

NSIRA REVIEW - FORMAL RESPONSE TO RECOMMENDATIONS

REVIEWEE: RCMP

NAME OF REVIEW: Review of the Departmental Implementation of the Avoiding Complicity in Mistreatment by Foreign Entities Act for 2021

Recommendations	Accepted / Partially Accepted / Rejected	Response / Justification	Implementation Plan for Recommendation	Implementation Timeline
<p>Recommendation #1: NSIRA recommends that the RCMP establish a centralized system to track caveats and assurances provided by foreign entities and where possible to monitor and document whether said caveats and assurances were respected.</p>	<p>Rejected</p>	<p>The RCMP has an established centralized system in place to track caveats and assurances provided by foreign entities. The RCMP's record management system is where information from any follow-ups conducted with foreign entities (including any concerns of non-compliance to caveats and assurances) is included in respective operational files, in accordance with our information-sharing policies and procedures.</p>	<p>N/A</p>	<p>N/A</p>
<p>Recommendation #2: NSIRA recommends that in cases where the RCMP Assistant Commissioner disagrees with FIRAC's recommendation not to share the information, the case be automatically referred to the Commissioner.</p>	<p>Rejected</p>	<p>The RCMP disagrees with this recommendation, as it is our understanding that NSIRA has misinterpreted the roles and responsibilities of the Assistant Commissioner / Executive Director with respect to the FIRAC process. As stated in the <i>Order in Council Directions for Avoiding Complicity in Mistreatment by Foreign Entities (Commissioner of the Royal Canadian Mounted Police)</i>, cases are to be referred to the Commissioner "[i]f the officials are unable to determine [sic] whether the risk can be mitigated." It is important to note that the FIRAC acts solely in an advisory capacity, making recommendations to the appropriate Assistant Commissioner / Executive Director who then makes a decision. The Assistant Commissioner / Executive Director, as the "official", has the authority to disagree with recommendations put forward by the FIRAC. Should the Assistant Commissioner / Executive Director be "unable to determine" if the risks can be mitigated, the decision is then referred up through the appropriate chain of command to the Commissioner for final decision.</p>	<p>N/A</p>	<p>N/A</p>

<p>Recommendation #3: NSIRA recommends that the assessment of substantial risk be limited to the provisions of the Orders in Council - namely the substantial risk of mistreatment and whether the risk may be mitigated - and external objectives such as fostering strategic relationships should not factor into this decision-making.</p>	<p>Partially Accepted</p>	<p>The RCMP agrees that the decision to share information should not include external objectives. The RCMP notes that for the assessment of substantial risk, these external objectives, such as relationship building, have been, and will continue to be, important in the totality of the information being considered, specifically as they relate to mitigation measures aimed at reducing the risk to the individual.</p>	<p>N/A</p>	<p>N/A</p>
<p>Recommendation #4: NSIRA recommends that FIRAC recommendations are referred to an Assistant Commissioner who is not responsible for the branch from which the case originates.</p>	<p>Rejected</p>	<p>The RCMP disagrees with this recommendation, as the Assistant Commissioner / Executive Director is responsible for all decisions and activities related to their program area. To balance impartiality, the FIRAC consists of senior executives who represent a wide range of program areas and whose recommendation is considered when the Assistant Commissioner / Executive Director is making their decision. Additional measures have been implemented to further impartiality, including having FIRAC Co-Chairs (one may not act in this role if the case presented is from their program area), as well as improving the Record of Decision documents, which captures the Committee's discussion to inform the decision maker.</p>	<p>N/A</p>	<p>N/A</p>