a sophisticated, highly motivated terrorist organization. One can quickly lose all one's intelligence access and, therefore, any ability to monitor targets of concern down the road.

Finally, as I said before, there will be cases, particularly under the new legislation, which will allow law enforcement agencies to succeed in dealing with terrorist activities. In particular, this will, I think, be true of the provisions relating to fund-raising, which is at the end of the day the life's blood of many terrorist organizations.

---

<sup>3</sup> *Suresh v. Canada (Minister of Citizenship and Immigration)*, 2002 SCC 1; *Ahani v. Canada (Minister of Citizenship and Immigration)*, 2002 SCC 2.

In closing, I hope that I have given you a somewhat better appreciation for some of the challenges we are now facing and also preparing for in the future. The terrorist threat is not going away for the foreseeable future, nor likely will some of the hurdles I have just spoken about today.