

Historical Declassification and Access to Information – A Bureaucrat`s Nightmare. Unofficial views on what historians and archivists release in the Department of National Defence.

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Since 1945, the Canadian military has taken part in a large number of operations ranging from Korea, NATO roles, support to coalition forces in the Gulf War, to numerous peacekeeping missions, throughout the world. Complete, accurate information about these activities and other domestic activity by the armed forces is difficult to get. In fact, detailed information about intelligence aspects of military activities is very difficult to find in the open domain and what is provided through open sources might be regarded as suspect.

A number of scholars, such as Walter Dorn and David Charters, have attempted to fill this gap, publishing articles which address the reasons for and against openness in intelligence gathering activities, especially in the context of the United Nations and peacekeeping.¹

Both draw upon military history to make their cases, showing from past experiences the advantages and disadvantages of certain intelligence gathering practises. Their articles are realistic assessments and take into account inaccurate intelligence and

deliberate distortion in sources and, moreover, they demonstrate how, using open sources and interviews, scholars may analyse current situations in an objective manner. However, they are limited by the information available to them.

This problem raises the question of what is released by historians and archivists at the Department of National Defence. First of all, we are limited by what exists in the documents. Completeness, accuracy, objectivity, and timeliness are goals that are promoted in the keeping of DND records, but are these achieved?

There are two main sources created by the Canadian armed forces, specifically for the purposes of historical record keeping. Both War Diaries for units on active operations and Annual Historical Reports for all other units are monitored by staff at the Directorate of History and Heritage (DHH) to ensure that they meet reasonable standards of good record keeping.

The War Diary Team was established in 1998 in response to the Somalia Commission's recommendations on records keeping.

Usually the Unit Operations Officer or the Combat Officer is responsible for the creation of diaries: that officer may be assisted by the Senior Duty Officer or the Unit Intelligence Officer. Thus, the creation of the record is in the hands of the units concerned, but the close monitoring of it and the provision of professional historical advice from headquarters ensures that the unit may benefit from having an accurate account of its activities to draw upon.

Since October 1999, the Annual Historical Reports have been dramatically improved, through electronic formatting, through more systematic monitoring, and through the use of the Canadian Forces messaging system (CANFORGENs) to reach every formation, command and unit of the Canadian Forces. The DHH web site contains detailed instructions concerning the preparation of both War Diaries and Annual Historical Reports, allowing for the widest possible dissemination of information to all units.

Most War Diaries are classified as SECRET. Most Annual Historical Reports are open. These designations vary according to the unit and

according to the specific situation the unit is describing. But, in principle, the use of classification allows for more completeness in the record, especially with regard to current operations. For researchers who will examine military historical topics in the future, the completeness of this record will be a blessing.

Regrettably, the necessity to classify much regarding current operations means that researchers examining current topics are less well served. But the choice is very simple. If key information regarding current operations, and especially intelligence regarding other countries, is to be included in the historical record, it must be protected. The Access to Information Act, the Officials Secrets Act, and simple common sense dictate that this information will be protected for as long as it is sensitive.

Unfortunately, common sense does not always prevail in the release of information. Some years ago, historian Larry Hannant complained about the release of information from the Canadian Security and Intelligence Service (CSIS). Censors there removed some information on British intelligence in Canadian documents though this

information had been published a long time before. Hannant enquired: "if it was too much to ask that it (CSIS) assign to the censorship duty people with sufficient knowledge of historical scholarship that information which is already in the public realm is not withheld from Access users?"² This was a beautiful question, if one based upon an absurd example.

His question deserves a thoughtful, if much belated, response that I will attempt to address with respect to the Directorate of History and Heritage (DHH), and also with respect to a changing threat assessment. Unfortunately, some information in the public domain may be harmful to national security or to personal privacy. Some information may also be regarded as classified information in another country with different standards from our own.

Those who examine documents for release may have to withhold information whether or not it exists in some form in the public domain here in Canada. Nearly all of us who release documents have been placed in the absurd position of not releasing what seemed to be

perfectly harmless information, because we did not have evidence of official release from a foreign government.

Negotiations with foreign governments and with organizations representing foreign governments for the release of information is time consuming, expensive and often frustrating in terms of results. This difficulty arises in part from Section 13 of the Access to Information Act that excludes from release information obtained in confidence from other governments or international organizations of states. The criteria for release is that either the government or organization approves its release or that it has already made the information public. That last clause does not mean merely that the information exists in the public domain.

Lack of resources for the declassification of records remains a significant constraint upon historical research and upon intelligence history in particular. DHH maintains a historical declassification programme that is designed to make maximum use of limited resources. Currently, this programme consists of one very hard working contractor. DHH has authority to declassify Canadian

defence documents up to 1980, regardless of the originator. This declassification is done by applying the criteria of the Access to Information and Privacy Acts (ATIP), but on an informal basis and with some important differences in process.

By eliminating more recent records which require a more thorough screening and which require the permission of the originators of the documents, DHH can make fairly quick headway on large bodies of documents. In addition, DHH does not sever individual documents. Severing individual documents, removing particular words and sentences as required by the formal application of ATIP, can seriously impair the integrity of the document and its meaning. As a process, this step also uses enormous resources that DHH simply does not have. It is however required by law. Any researcher may request this step and use the formal access to information route to obtain severed documents.

The DHH informal access route is a supplement to the formal route - NOT a substitute. In the informal process, sometimes several classified documents from a given file are removed in order to release

the rest of the file. Even this step may alter the meaning of the entire file, damaging contextual understanding and impairing historical interpretation.

If the formal route is taken, DHH does not perform the document severing. Rather, the historical documents are photocopied and the severing is carried out by the Directorate of Access to Information and Privacy (DAIP) people, who are expert in this matter, though few of them have the kind of historical knowledge that Larry Hannant would like to see. DAIP consults the originators of documents for opinions on the release.

These originators must consider the impact of release upon current activities and national security. The release of information is independent of what is in the public realm from other sources and it is independent of the individual making the request. Once released, information is available to anyone for whatever purpose. Put in Post 11 September terms, once information is released it is available to anyone, including potential terrorists.

Many valuable releases have been obtained through the formal process, but those who use it should exercise caution. Document removal as we practise it at DHH and document severing alters the historical record. There are certainly many cases of historical misinterpretation because of both severing and document removal.

Our declassifier, and our staff who advise the declassifier, read academic domestic and foreign works and research foreign releases made available through the web, documents publications and the like. These resources, and researchers who share their copies of foreign released documents, allow historical declassification to be more efficient and more complete.

Nonetheless, researchers who choose current topics in sensitive areas are likely to be working with very incomplete records. For intelligence topics, the period of sensitivity of records is long, and it may be a number of decades before a complete and accurate picture of events may be expected to come to light, provided that accurate records were ever kept. Even for very old documents, the subject may still be sensitive. Sometimes sensitivity actually increases with

age, as might be the case with the following documents on the following topics:

The Middle East

The former Republic of Yugoslavia

Certain African or Central American nations, or

Canadian-American relations

Even the release of a very old document may be perceived to have the potential to cause harm to “the conduct of international affairs, the defence of Canada or any state allied or associated with Canada.”³

In other words, current events DO effect the historical declassification of documents. A change in the threat perception created by an event like 11 September 2001 may affect the future declassification of historical documents as historical documents may contain information that could be used by terrorists to attack Canada or its allies.

Declassification is based upon what the declassifier knows and what the declassifier perceives in the documents and in the current situation. Such knowledge and judgments change with time.

Declassification and intelligence are linked and much depends upon

resources and time available to the declassifier. Pushed to produce quick results, declassifiers are more likely to make errors of judgement – both to close things that should be open and to open things that should be closed. But, even given full resources and much time, declassifiers will come to different judgements about the same material – just in the way that historians and intelligence officers do.

These observations bring us back to the question raised by Larry Hannant and his keen observations on the absurdities of Section 13 of the Access to Information Act. If information from a foreign state is released to the public, it meets the legal requirement for release here in Canada. This criterion appears simple enough.

However, the National Archives in Washington, D.C., recently withdrew from the public an entire special collection, part of Record Group 38, Boxes 2739-2747 entitled “Translations of Intercepted Enemy Radio Traffic” – material on American signals intelligence from 1947 to 1949. These files had been used by a number of researchers over the course of some years when they were withdrawn from public access in 1997.⁴

A knowledgeable Canadian declassifier might have legally declassified Canadian copies of these American documents and Canadian discussion of related American topics, based upon releases to the American public. Yet, if there is now a legitimate threat posed by the public availability of these records, Canadians may have to re-consider their decision to release such records. Much depends upon knowing what has happened elsewhere and the much harder question of knowing why something has happened elsewhere.

To some extent, the Directorate of History and Heritage can assist researchers in their study of these difficult questions, but official historians and archivists face their own challenges and limitations. The tradition of official military historians is to analyse all the documents available, classified and unclassified, in an effort to write a full and complete history of events. Official history, then, is deliberately designed to be critical, objective and comprehensive. But is it?

The following story about two historians, the well-known C.P. Stacey, and the young David O'Keefe, illustrates some of the limitations and value of official history. C.P. Stacey wrote the official history of Canadian Army in the Second World War some decades ago. In it, Stacey blamed the lack of intelligence for the failure of Operation Spring, an operation that decimated members of the Canadian Black Watch Regiment in July of 1944. Privately Stacey regarded the operational plans as poorly conceived, but, in the official history based upon the documents available to him, he emphasized lack of intelligence.⁵

Many years later, in the mid-1990s, David O'Keefe, a member of the Canadian Black Watch Regiment at the time, wrote a Masters Thesis entitled *Bitter Harvest. A case study of allied operational intelligence for Operation Spring, Normandy, July 25, 1944*. In this study, O'Keefe traced how the misinterpretation of poor intelligence in the official history occurred and then how it proliferated.

First, Stacey was subjected to deliberate and prolonged obfuscation by the commander responsible for the operation – Lieutenant General

Guy Simonds. Then, other historians relied upon Stacey as an authoritative source. More significantly, information about ULTRA signals intelligence was closely guarded and it remained unavailable for many years after the war.⁶ Even after information about ULTRA was released, it took time before re-assessment and re-appraisal took place.

O'Keefe describes Stacey as "walking an historical tightrope without a net" since he did not have full academic freedom and was compelled to write an "army project within an army framework". He also credits Stacey with leaving references in his correspondence files to Simond's interference in the historical work.⁷ Stacey did not have access to specific ULTRA intelligence, though he rightly suspected that higher intelligence sources existed. Official history is based upon available documents and not upon suspicions or speculation. Stacey did what he could with what he had.

O'Keefe's MA thesis demonstrates that the most experienced and talented historians, C. P. Stacey certainly being one of these, cannot write the best, the most complete and truthful history in the absence

of classified or other required sources and in the presence of interference by commanders. Yet there is no doubt that Stacey's work benefited Canada. His contribution went beyond the historical community and created an in-depth understanding of the activities of the Canadian Army during the Second World War at a time when Canadians were interested in and appreciated the value of this contribution. It remains even with this flaw and other flaws a standard source.

Much of Canadian official history depends upon access to foreign sources. The completeness of this history depends not simply upon Canadian releases but on foreign releases as well. It remains possible that Canadian commanders have access to foreign intelligence that is not shared with or made available to Canadian historians. In fact, many relevant documents may not be kept in Canada. Some documents are sent for viewing and then returned or destroyed.

Even if a historian gains access to intelligence documents in foreign archives, it is not always possible to tell whom actually saw certain

documents and when they saw the documents, although circulation lists with dates are sometimes retained. These are key pieces of information in judging the role of intelligence in military and diplomatic decision-making. Only with such careful documentation may researchers judge with certainty what the use of intelligence documents was many years ago.

Recent concern over the Canadian Access to Information Act is justified, but the solutions are complex. The Information Commissioner's *Annual Report, 2000-2001*, complained that Section 15 of the Act did not adequately link injury to the nine classes or illustrations listed in the Act.⁸ In his view, Section 15 of the Act should be amended to clarify that the classes of information listed are merely illustrations of possible injuries. The overriding issue should remain whether there is a reasonable expectation of injury to an identified interest of the state.⁹ Even with such clarification, release remains a matter of subjective judgement and resources.

It is also clear that even with the proposed Information Commissioner's amendments, Access to Information legislation,

would not have changed the scenario facing C.P. Stacey in the late 1940s and early 1950s. Canadian official historians have access to many classified documents, but these may not represent the whole body of documents relevant to the subject of their inquiry. Foreign classified documents, relevant to the activities of the Canadian Forces, and many Canadian intelligence documents have extremely limited circulation.

Nor does mere access to the documents mean that official historians can write about everything they see. It is quite clear that the law protects some sensitive information for very long time and that there are real threats to national security, to international relations and to the security of other nations. Official historians may push for the release of information, but they might have to leave out some aspects of a story if the story includes elements that might compromise national security or international relations. The possibility of this omission is one reason why official history generally addresses events that are not current.

However, in the last two decades, real progress has been made in the release of historical documents across the globe. NATO released a great deal of material from 1949 to 1968. DHH is now examining many collections previously reviewed and rejected under Section 13, because of the NATO releases. New material is available at DHH.

More new material is available at the NATO Archives in Brussels, including material on operational and planning intelligence. The NATO web site allows researchers to examine a description of their holdings and the NATO archives now has CD-ROMs available with detailed indices of released documents for researchers.

(www.nato.int/archives/tool2.html)

The U.S. National Security Archives has another very useful site with extended indices on the web. In addition, the National Library of Canada has a subscription to an American commercial web site (www.ddrs.psmedia.com) that provides full text internet access to more than 70,000 American government documents produced after the Second World War, many of which had been classified Ultra Secret, Secret, Confidential or Restricted.

The British Public Record Office has extensive web indices available to assist researchers in finding records that have been released in Britain and the Cold War History project in the United States has made a number of key foreign documents available, often in translation, through their publications.

A major problem still limiting the release of documents is lack of resources. At a time when military resources are stretched to meet operational requirements, those responsible are reluctant to expend limited resources on the transmission of information to the public and on record keeping rather than on achieving more tangible operational goals. Yet, such a paucity of resources may backfire, since faced with limited information, the public remains unaware of the stretch and fails to support greater dedication of resources to military operations.

September 11 has had the effect of riveting public attention on the question of national security and perhaps made people more aware of the value and role armed forces have in protecting society. At the

same time, I am sure that the bureaucrats, and that includes me, will be even more careful about what is released to researchers.

¹ A. Walter Dorn, "The Cloak and the Blue Beret: The limits of intelligence-gathering in UN Peacekeeping" and David A. Charters, "Out of the Closet: Intelligence Support for Post-Modernist Peacekeeping" in *The Pearson Papers*, Paper No. 4, Cornwallis: The Lester B. Pearson Canadian International Peacekeeping Training Centre, 1999.

² Larry Hannant, "Access to the Inside: An Assessment of Canada's Security Service. A History" in *Espionage. Past, Present, Future?* In Wesley K. Wark (ed.) *Espionage: Past, Present, Future?* Newbury Park, Essex: Frank Cass, 1994, p. 158.

³ Canada. Parliament, Access to Information Act, Section 15, (i) the defence of Canada or any state allied or associated with Canada, or (ii) the detection, prevention or suppression of subversive or hostile activities; (e) obtained or prepared for the purpose of intelligence respecting foreign states, international organizations of states or citizens of foreign states used by the Government of Canada in the process of deliberation and consultation or in the conduct of international affairs; (f) on methods of, and scientific or technical equipment for, collecting, assessing or handling information referred to in paragraph (d) or (e) or on sources of such information; (i) relating to the communications or cryptographic systems of Canada or foreign states used (i) for the conduct of international affairs, (ii) for the defence of Canada or any state allied or associated with Canada, or (iii) in relation to the detection, prevention or suppression of subversive or hostile activities.

⁴ *Perspectives*, May 2002, News Brief by Bruce Craig, p. 16.

⁵ David O'Keefe, *Bitter Harvest. A Case Study of Allied Operational Intelligence for Operation Spring, Normandy, July 25, 1944*, Masters of Arts thesis, University of Ottawa, Fall, 1996.
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⁶ John Bryden, *Best Kept Secret. Canadian Secret Intelligence in the Second World War*, Toronto: Lester, 1993.

⁷ DHH, Kardex, 917.009(D1), Personal Correspondence of C.P. Stacey, 7 volumes,

⁸ Endnote 3 contains a list of key clauses. A copy of the Act is available at the Information Commissioner's

web site.

⁹ Canada. Parliament, *Open and Shut. Enhancing the Right to Know and the Right to Privacy*, 1986.