

**Executive Summary**  
**2019 Annual Meeting of the Five Eyes Intelligence Oversight and Review Council**  
**Middle Temple, London**  
**October 15-17, 2019**

**Prepared by the Office of the Inspector General of  
the Intelligence Community of the United States**

**INTRODUCTION**

In its role as the Executive Secretariat of the Five Eyes Intelligence Oversight and Review Council (the Council), the Office of the Inspector General of the Intelligence Community of the United States has prepared this Executive Summary of the Council's annual meeting held from October 15-17, 2019, in London.

**BACKGROUND**

The Council was created in the spirit of the existing Five Eyes partnership, the intelligence alliance comprising Australia, Canada, New Zealand, the United Kingdom, and the United States. The Council is comprised of the following non-political intelligence oversight, review, and security entities of the Five Eyes countries: the Office of the Inspector-General of Intelligence and Security of Australia; the Office of the Intelligence Commissioner and the National Security and Intelligence Review Agency of Canada; the Commissioner of Intelligence Warrants and the Office of the Inspector-General of Intelligence and Security of New Zealand; the Investigatory Powers Commissioner's Office of the United Kingdom; and the Office of the Inspector General of the Intelligence Community of the United States.

The Council members exchange views on subjects of mutual interest and concern; compare best practices in review and oversight methodology; explore areas where cooperation on reviews and the sharing of results is permitted where appropriate; encourage transparency to the largest extent possible to enhance public trust; and maintain contact with political offices, oversight and review committees, and non-Five Eyes countries as appropriate.

The Council holds at least one meeting in person per year. This year's conference, hosted by Sir Adrian Fulford, the Investigatory Powers Commissioner, was attended by representatives from all Five Eye partner countries.

**Day 1:**

Following welcoming remarks from Sir Adrian, the keynote address was delivered by Jeremy Fleming, Director, British Government Communications Headquarters. Director Fleming discussed, among other things, the shared values among the Five Eyes countries and some of the technical, legal, and operational challenges the partnership currently faces, particularly in an age of big data. Director Fleming noted that the hyper-accelerated changes in certain technologies were identifying potential weaknesses or gaps in regulatory standards, governance structures, and ethical norms. Director Fleming noted that it would be important for intelligence professionals

using and overseeing these new technologies to make them explainable in order to obtain and retain the public's trust in them.

Following the keynote address, the Council members outlined developments within their jurisdictions since last year's annual meeting, including policy and legislative changes affecting their work and their current main challenges:

- The Canadian delegation, in accordance with Section 6 of the Council's Charter, provided notice of and discussed the recent legislative changes and the consequent restructuring of the Canadian intelligence oversight and review community. As a result of these changes, the Security Intelligence Review Committee transitioned to the National Security and Intelligence Review Agency, and the Office of the Communications Security Establishment Commissioner has transformed into the Office of the Intelligence Commissioner.
- The Australian delegation discussed new legislation, both proposed and enacted, designed to address the challenges associated with transparency in intelligence review and oversight. The Australian delegation also discussed legislation, and the consequent need and desire to increase the number of oversight personnel (as well as the challenges with recruiting and onboarding the new employees).
- The New Zealand delegation discussed the legal and operational changes brought about as a result of the Christchurch mosque shootings in March 2019, particularly with regard to access to intelligence holdings, responsibilities for identifying threats, and legal boundaries for hate speech. The New Zealand delegation also provided a summary of its report into whether NZSIS or GCSB had any connection to the CIA's "enhanced interrogation," detention, and rendition program in Afghanistan from 2001-2009.
- The United Kingdom delegation provided an update on its warrant regime, including the creation of the Office for Communications Data Authorisations, as well as potential new legal challenges on the horizon related to the operation of certain European Union laws on intelligence authorities and collection.
- The Canadian and New Zealand delegations described the results of their successful efforts to share personnel in the past year.
- The United States delegation discussed the challenges of overseeing the intelligence community's use of cognitive technologies, particularly artificial intelligence (AI) and machine learning. The United States delegation also discussed recent challenges related to whistleblower rights and protections.

The New Zealand and United States delegations, thereafter, led a joint discussion on the challenges that cognitive technologies, particularly AI, will pose for intelligence oversight authorities. The delegations discussed the need to formulate an appropriate oversight approach to AI, particularly in terms of challenges related to interoperability, “explainability,” and potential biases. The delegations discussed how those challenges are compounded by the need for trust across numerous different national jurisdictions. The delegations discussed recent papers related to investments in and oversight of AI technologies. The delegations also discussed how they use, or could potentially use, AI and data analytics in their own operations. Finally, the delegations discussed what the Five Eyes were doing individually or collectively to increase trust in the AI systems, and ways the delegations could work jointly or concurrently to increase trust in (and the efficiency and effectiveness of) AI systems and information sharing.

In the afternoon, Lord Anderson of Ipswich presented his reflections on three recent reviews: “A Question of Trust” (2015), which reviewed the investigatory powers available to law enforcement and led to the “double lock” system; the Bulk Powers Review (2016); and the Terrorism Acts Review (2017).

The first day concluded with a presentation facilitated by the Canadian delegation with Professor Christian Leuprecht, entitled “Intelligence as Democratic Statecraft: Civil-Intelligence Relations across the 5-Eyes Community.”

Following the group discussion, the Council members attended a walking tour of London and the River Thames.

## **Day 2:**

The United Kingdom facilitated four different sessions during the second day. The first session, entitled “An Agency’s View on Future Challenges,” comprised a discussion and question-and-answer period from a senior United Kingdom intelligence official, who reinforced and expanded upon some of the themes from the first day’s sessions related to the challenges facing global intelligence agencies and oversight authorities from emerging technologies, especially AI.

The second and third sessions, facilitated by the United Kingdom’s Tom Hickman, QC, compared the laws governing information sharing across borders and the safeguards governing such sharing when there is a risk of human rights abuses occurring in third states. As part of the presentations, each of the delegations provided a brief summary of their law governing such information sharing.

The fourth session provided the delegations with an opportunity to discuss opportunities for joint oversight projects. As part of this discussion, the delegations shared their respective authorities for access to and sharing of certain types of information. The delegations also discussed the concept of potential “oversight gaps” in specific programs or activities, including in the ability of oversight authorities to access information from their own respective government organizations and/or share such information with other domestic or international oversight authorities.

During the afternoon session, facilitated by the United States delegation, two officials from the Special United States Liaison Office in London presented information on the current state of information sharing between Five Eyes partners. The officials discussed and answered questions related to challenges from shared security and cybersecurity services, including the interoperability of digital tools.

Following the group discussions, the Council members attended a dinner hosted by the United Kingdom delegation at the Middle Temple.

### **Day 3:**

The third day of the conference included an external review by Professor Peter Fussey (University of Essex, Department of Sociology), and Dr. Daragh Murray (University of Essex, School of Law), on efforts to pursue transparency within oversight. Professor Fussey and Dr. Murray discussed their studies on the various structures for different oversight bodies and the potential benefits or downsides of those structures. They noted their opinions that effective oversight bodies needed to be, in particular, independent and impartial, with continuous engagement and sufficient resources, particularly in terms of personnel with appropriate subject matter expertise.

The next session, facilitated by the United States delegation, discussed the challenges and best practices in parallel Inspector General investigations and reviews. The presentation focused on the different methods various oversight authorities (Inspectors General, law enforcement authorities, congressional oversight committees, and non-governmental organizations) may use to communicate with each other concerning investigations of mutual interest.

The conference concluded with the delegations agreeing to establish working level committees on the following three topics: (1) Automated Data Processing and AI; (2) Methods to Mitigate Risks of Mistreatment from Sharing Information with Foreign Entities; and (3) Jurisdictional or Territorial Constraints on the Review/Oversight Activities of FIORC Partners that Create a Gap in Coverage Over the Cumulative Activities of Five Eyes Agencies.

### **Conclusion:**

New Zealand agreed to host the next annual Council meeting in October 2020.

The delegates agreed to hold a quarterly conference call in January at a date and time to be determined to discuss, among other things, joint/concurrent project opportunities and potential topics for the 2020 annual Council meeting.