

## CSIS Policies and Procedures

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**SECRET**

### OPS-219 WARRANT ACQUISITION - SECTION 16

#### 1. INTRODUCTION

##### Objective

1.1 To detail the processes required for and the responsibilities associated with the acquisition of a warrant under sections 21 or 23 of the CSIS Act.

##### Scope

1.2 This policy deals with the assistance provided by the Service, pursuant to sections 16 and 21 of the CSIS Act, to the Minister of Foreign Affairs or the Minister of National Defence in the collection of foreign intelligence within Canada relating to the defence of Canada or conduct of its international affairs.

1.2.1 Section 12 Warrant acquisition is covered under OPS-209, "Warrant Acquisition Section 12".

1.2.2 Section 16 non-warranted collection of information is covered under OPS-222, "HUMINT Collection - Section 16".

##### Authorities and References

1.3 Canadian Security Intelligence Service Act

1.4 Security Offences Act

1.5 Memoranda of Understanding:

Tripartite Agreement; Foreign Affairs, National Defence and Solicitor General (1987-08-21)

CSIS and Royal Canadian Mounted Police (RCMP) (1990-04)

CSIS and Communications Security Establishment (CSE) - Section 16 (1990-11-01)

1.6 OPS-220, "Execution of Warrant Powers - Section 16"

1.7 OPS-221, "Processing of Information and Communications Collected under Warrant - Section 16"

1.8 OPS-222, "HUMINT Collection - Section 16"

##### Definitions

1.9 **Affiant:** A Service employee designated by the Minister of Public Safety and Emergency Preparedness Canada (PSEPC) to make application for a warrant to the Federal Court and, with Legal Counsel, attend the Court hearing.

1.10 **Affidavit:** A document filed with the Federal Court providing the facts and statements of belief of the affiant and powers being sought.

1.12 **Designation and Approval:** A document signed by the Minister of PSEPC and filed with the Federal Court in accordance with s. 21(1) or s. 22 of the *CSIS Act*. By signing this document, the Minister designates the Service employee who will be the affiant, and approves the warrant application.

1.13 **Facts (Section 16):** Information provided in support of the application by either DFAIT, DND, CSE or the Service's information holdings.

1.14 **Foreign Intelligence:** Information or intelligence relating to the capabilities, intentions or activities of a foreign state or group of foreign states, a foreign person or a foreign corporation.

1.15 **Intercept:** Any and all forms of information collected pursuant to the warrant.

1.16 **Letter of Consent:** Personal written letter of consent provided to the Director by the Minister of PSEPC in support of a Letter of Request.

1.17 **Letter of Direction (Section 16):** Prepared by the TARC/Warrant Section, this document accompanies the warrant(s) issued by the Federal Court when it is sent to CSE and the executing region(s). It highlights Federal Court or ministerial terms and conditions that may apply, as well as relevant Service policy, and provides advice on the implementation of the powers authorized by the warrant.

1.18 **Letter of Request:** Personal written letter of request of the Minister (Foreign Affairs or National Defence) requesting the assistance of the Service in collecting s. 16 information.

1.19 **Need-to-know:** The principle whereby employees/consultants/contractors are provided with access to classified or designated information to properly carry out their current duties or responsibilities. Before seeking or providing another person with access to classified or designated information, employees/consultants/contractors must be satisfied of their or the person's legitimate need to know. (SEC-402, "Physical Safeguarding of Information").

1.21 **Requesting Minister:** The Minister (Foreign Affairs and International Trade or National Defence) requesting collection of s. 16 information by the Service.

1.22 **Warrant:** A document issued by a Federal Court judge pursuant to s. 21, 22 or 23 of the *CSIS Act* authorizing employees of the Service to implement specific powers.

1.23 **Warrant Application:** The process by which the Service brings forward a request for consideration of warrants by the Warrant Review Committee, the Minister of PSEPC and the Federal Court.

## 2. PRINCIPLES

2.1 The collection of information pursuant to s. 16 of the *CSIS Act* has the potential for serious repercussions for the Government of Canada and the Service should it become public or known to the target(s). The sensitive nature of this type of operation requires that the "need-to-know" principle be rigidly applied.

2.2 A new warrant application is sought pursuant to s. 21 of the CSIS Act.

2.4 Section 16 collection activity cannot target the capabilities, intentions or activities of a Canadian citizen, a permanent resident or a corporation.

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PROVISIONS OF THE PRIVACY ACT AND/OR  
ACCESS TO INFORMATION ACT.  
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#### 4. RESPONSIBILITIES

##### Director

4.1 The Director is responsible for:

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##### Deputy Director Operations

4.2 The Deputy Director Operations (DDO) or designate is responsible for:

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##### Chief, TARC/Warrant Section

4.3 The Chief, TARC/Warrant Section is responsible for:

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**Assistant Director, Legal Services**

4.4 The Assistant Director, Legal Services or designate is responsible for the coordinations of Federal Court warrant applications including:

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**Secretary Warrant Review Committee (WRC)**

4.5 The Secretary of the WRC will consult with:

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**Affiant**

4.6 The affiant is responsible for the contents of the affidavit and must believe the facts as presented are true and accurate.

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## 6. PROCEDURES

6.1 Procedures detailing and governing the process of applying for a Federal Court warrant are contained in OPS-219-1 Procedures - "Warrant Acquisition - Section 16".

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