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Saturday 24 October 1998

Military spied on native protesters

Espionage team also secretly videotaped DND staff without search warrants

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David Pugliese
The Ottawa Citizen

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A special unit of Canada's military conducted spy operations against native protesters and soldiers; it also installed secret video cameras to monitor Defence Department employees suspected of theft even though it didn't have warrants to do so.

A review of military files from 1993 to 1995 shows that the special operations branch of the Canadian Forces Special Investigations Unit, which is supposed to be limited to investigating espionage and terrorism and providing commanders with information on immediate security threats, installed secret surveillance cameras to monitor soldiers and civilian employees on at least six different occasions at bases across the country.

Civilian lawyers say the military is required to obtain warrants before using secret cameras to spy on employees. But an Access to Information request by the Citizen reveals that only one warrant was issued to the military for the use of covert video cameras during that period.

Documents covering the period 1990-'95 also show that:

- DND spies tailed and photographed serving and ex-military employees suspected of minor theft or selling smuggled cigarettes, although the missions appear to have unearthed little evidence of improper conduct;
- The secret unit was dispatched to spy on native protesters at Ipperwash, Ont., in 1993;
- In 1994, the special unit was put on alert to sneak into Oka, Que., and the surrounding native reserves when tensions there increased;
- The surveillance team searched the luggage of soldiers catching flights at Ottawa International Airport for weapons, but found nothing. They also targeted people at the airport they thought were military employees and tried to get close enough to them to eavesdrop on their conversations;
- The military used a hidden camera to catch an employee stealing nuts and bolts from a workshop at Canadian Forces Base Trenton. For that operation the military had obtained a warrant to plant the surveillance device;
- At Canadian Forces Base Cold Lake in Alberta the team's equipment was used to eavesdrop on and record communications of individuals whose names were deleted from the documents. In that case, the military stated it did not believe it needed a warrant.

Capt. Alain Bissonnette, spokesman for the Canadian Forces Provost Marshal, said DND's special operations section consults with military lawyers on whether warrants are needed for each of its surveillance missions and strictly follows the law.

"The support section conducts all their technical surveillance according to Canadian law and the charter of rights," Capt. Bissonnette said.

But, he added, in some cases a warrant is not needed for areas frequently used by military personnel, such as aircraft hangars. "In public places you can put surveillance cameras and there's no problem with that," Capt. Bissonnette said. "Some hangars are public (and) people can come in and out."

Officials with the Judge Advocate General's office declined to be interviewed.

But civilian lawyers say that under a 1990 Supreme Court ruling, the military should have obtained a warrant for every use of secret video cameras. "If their purpose is to gather evidence for a criminal offence then there has to be a warrant," said lawyer Clayton Ruby.

"There's a privacy interest which can only be overturned by a warrant."

He called the use of secret video cameras to catch employees stealing nuts and bolts "utterly petty. It's not a measured response to this type of crime," Mr. Ruby said.

Eugene Oscapella, a legal specialist in privacy rights, agreed: "If you've got a problem, you don't solve it with the hammer first," he added. "The whole notion of video surveillance is troubling. Just because we have the technological means to track people doesn't mean we should be doing it."

The unit is armed with more than \$1 million in high-tech surveillance gear.

The surveillance at Ipperwash was one the unit's most extensive missions. The land had been taken from the natives during the Second World War for military training and the protesters were frustrated the federal government was stalling in returning the property.

Thirty native protesters were allowed to live in tents at one end of the camp, with military personnel at the other; each side agreed to stay out of the other's way until the issue was resolved.

But in fact, a special operations team hid in the bushes, photographing and recording the natives' every movement. While details are censored, the investigation files note that a "vast array" of equipment was used, including "specialized photographic equipment."

"The potential of the equipment is truly remarkable," one military spy wrote in his report. "The equipment provided very timely intelligence, given the distances that separated the elements deployed and the command and control elements."

Terrorism specialist John Thompson interviewed one of the 19 soldiers involved and was told the military was concerned that members of the militant Indian group, the Warriors, would infiltrate the peaceful protesters. Mr. Thompson said the Defence Department spies were so well hidden and so close to the protesters' camp that one protester urinated in the bush less than a metre away from a camouflaged soldier.

In all, the special operations team spent 1,536 hours on Operation Maple at Ipperwash. The only major problem the spies encountered was getting rooms at the same hotel in the popular tourist area.

Less than a year later, the special operations team was preparing to spy on natives in Quebec. Tensions at the Kanasatake reserve near Oka

were mounting and in late January 1994, Mohawks fired as many as 60 bullets at two military aircraft.

The spy teams were told to be ready to move out within a few hours; they were assigned to collect intelligence for military commanders and police. They were armed, but were warned to "use discretion."

According to the files, the spied were told, "Weapons will be concealed and used only under extreme or grave circumstances and as a last resort."

Radio transmissions between the units were to be scrambled and the spies were warned against using cell phones.

Those who had experience on the missions at Oka in 1990 were brought in. Maps were reviewed and a "target book" compiled by army intelligence. "Friendly forces" were listed as the RCMP, Canada Customs, the Canadian Security Intelligence Service and "other army elements deployed" in support of the operation. It was extremely important that intelligence gathered on the number of weapons available to the natives be accurate.

"The situation involving all three (reserves) is extremely volatile and sensitive. The situation could easily develop into another (Oka). Extreme caution and sound judgment must be used throughout all phases of this operation by any deployed element," the report stated.

On several occasions, the unit has lent spy devices to Ottawa, Hull, Canadian Pacific Police and Quebec police who used it to investigate motorcycle gangs. Ministry of Natural Resources officials in Kemptville borrowed night-vision equipment for a sting operation in April 1994.

In the late 1980s, Defence Department employees complained that members of the Special Investigations Unit broke into offices, stole personal records and illegally detained and videotaped civilian employees. Critics have also complained that the unit conducted a witchhunt against homosexuals in the Armed Forces. A civilian inquiry, headed by Judge Rene Marin, recommended relieving the unit of its criminal and service investigation responsibilities.

The unit has been renamed the Support Section and is under control of the military's National Investigation Service. The unit now only supports investigations by providing surveillance equipment and expertise.

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