



April 04, 2023

The Honourable Senator Salma Ataullahjan, Chair, Senate Committee on Human Rights  
Senate of Canada  
246 East Block  
Ottawa, ON  
K1A 0A4

**Subject: Request for written responses and additional information**

Dear Madam Chair,

I would like to thank you and the members of the Committee for the opportunity to meet with you on March 27, 2023.

During the meeting, you requested further information related to NSIRA's Implementation of the Call to Action on Anti-Racism, Equity and Inclusion. Please find attached a copy of NSIRA's Letter to the Clerk of the Privy Council regarding the Implementation of the Call to Action on Anti-Racism, Equity and Inclusion.

Senator Jaffer also requested a written response to a question regarding NSIRA's definition of "activities" as it relates to our reviews.

NSIRA is mandated to review any activity of CSIS or CSE as well as any national security or intelligence activity of any other department or agency of the Government of Canada. NSIRA conducts independent and fact-based reviews leading to findings and recommendations for the Government. Our reviews focus on specific activities, or operations, of these departments so that our reviews are factually grounded and can more accurately assess the extent to which the conduct of these activities are legal, reasonable and necessary.

The nature of the national security or intelligence activities or operations reviewed is not limited. As described in NSIRA's latest published annual report (see attached), in 2021, NSIRA completed reviews of activities such as:

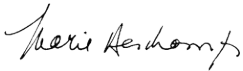
- the CSIS warrant and Department of Justice legal advisory process;
- CSIS threat reduction activities;
- CSIS technical capabilities;
- CSE's governance of active and defensive cyber operations;
- information sharing across aspects of CSE's mandate;
- CSE's disclosures of Canadian identifying information;
- the defence intelligence enterprise;
- the operational collection and privacy practices of the Canadian Forces National Counter-Intelligence Unit;

- the Government of Canada's use of biometrics in the border continuum;
- disclosures of information under the Security of Canada Information Disclosure Act; and
- departmental implementation of the Avoiding Complicity in Mistreatment by Foreign Entities Act.

While reviewing specific activities, NSIRA may uncover practices that are or may be discriminatory. National security or intelligence activities that are discriminatory are against the law and this would factor significantly in NSIRA's findings. An example of findings made in relation to the risk of bias and discrimination can be found in NSIRA's Study of the Government of Canada's use of Biometrics in the Border Continuum (see attached, para. 208-220).

I trust this information will be of use to the committee. Should you require additional information, please to not hesitate to communicate further.

Best regards,



The Honourable Marie Deschamps, C.C.

Chair, National Security and Intelligence Review Agency



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- > [Call to Action on Anti-Racism, Equity, and Inclusion in the Federal Public Service](#)
- > [Letters on the implementation](#)

# National Security and Intelligence Review Agency

## Letter on Implementation of the Call to Action on Anti-Racism, Equity and Inclusion

**Summer 2021 update**

Dear Ms. Charette:

I am writing in response to your correspondence of June 28, 2021, in which you requested that deputy heads across the public service provide you with open letters outlining steps taken in response to the [Call to Action on Anti-Racism, Equity and Inclusion in the Federal Public Service](#), which was issued on January 22, 2021.

As a new organization, established in July 2019, the National Security and Intelligence Review Agency (NSIRA) has taken a number of steps to incorporate anti-racism, equity and inclusion into systems and practices, across all of our business lines. As your guidance letter recognized, organizations in the federal public service are at different stages of

implementation. While NSIRA has made a lot of progress, we recognize that as a new organization we still have much work to do to advance the goals outlined in the Call to Action.

Below is a summary of progress made to date in implementing the Call to Action, including a description of successes and ongoing challenges. My hope is that it contributes meaningfully to a shared body of knowledge and practices across the federal public service, and that other organizations are able to benefit from understanding NSIRA's work to-date on these issues. Likewise, I look forward to learning about the successes and challenges of other organizations in implementing the Call to Action, and to incorporating best practices as we continue to advance on issues of anti-racism, equity and inclusion.

Yours sincerely,

John Davies

Executive Director

National Security and Intelligence Review Agency Secretariat

## Corporate Services and Human Resources

### Successes

- 2020-2021 was NSIRA's first full year in operation. During that time, the NSIRA Secretariat put its human resources infrastructure in place, including introducing policies with respect to staffing and recruitment, learning and development, performance and talent management, employment equity, duty to accommodate and flexible work arrangements, among others. The timing was such that the Secretariat was able to take a deliberate, thoughtful approach to issues such as

anti-racism, discrimination, equity and inclusion, and to pay **careful attention to existing or potential systemic barriers as it developed its policy suite and terms and conditions of employment.**

- Although the NSIRA Secretariat is not subject to the Treasury Board Policy on People Management, it nevertheless **designated a senior official for employment equity, diversity and inclusion (EE, D&I).**
- The NSIRA Secretariat **developed a maturity model to assess its current situation** with respect to anti-racism, anti-discrimination, accessibility, employment equity, diversity and inclusion. The maturity model will be used to evaluate progress and the extent to which various initiatives are helping to achieve the desired outcomes.
- The Secretariat **adopted a name-blind approach for appointments to management and executive positions.** This was in an effort to mitigate against potential bias in selection processes.
- The NSIRA Secretariat **deliberately advertised job opportunities to a wide candidate pool**, including both within and outside the public service, in Canada and abroad. This attracted a number of individuals who self-identified as members of an employment equity designated group.
- NSIRA Secretariat has only six (6) executive positions, two of which are classified in the Law Manager (LC) group. Since April 1, 2020, five positions were staffed, of which **60% of the appointees self-identified as a member of an employment equity designated group.** As well, four management positions (e.g. EC-07, FI-04, etc.) were staffed in 2020-2021, all with members of an employment equity designated group.

## Challenges

- As a separate agency of fewer than 100 FTES, the NSIRA Secretariat is not required to gather self-ID data. Despite this, the Secretariat explored with Treasury Board Secretariat (TBS) the possibility of using their self-ID tool and system. **Unfortunately, TBS advised that this was not possible because of legal considerations.** NSIRA has nevertheless been closely following TBS' work on redesigning the self-ID tool and is planning to introduce its own self-ID tool to measure representation in 2021-2022. In the meantime, the Secretariat is relying on PSES data to provide a baseline with respect to both representation and the workplace experience.

Being a micro-agency outside the core public administration is perhaps the most significant challenge. The Call to Action calls on public service leaders to appoint, sponsor and support Indigenous employees and Black and other racialized employees, through the use of talent management, leadership develop and career development programs and services. **Micro-agencies neither have the same resources, nor access to the same infrastructure as departments and agencies in the core public administration** including job opportunities, inclusion in system-wide talent management exercises, or the programs, tools or systems developed and led by the Office of the Chief Human Resources Officer (OCHRO) at TBS.

## Creating an Environment for Dialogue on Anti-Racism and Social Justice

### Successes

- In its first year, NSIRA Secretariat put the emphasis on developing inclusive leadership skills and in **establishing a sense of belonging**

**and trust**, for example, through education and learning events, discussions aimed at increasing awareness, understanding and the link to reviews and investigations.

- With the support of staff volunteers, NSIRA's Champion for Employment Equity, Diversity and Inclusion led **numerous all-staff discussions on themes related to anti-racism, diversity and inclusion**, including: the impact of the murder of George Floyd, the conviction of Derek Chauvin, in which staff had the opportunity to discuss the trial, and unconscious bias. Staff also watched a number of documentaries about residential school survivors, which served as a platform for an educational discussion. In addition, all-staff events were held to mark Black History Month, International Women's Day, Asian Heritage Month and National Indigenous History Month.
- The impact of these all-staff discussions are borne out in the Public Service Employee Survey data, which found that:
  - **68%** of NSIRA respondents would feel free to speak about racism in the workplace without fear of reprisal (public service average is 48%);
  - **87%** of NSIRA respondents agree or strongly agree that their agency implements initiatives that promote anti-racism in the workplace (public service average is 75%);
  - **85%** of NSIRA respondents agree or strongly agree that they would feel comfortable sharing concerns about issues related to racism in the workplace with a person of authority (public service average is 79%).

## Priorities

- An important priority in the year ahead will be **to continue to create an environment in which all employees feel comfortable**

**participating in discussions on issues related to anti-racism, diversity and inclusion.** Seeking input and participation through different means can help to reach people who shy away from larger conversations.

- Another key challenge will be to continue to promote an environment of open and inclusive dialogue, while **leveraging staff engagement to create a well-defined work plan for the year ahead.**

## Outreach and Stakeholder Engagement

### Successes

- NSIRA has **broadened its stakeholder network over the past year**, to include a more diverse range of perspectives that can help to improve how we undertake our core business of reviews and complaint investigations. Some of this engagement looked at the **intersection of race and national security**, and the positive role that NSIRA can play in promoting equity through its review program.
- NSIRA undertook a **consultation on the reform of its complaint investigation process**, with the goal of ensuring efficiency and transparency of its investigations, which often involve complainants from racialized groups.

### Challenges

- **Demystifying the complaint process** and informing a broad cross-section of society of its availability.
- **Making materials available in languages beyond English and French**, so that linguistic minorities and members of ethnic groups who perceive themselves as having been unfairly targeted by security services can make use of the complaint mechanism.



# Reviews and Complaint Investigations

## Successes

- NSIRA has initiated work on a **trend analysis for complaints, which will involve a broad initiative to appropriately collect race-based and other demographic information**. The objectives of this initiative are to improve access to justice by improving awareness and understanding of the investigation process. The overall aim is to document the different racial groups among civilian complainants and determine whether there are significant racial disparities; whether there are racial differences with respect to the types of complaints made against national security agency members based on different groups; the frequency of complaints that include allegations of racial or other forms of bias; whether complaint investigation outcomes vary by racial group; and whether civilian satisfaction with NSIRA's investigation process varies by racial group.
- NSIRA's program of planned and ongoing reviews also **takes into account the potential for national security and intelligence activities to result in disparate outcomes for visible minority groups**. Ongoing reviews of the Canada Border Services Agency's targeting practices, as well as the use of biometrics in the national security and intelligence context, focus specifically on understanding the impacts of these activities on diverse communities.

## Challenges

- How to **better integrate Gender-Based Analysis Plus (GBA+) into NSIRA's review methodology**.

**Date modified:**

2021-11-26