

CSIS has easy time getting warrants, documents reveal

COLIN FREEZE, [Globe and Mail](#), Nov 15, 2004

Judges approve more than 99 per cent of the requests by CSIS to spy on people in Canada, according to records obtained by The Globe and Mail.

While the government says espionage is one of its most intrusive powers, records show that Federal Court judges almost never disagree with Canadian Security Intelligence Service agents who ask for permission to take extraordinary steps so they can discover more about suspected terrorists or foreign spies.

CSIS officials say this speaks to the fact that they run a highly disciplined spy service, whereas critics suggest judges are giving carte blanche to intelligence operations. "What I would think is mostly the courts rubber-stamp the requests," said defence lawyer Paul Copeland, who has represented several clients accused of being national security threats.

Intelligence-gathering warrants, described in Section 21 of the CSIS Act, allow agents to intercept the communications of suspected terrorists or foreign spies. The warrants also allow CSIS agents to take highly invasive steps -- they can "enter any place" in order "to obtain access to any thing," according to the law -- in the name of safeguarding national security.

Because these spying powers are so vast, they require a high threshold to exercise. Judges must be convinced that "other investigative procedures have been tried and have failed" and "the urgency of the matter is such that it would be impractical to carry out the investigation using only other investigative procedures."

Yet the Federal Court is nearly always persuaded. Between 1993 and 2003, CSIS filed warrant applications at a rate of between 200 and 300 a year for a total of 2,544 applications.

Only 18 of these requests were rejected by the Federal Court, the last denial occurring five years ago, according to records obtained by The Globe under the Access to Information Act.

This means CSIS has succeeded in having its warrant applications approved 99.3 per cent of the time.

To people affiliated with CSIS, the success rate is less reflective of the judicial rubber-stamping than of the service's strong internal vetting procedures.

At a public commission this summer, Jack Hooper, a top CSIS official, testified that acquiring warrants was a "very, very extensive" process that involved double-checking facts, getting outside lawyers to review them and then getting a federal minister to sign off on the application -- all before a Federal Court judge looked at it.

Michel Juneau Katsuya, a former CSIS agent who now acts as a consultant for the Northgate Group in Ottawa, said the warrants represent "one of the main investigative tools" used by the service, but they remain difficult to acquire.

"You have to know what you're looking for, you have to know it's there and you have to demonstrate to the magistrate that it's legitimate and it's justified," he said. "It's not something that's going to be given easily because you're actually breaking, technically, the law, if there is something important that you need to acquire."

Each warrant is used to spy on either individual or group targets. There are fixed time frames for the spying.