Reg Whitaker, Gregory S. Kealey, and Andrew Parnaby

SECRET SERVICE

Political Policing in Canada from the Fenians to Fortress America

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UNIVERSITY OF TORONTO PRESS
Toronto Buffalo London

Toronto Buffalo London
www.utppublishing.com
Printed in Canada

ISBN 978-0-8020-0752-0 (cloth)
ISBN 978-0-8020-7801-8 (paper)

Printed on acid-free paper

Library and Archives Canada Cataloguing in Publication

Whitaker, Reginald, 1943–
Secret service : political policing in Canada from the Fenians to fortress America / Reg Whitaker, Gregory S. Kealey, and Andrew Parnaby.

Includes bibliographical references and index.
ISBN 978-0-8020-0752-0 (bound). – ISBN 978-0-8020-7801-8 (pbk.)

1. Secret service – Canada – History. 2. Intelligence service – Canada – History. I. Kealey, Gregory S., 1948– II. Parnaby, Andrew, 1970– III. Title.

HV8157.W45 2012 363.28'30971 C2012-902319-1

University of Toronto Press acknowledges the financial assistance to its publishing program of the Canada Council for the Arts and the Ontario Arts Council.

Canada Council for the Arts Conseil des Arts du Canada

ONTARIO ARTS COUNCIL
CONSEIL DES ARTS DE L'ONTARIO

University of Toronto Press acknowledges the financial support of the Government of Canada through the Canada Book Fund for its publishing activities.

This book has been published with the help of a grant from the Canadian Federation for the Humanities and Social Sciences, through the Aid to Scholarly Publications Program, using funds provided by the Social Sciences and Humanities Research Council of Canada.

This book was supported by a subsidy in aid of publication from Cape Breton University.

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Political Policing in Canada from the Fenians to Fortress America

Secret Service provides the first comprehensive history of political policing in Canada – from its beginnings in the mid-nineteenth century, through two world wars and the Cold War, to the more recent 'war on terror.' This book reveals the extent, focus, and politics of government-sponsored surveillance and intelligence-gathering operations.

Drawing on previously classified government records, the authors reveal that for over 150 years, Canada has run spy operations largely hidden from public or parliamentary scrutiny – complete with all the usual apparatus of deception and betrayal so familiar to fans of spy fiction. As they argue, what makes Canada unique among Western countries is its insistent focus of its surveillance inwards, and usually against Canadian citizens.

Secret Service highlights the many tensions that arise when undercover police and their covert methods are deployed too freely in a liberal democratic society. It will prove invaluable to readers attuned to contemporary debates about policing, national security, and civil rights in a post-9/11 world.

REG WHITAKER is Distinguished Research Professor Emeritus in the Department of Political Science at York University and an adjunct professor of Political Science at the University of Victoria.

GREGORY S. KEALEY is Provost, Vice-President Research, and professor of History at the University of New Brunswick.

ANDREW PARNABY is an associate professor in the Department of History at Cape Breton University.

Acknowledgments

Over the long period of research that went into the preparation of this book, many people were of assistance, including former practitioners in security intelligence, people targeted by the agencies, politicians, public servants, archivists, fellow academics, university administrators, graduate students, lawyers, and journalists. All assisted in different ways in adding value to this study.

Among these are: Maurice Archdeacon, Jane Arnold, Ron Atkey, Robert Bothwell, Ingrid Botting, Roger Bowen, Jim Bronskill, Mike Butt, Anthony Campbell, Richard Cleroux, Peter Gill, J.L. Granatstein, Lois Harder, John Harker, Bob Hayward, Bob Hong, Ben Isitt, Barbara Jackman, William Kaplan, Zuhair Kashmieri, Gary Kinsman, Amy Knight, Derek Lee, the late Gil Levine, the late Peyton V. Lyon, John Manley, Gary Marcuse, Peter Marwitz, Michelle McBride, the late Mark McClung, David McKnight, Val Meredith, Andrew Mitrovica, Rod Nicholls, Kirk Niergarth, Mark Olyan, Rick Rennie, Graham Reynolds, Kent Roach, Daniel Robinson, Alti Rodal, Philip Rosen, Peter Russell, John Sawatsky, Michelle Shephard, David Stafford, John Starnes, Lorne Waldman, the late Bill Walsh, Fred Winsor, and Glenn Wright.

Special thanks to long-standing colleagues and friends Stuart Farson, Larry Hannant, Steve Hewitt, and Wesley Wark. And a particular note of sadness and regret for Jim Littleton, whose infectious enthusiasm for the project and inexhaustible store of knowledge of the subject were of inestimable assistance and support until cut short by his untimely passing.

Sincere appreciation is also due the University of Toronto Press for its inexhaustible patience for, and support of, this manuscript. Len Husband, our editor at UTP, has been especially helpful; Curtis Fahey

carried out a judicious copy editing; and Wayne Herrington watched over the process of turning text into publication. We have also benefited over the years from the institutional support of several Canadian universities – York University and University of Victoria (Whitaker); Memorial University of Newfoundland and University of New Brunswick (Kealey); and Cape Breton University (Parnaby).

This book has been published with the help of a grant from the Canadian Federation for the Humanities and Social Sciences, through the Aid to Scholarly Publications Program provided by the Social Sciences and Humanities Research Council of Canada. Additional support for publication has been provided by the University of New Brunswick, Cape Breton University, and the York University Senior Scholar Research Fund.

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Introduction: Political Policing in Canada

On 26 September 2002 Maher Arar – a Syrian-born Canadian citizen – was detained by U.S. Immigration and Naturalization officials in New York City while en route home to Montreal after a vacation in Tunisia, his wife's birthplace; he was stopped at John F. Kennedy International Airport. Suspected of being a member of Al-Qaeda, the jihadist group that had carried out the attacks on the World Trade Center about a year before, Arar was questioned by the Federal Bureau of Investigation (FBI) and was held in the city for almost two weeks. During this time he did not have access to a lawyer and was visited only once by a Canadian consular official, who, after meeting with Arar, believed that he would be extradited back to Canada, despite the serious allegations put forth by American officials. She was wrong. On 8 October, Arar was taken from his cell at three in the morning and taken aboard a Gulfstream private jet, operated by the Central Intelligence Agency (CIA), and flown to Jordan as part of a U.S. policy known as 'extraordinary rendition'; the next day, by car, Arar arrived in Damascus, the Syrian capital, and was handed over to Syrian military intelligence – which subsequently 'interrogated, tortured, and held [him] in degrading and inhumane conditions' for the next ten months.[1] Word of his disappearance surfaced in the media quickly. 'Amnesty International is concerned by the possible "disappearance" of Canadian citizen Maher Arar,' the international human-rights organization reported on 20 October 2002. 'Although recent reports state that he was deported to Syria, neither the Canadian authorities nor his family have been able to confirm his whereabouts. There are grave fears for his safety.'[2] So grave, in fact, that by the end of October, Canadian consular officials in Damascus began meeting with Arar on a fairly routine basis; accompanied by Syrian au-

thorities at all times, they noted the poor conditions under which he was being held but did not report any instances of torture. Meanwhile, back in Canada, Arar's wife, Monia Mazigh, pressured the federal government to secure her husband's release. On 23 August 2003 Arar – blindfolded – was driven to a new prison, where the treatment was reportedly much better: no torture, no solitary confinement. While at this new facility, Arar met another Canadian and friend, Abdullah Almalki, who told a similar story of detainment, interrogation, and torture. In early October, about a year after his initial detainment, Arar was finally released by Syrian military intelligence, but not before he was forced to sign a written confession that detailed his putative involvement with Al-Qaeda. He was subsequently flown home to Canada.

Almost immediately after Arar's return, public pressure mounted for a full judicial inquiry into this year-long ordeal; especially worrisome was the possible complicity of Canadian security officials in the American policy of 'extraordinary rendition' – which, some critics alleged, effectively 'subcontracted torture.' Prime Minister Paul Martin acquiesced to the public demand for more information in early 2004; a commission of inquiry began its work later that summer and released its final multi-volume report about a year and a half later, in September 2006. Headed by Associate Chief Justice of Ontario Dennis O'Connor, who rose to public prominence after leading an investigation into tainted water in Walkerton, Ontario, the inquiry absolved Arar of any connections to Islamic terrorist organizations. It also exposed the role of Canadian security officials in Arar's nightmare: Not only had the Royal Canadian Mounted Police (RCMP) been monitoring Arar and some of his acquaintances long before that fateful day at JFK airport, but the Mounties had also shared that information with their American counterparts. The information that related to Arar directly ('Islamic Extremist ... suspected of being linked to the Al Qaeda terrorist movement') was inaccurate and, in O'Connor's judgment, 'very likely' led to his detention by U.S. authorities.[3] While O'Connor found no evidence that Canadian officials were actively involved in the decision to remove Arar first to Jordon and then to Syria for further interrogation, he did discover that Canada's premier spy agency, the Canadian Security Intelligence Service (CSIS), understood well the fate that awaited the Syrian Canadian once he was placed in U.S. custody – but it did not act to prevent his rendition or act quickly to help bring him home once removed to the Middle East.[4] Withheld by the federal government for reasons of 'national security confidentiality,' that final rev-

elation about CSIS came to light only in August 2007, after O'Connor had successfully convinced a federal court to order the government of Prime Minister Stephen Harper to release it along with some additional documentation.

As the O'Connor probe drew to a close, another controversy involving Canadian spy agencies was unfolding – this time in Afghanistan.[5] As part of the International Security Assistance Force of the North Atlantic Treaty Organization (NATO), which had toppled the Taliban regime shortly after the terrorist attacks of 11 September 2001, Canadian forces were by 2006 situated primarily in Kandahar province, where pro-Taliban insurgents were especially active. From the beginning of the Canadian mission, successive prime ministers, defence ministers, and commanding officers permitted Canadian soldiers to transfer prisoners to the Afghan security service – the National Directorate of Security (NDS) – despite clear and obvious evidence that the NDS routinely tortured those detainees, in flagrant violation of both the Geneva Conventions and an agreement signed with the Canadian government in 2005. Between the spring of 2006 and the fall of 2009, Conservative Prime Minister Harper and his defence ministers, Gordon O'Connor and then Peter MacKay, publicly denied allegations that the Canadian forces knowingly subjected detainees to torture by handing them over to Afghan officials, only to reverse this position as media reports and an investigation mounted by the Military Police Complaints Commission (MPCC) produced mounds of evidence to the contrary. Particularly stunning was the revelation – contained in heavily censored witness transcripts filed with the MPCC – that CSIS, working alongside military intelligence, was deeply involved in all of this: it interrogated prisoners, provided tactical advice, and sometimes recommended which detainees ought to be handed over to the NDS.[6] The release of additional documentation related to the Afghan detainee controversy, and the role of Canadian spy agencies in it, awaits the conclusion of multiparty negotiations that were set in motion by the speaker of the House of Commons, Peter Milliken, who ruled in late April 2010 that Parliament had the right to see all unredacted documents related to the issue.[7]

An earlier version of this Introduction, written before the World Trade Center bombings, began with a joke, the punchline of which was that Canada – peaceful, multicultural, middle-power Canada – actually possessed a secret service. The joke worked (or so we thought) because it contrasted the general perception of Canada as a country with little political intrigue and even less political repression with a historical

reality that was more sobering and often truly sensational. Yet, in the aftermath of '9/11' (as the Al-Qaeda attacks of 2001 had quickly been dubbed), the Maher Arar scandal, and the Afghan detainee affair, the joke no longer seems to resonate. Thanks to the O'Connor inquiry and the proceedings of the Military Police Complaints Commission, Canadians now know plenty about their spy agencies and their furtive actions – making a contrast between the milquetoast and the menacing (the crux of our lighthearted earlier draft) awkward, if not impossible, to deliver with a straight face. In contrast, this Introduction strikes a more sombre note, more in tune with the seriousness of the national-security issues currently unfolding in Canada. As the brief sketches of the Maher Arar debacle and Afghan detainee scandal suggest, the 9/11 bombings altered how the Canadian government conceptualized, and acted upon, threats to national security – and did so decisively. Since then, Canadian spy agencies have been drawn into a tighter relationship with their American counterparts and now operate regularly on foreign soil. These twin developments – integration and internationalization of secret service functions – mark a significant departure from the ways in which Ottawa has handled national-security questions for over a century.[8] A new era is just now coming into view, and as the Arar debacle and Afghan detainee controversy suggests, it may prove to be brutal, costly, and even deadly.

The significance of this shift is appreciated best, we think, when it is placed in the broad sweep of Canadian history. Before 2001, Canada did not run spies on foreign soil. Nothing like the U.S. Central Intelligence Agency or Britain's Secret Intelligence Service (SIS) has ever operated under a Canadian flag. Canada has for many decades mounted an electronic eavesdropping operation abroad, under the aegis of the Communications Security Establishment (CSE), but that is part of the new high-tech world of technical intelligence-gathering by sophisticated listening devices, computers, and complex software programs for sorting 'signals' from 'noise,' flagging significant messages, and decrypting coded communications.[9] The Canadian Armed Forces have, like all armed forces everywhere, a military-intelligence arm. In peacetime, Canadian military attachés abroad, like their counterparts the world over, do gather intelligence about other countries' military capabilities. It is not unknown for Canadian diplomats to gather bits and pieces of intelligence about other countries that are not drawn entirely from formal diplomatic channels. But, as for Canadian spies à la James Bond or even George Smiley running agents and operations in exotic climes, there just

weren't any to be found before 2001.[10] Canada is not an innocent in this business, however. In fact, for more than a century, Canadian governments have run spy operations, with undercover agents, secret sources, agents provocateurs, coded communications, elaborate files, and all the usual apparatus of deception and betrayal so familiar to aficionados of spy fiction. But instead of conducting such activities abroad, Canadian governments have done so at home, and usually against Canadian citizens. Other countries do this as well – the FBI spies on Americans; MI5 and Special Branch spies on Britons; the French have an alphabet soup of agencies, some not even publicly acknowledged, that spy on French citizens. But Canada is somewhat unusual among major Western nations in so insistently focusing its surveillance activities inwards.

This is, on the face of it, odd. Why have Canadian governments been so fearful of 'enemies within,' when Canada's history suggests strongly that it is one of the most peaceful, well-ordered, uneventful countries in a turbulent world? There have been no revolutions, or even near-revolutions, in this century, and a small handful of local rebellions in the nineteenth century did not require enormous exertions or huge expenditures of resources on the part of the authorities of the day to reassert order. A clandestine separatist movement employing terrorism and assassination had a brief fling in Quebec in the 1960s but was quickly suppressed and disappeared less than a decade from its inception. A peaceful, legitimate sovereignist movement in Quebec may again threaten national *unity*, but it is a bit of a stretch to see it as threatening national *security*. Espionage or conspiracies to influence Canadian events on behalf of the interests of hostile foreign states have from time to time animated Canadian authorities into extreme counter-measures. Foreign threats to Canada have risen and subsequently vanished, from the Kaiser's Germany in the early part of this century until 1918; Hitler's Germany from the late 1930s until 1945; and finally Communist Russia from 1917 until 1989–90. Yet the disappearance of old enemies, or their transformation into friends and allies, seems to have had little effect on the construction of an internal surveillance state. Each successive foreign threat has had the effect of ratcheting up the level of internal vigilance; the relaxation of external tensions has had little effect in relaxing internal controls, but the appearance of a new threat on the horizon has almost invariably brought forth calls for yet more powers and yet more controls. All the while, the attention of the state has usually been directed not so much outwards as inwards – towards potential 'fifth columns' of Canadians who, for reasons of ethnic, cultural,

religious, or ideological associations, might be inclined to act on behalf of foreign powers or movements.

This persistent concern for 'subversive' Canadians is tied in part to the country's extremely modest position in international affairs, which has made it easier for successive Canadian governments to leave not only military preparedness but foreign intelligence gathering to other nations – first Britain, then the United States.[11] Moreover, as a land of immigrants and refugees (save, of course, the Native peoples), it is not altogether surprising that persistent anxiety has surrounded the loyalty and trustworthiness of those who have arrived from other shores, carrying their own cultural, religious, and political baggage – and sometimes their own violent quarrels. The great democracy to the south is supposed to be a 'melting pot' where immigrants are transformed into 100 per cent Americans. The dark underside of the melting pot has always been anxiety that Americans could be made over again into enemies within: hence witch-hunts for 'un-American activities.' Canada is not exactly a melting pot, and has often styled itself as a 'mosaic,' retaining the original colours and textures of its peoples in a unique design. Whatever the truth of that metaphor, it has certainly been the case that Canada, with its binational and bilingual character and the relative weakness of any pan-Canadian national identity, has presented a somewhat indistinct face of 'Canadianism' into which immigrants can assimilate. The idea of 'un-Canadian activities' thus seems a little outlandish. This has not, however, led to a state in which, to borrow a phrase, a thousand flowers have been allowed to bloom. On the contrary, the very lack of firm definition of a Canadian creed has, if anything, increased anxiety levels on the part of the political authorities concerning subversives, spies, and saboteurs among the population. After all, if it is unclear what constitutes 100 per cent Canadianism, all the more must *we* worry about ill-defined and possibly subversive 'un-Canadians.'

There is another long-standing difference from our southern neighbours that is related to this lack of clarity. Since Americanism is a democratic, populist creed, so too the struggle against subversion of that creed has most often been a democratic, populist crusade. Hence, nativist movements directed against immigrants, Catholics, Jews, and other 'aliens' sometimes had wide popular resonance in the late nineteenth and early twentieth centuries. In the 1950s, McCarthyism attained the status of a populist assault upon such established American institutions as the presidency and the army. In the mid-1990s, grass-roots 'mi-

litias' took up arms and blew up a federal building in Oklahoma City to oppose what they saw as a takeover of America by alien forces – the federal government. American scholars have written books with titles such as *The Paranoid Style in American Politics*,[12] *Red Scare: A Study in National Hysteria*,[13] and *A Conspiracy So Immense*.[14] In Canada, on the other hand, the struggle against subversion has been generally considered a prerogative of the state. Indeed, freelance movements of populist paranoia have never been welcomed in Canada, where crown privilege, executive dominance, and deference to authority have traditionally – though not always – been the rule. This does not mean, as many Canadians have smugly concluded, that Canada is necessarily more liberal and less repressive than the United States. Nor does it mean that strains of a more authoritarian populism have been completely absent from Canadian democracy, as shown by widespread popular support for the RCMP down to the 1960s and 1970s, when the public consensus supporting the Mounties began to weaken in the face of serious revelations of police excesses and wrongdoing. It simply means that political repression in Canada has been largely confined to the 'legitimate' auspices of the state. Hence, our study of the Canadian secret service – which begins in the 1860s, before Canada was actually *Canada* – touches on a good deal of political history, told from both a top-down and a bottom-up perspective.

For most of Canadian history since Confederation, no clear demarcation was made between illegitimate and legitimate targets for investigation: the line between the two was either too blurry to be useful or simply non-existent. Thus, the surveillance arm of the state routinely engaged in amassing secret dossiers on the political activities of Canadians of all sorts. Resources did not always permit these files to be as extensive as the secret police might have liked, but when resources were provided, the police showed quite remarkable energy and zeal in spying on a large number of citizens. A royal commission discovered in 1977 that the RCMP security service maintained a name index with 1,300,000 entries, representing 800,000 files on individuals, including one of the authors of this book.[15] It is now possible through the Access to Information Act to troll through a small part of this vast trove of material which, even in censored form, reveals a mild Canadian version of the same kind of prurient interest in people's private activities, associations, and even thoughts that moved the notorious East German Stasi to pry into every nook and cranny of society for evidence of political deviance. Of course, Canada was never a totalitarian country –