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## CSIS Warrant Application Process

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*This is a summary of some intelligence information that is available to the Government of Canada's national security and intelligence community on a certain topic, presented such that it can be released to the public without disclosing information that would cause injury to national security and international relations. As such it has several important limitations. **The summary must be read in light of these limitations, otherwise the summary has the potential to mislead the reader.** The limitations are the following:*

- Summary may be incomplete:** *The summary summarizes some, but not necessarily all, the intelligence information on this topic that is available to the Government of Canada's national security and intelligence community. For example, it only contains relevant information that can be appropriately sanitized for public release.*
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- Summary does not analyze information:** *This document is a summary of intelligence; it is not an analysis of the overall import, meaning, or strength of intelligence.*

*The Commission has been provided with all relevant intelligence and assessments, which indicates information on reliability and corroboration of the information contained therein.*

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This summary is in response to a request by the Commission for publically releasable information relating to a Federal Court warrant application sought by the Canadian Security Intelligence Service (CSIS). In order to protect CSIS sources and methods, CSIS cannot comment publically on the subject(s) of investigation, the nature of the threat(s), or the authority(ies) under which a specific warrant is requested.

The authority to seek a warrant is contained in section 21(1) of the *CSIS Act*, which states:

“if the Director or any employee designated by the Minister for the purpose believes, on reasonable grounds, that a warrant under this section is required to enable the Service to investigate, within or outside Canada, a threat to the security of Canada or to perform its duties and functions under section 16, the Director or employee may, after having obtained the Minister’s approval, make an application in accordance with subsection (2) to a judge for a warrant under this section.”

Additionally, section 21(2) of the *CSIS Act* outlined information CSIS must include in its warrant applications, such as, but not limited to:

- (a) “the facts relied upon to justify the belief, on reasonable grounds, that a warrant under this section is required [...]” and
- (b) “that other investigative procedures have been tried and have failed or why it appears that they are unlikely to succeed [...]”.

There are several main categories of warrant applications, such as new warrants, replacements of existing warrants, and supplemental applications for warrants.

More information on warrant applications can be found under Part II of the *CSIS Act*, “Judicial Control.”

For example, CSIS could seek a warrant application in aid of an investigation related to foreign interference threats, defined at paragraph 2(b) of the *CSIS Act* as:

“foreign influenced activities within or relating to Canada that are detrimental to the interests of Canada and are clandestine or deceptive or involve a threat to any person.”

The timeline for an application for a Federal Court warrant can vary widely due to a number of factors, and involves several sections of CSIS, the National Security Litigation and Advisory Group (NSLAG) of the Department of Justice, Public Safety Canada and the Minister of Public Safety. The process follows similar steps for each warrant application, providing checks and balances to ensure compliance with the *CSIS Act* and the duty of candour requirements set forth by the Federal Court with respect to *ex parte* applications.

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The application process begins when CSIS operational region(s) and their HQ counterpart(s) prepare the relevant information detailing the specific threat(s), target(s), and proposed investigative power(s) for the warrant application and seeks the first approval from CSIS management.

If approved, CSIS sends the request to NSLAG for a legal assessment of whether the information the Service intends to rely upon in support of the application satisfies *CSIS Act* legislative requirements. Based on NSLAG's assessment, CSIS drafts the affidavit used in support of the warrant application.

Once the affidavit is drafted, the warrant application undergoes further internal reviews and approvals by CSIS management, which is then submitted to the Judicial Authority Acquisition Committee (JAAC). JAAC is comprised of senior executives from CSIS, as well as members from other government departments, including Public Safety Canada, Communications Security Establishment (CSE), the Department of Justice, and the Royal Canadian Mounted Police (RCMP).

If JAAC approves the application, it is updated to reflect any changes requested by the committee before it is submitted to Public Safety.

The *CSIS Act* requires that any warrant application be approved by the Minister of Public Safety Canada. Public Safety Canada officials will review the warrant application to draft a summary with advice to the Minister as to whether the Minister should approve the application and provides all information received from CSIS to the Minister for consideration. The Minister's office may ask questions or request further information from CSIS or Public Safety officials.

If the Minister decides to approve the warrant application, the Department of Justice notifies the Federal Court and files the application. A judge of the Federal Court conducts a hearing, and either grants the warrant or denies the application.