

File: CSIS-2025-03



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INTELLIGENCE COMMISSIONER
DECISION AND REASONS

IN RELATION TO AN AUTHORIZATION FOR
THE CANADIAN SECURITY INTELLIGENCE SERVICE
TO RETAIN THE FOREIGN DATASET



PURSUANT TO SECTION 11.17 OF
THE *CANADIAN SECURITY INTELLIGENCE SERVICE ACT* AND
SECTION 17 OF THE *INTELLIGENCE COMMISSIONER ACT*

JULY 15, 2025

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I. OVERVIEW

1. This is a decision reviewing the conclusions of the Director of the Canadian Security Intelligence Service (CSIS or Service) authorizing CSIS to retain the [...] (Foreign Dataset) pursuant to subsection 11.17(1) of the *Canadian Security Intelligence Service Act*, RSC 1985, c C-23 (*CSIS Act*).
2. CSIS may collect a foreign dataset if it is satisfied that the dataset – information stored as an electronic record, containing personal information as defined in section 3 of the *Privacy Act*, RSC, 1985, c P-21, and characterized by a common subject matter (s 11.01, *CSIS Act*) – is relevant to the performance of its duties and functions under sections 12 to 16 but cannot be collected or retained under those sections. CSIS must also reasonably believe that the information predominantly relates to non-Canadians who are outside Canada.
3. Following collection by CSIS, the Minister of Public Safety and Emergency Preparedness (Minister), or his designate, must authorize its retention, which must subsequently be approved by the Intelligence Commissioner. The Director of CSIS was designated by the Minister in September 2019, to authorize the retention of foreign datasets. This designation was reconfirmed by the Minister on March 7, 2025.
4. On [...] the Office of the Intelligence Commissioner received the Authorization for my review and approval under the *Intelligence Commissioner Act*, SC 2019, c 13, s 50 (*IC Act*).
5. Having completed my review, I am satisfied that the Director's conclusions relating to the retention of the Foreign Dataset are reasonable. Consequently, I approve the Authorization to retain the Foreign Dataset pursuant to paragraph 20(2)(a) of the *IC Act*.

II. CONTEXT

6. A description of the Foreign Dataset, including of its origin, contents, and the steps taken during its evaluation period can be found in the classified annex to this decision (Annex A). The annex renders the eventual public version of the decision easier to read and ensures that

the decision contains the nature of the facts that were before me, which otherwise would only be available in the record.

7. The dataset regime set out in sections 11.01 to 11.25 of the *CSIS Act* provides CSIS with the authority to retain and use personal information when that information is relevant to CSIS' duties but could not otherwise be collected under sections 12 to 16 of the *CSIS Act* – which means that CSIS can effectively collect and use information that is not directly and immediately related to a threat to the security of Canada. A foreign dataset, as opposed to a Canadian dataset, is a dataset that predominantly relates to individuals who are not Canadians and are outside Canada or to non Canadian corporations who are outside of Canada.
8. The authorization sets out the Director's conclusions – effectively the reasons – supporting the retention of a foreign dataset. The Director, as the Minister's designate, must be satisfied that three mandatory criteria have been met (s 11.17(1) *CSIS Act*): (i) the dataset is a foreign dataset (s 11.07(1)(c)); ii) its retention is "likely to assist" CSIS in the performance of its duties and functions under sections 12 (investigations of suspected threats), 12.1 (measures to reduce threats), 15 (investigations for security assessments or advice to ministers) or 16 (collection of information concerning foreign persons and states in Canada); and (iii) CSIS has complied with its obligations set out in section 11.1 of the *CSIS Act* to take reasonable measures to ensure the deletion of any information that relates to physical or mental health of an individual that a person would reasonably expect to remain private, and the removal of any information that by its nature or attributes relates to a Canadian or a person in Canada.
9. The authorization to retain a foreign dataset is valid for the period specified in the authorization, which must last not more than ten years from the date of the Intelligence Commissioner's approval (s 11.17(3), *CSIS Act*).
10. Only once the authorization is approved by the Intelligence Commissioner can designated CSIS employees query or exploit the foreign dataset – and retain the results – for the purposes of sections 12, 12.1, and 15 to the extent that it is strictly necessary, and for the purposes of section 16 if required to assist the Minister of National Defence or the Minister of Foreign Affairs. The querying and exploitation of the dataset allows CSIS to make

connections, detect patterns and trends that would not otherwise be apparent with traditional means of investigation.

11. In accordance with section 23 of the *IC Act*, the Director confirmed in his cover letter that he provided me with all of the information that was before him when issuing the Authorization. The record is therefore composed of:

- a) The Authorization;
- b) Memorandum to the Director from CSIS, dated [...] requesting that the Director issue an authorization to retain the Foreign Dataset (the Application);
- c) A description of the dataset;
- d) Designation of the Director by the Minister pursuant to section 11.16(1) of the *CSIS Act*, dated September 11, 2019; and re-confirmed on March 7, 2025; and
- e) Memorandum to the Director as Minister Designate – additional information to the request for authorization to retain the dataset.

III. STANDARD OF REVIEW

12. The *IC Act* requires the Intelligence Commissioner to review whether the Director's conclusions are reasonable. I will therefore apply the reasonableness standard, as applied in judicial reviews of administrative action.

13. As indicated by the Supreme Court of Canada, when conducting a reasonableness review, a reviewing court is to start its analysis by examining the reasons of the administrative decision maker. In *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], at paragraph 99, the Court succinctly describes what constitutes a reasonable decision:

A reviewing court must develop an understanding of the decision maker's reasoning process in order to determine whether the decision as a whole is reasonable. To make this determination, the reviewing court asks whether the decision bears the hallmarks of reasonableness – justification, transparency and intelligibility – and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision.

14. Relevant factual and legal constraints can include the governing statutory scheme and the impact of the decision. The governing statutory scheme set out in the *IC* and *CSIS Acts* highlights the role of the Intelligence Commissioner as an independent mechanism to ensure that government action taken for the purpose of national security and intelligence is properly balanced with the respect of the rule of law and the rights and interests of Canadians.
15. With respect to an authorization to retain a foreign dataset, when the Intelligence Commissioner is satisfied (*convaincu* in French) that the Director's conclusions at issue are reasonable, he "must approve" the authorization (s 20(2)(a), *IC Act*). Conversely, where unreasonable, the Intelligence Commissioner "must not approve" the authorization (s 20(2)(c), *IC Act*). The Intelligence Commissioner can also approve the retention of a foreign dataset with conditions if satisfied that the conclusions would be reasonable once the conditions are attached (s 20(2)(b), *IC Act*).

IV. ANALYSIS

16. Section 17 of the *IC Act* requires that I review whether the Director's conclusions and on the basis of which the retention of the foreign dataset was authorized are reasonable. Pursuant to subsection 11.17(1) of the *CSIS Act*, in order to authorize the retention of a foreign dataset the Director must conclude that the following three criteria have been met:

- a) the dataset is a foreign dataset;
- b) the retention of the dataset is likely to assist the Service in the performance of its duties and functions under sections 12, 12.1, 15 or 16; and
- c) the Service has complied with its obligations under section 11.1 to take reasonable measures to ensure the deletion of any information relating to the physical or mental health of an individual for which there is a reasonable expectation of privacy, and the removal of any information that by its nature or attributes relates to a Canadian or a person in Canada.

17. The Director concluded that these conditions were met and consequently issued the Authorization for a period of ten years, subject to the Intelligence Commissioner's approval. I address the duration of the authorization further in a remark.

18. As neither the Application nor Authorization describe terms or conditions respecting the disclosure of the dataset, I take it that no such authorization is being sought and that the dataset will not be disclosed (s 11.17(2.1), *CSIS Act*).

A. Are the Director's conclusions reasonable?

i. The dataset is a foreign dataset

19. As defined in the *CSIS Act*, a foreign dataset predominantly relates to individuals who are not Canadian citizens or permanent residents and who are outside Canada, or corporations that were not incorporated or continued under the laws of Canada or a province and that are outside Canada (ss 11.01 and 11.07(1)(c), *CSIS Act*).

20. After the collection of a dataset and during the 180-day evaluation period, designated CSIS employees must confirm whether the dataset predominately relates to non-Canadians outside of Canada. Given the considerable volume of records found in most datasets, the evaluation generally uses a combination of automated and manual processes.

21. As I have indicated in previous foreign dataset decisions, the evaluation does not have to lead to absolute certainty that there are no Canadian-related records contained in the dataset. Indeed, the purpose of the evaluation is to enable the designated employees to confidently determine whether the information in the dataset, as a whole, predominantly relates to non-Canadian individuals or to non-Canadian corporations not in Canada.

22. In the Authorization, the Director relies on two grounds to conclude that the dataset is a foreign dataset. First, he references CSIS' assessment which reveals that none of the included [a type of] information was Canadian-related. Second, per the description of the dataset received by CSIS, the dataset predominantly relates to non-Canadians in a foreign state.

23. The record includes a Memorandum from CSIS responding to a question from the Director as to how and why the dataset was originally obtained, the contents of which also support the conclusion that the dataset is a foreign dataset. I note, however, that the document is undated thus making it unclear on what exact date the Director made his request for additional

information, and when it was answered. As stated in a number of previous decisions, documents supporting the Director's conclusions that are the subject of review by the Intelligence Commissioner are official documents and should be dated. This is consistent with statements by the former CSIS Director in previous records underlining his expectation that this issue be fully addressed in future authorizations (CSIS-2022-03; CSIS-2021-04; CSIS-2020-02).

24. The reasonableness of the Director's conclusion with respect to the "foreignness" of the dataset rests on the evaluation conducted by CSIS. Based on the description of that process summarized in this decision and described in more detail in Annex A, I find the Director's reliance on the results of the evaluation justified. The results show that the nature of the information relates to non-Canadian individuals who are outside Canada. Consequently, I am satisfied that the record justifies the Director's conclusion that the dataset meets the definition of a foreign dataset.

ii. The retention of the dataset is likely to assist CSIS

25. As stated in Decision CSIS-2023-04 related to the retention of a foreign dataset, the scheme of the *CSIS Act* works in steps, each with its own threshold: the first being the collection threshold (relevant), the second being the retention threshold (likely to assist) and the third being the threshold for querying or exploitation and ingesting the result into CSIS' operational databases (strictly necessary/required to assist).
26. The Director's conclusions and the record do not explicitly set out the Director's understanding of the "likely to assist" threshold, which is particular to the *CSIS Act*. I am of the view that a clear articulation of the definition and application of a threshold when determining if a statutory condition has been met is useful for transparency, consistency and effective decision-making.
27. Indeed, the application of the threshold is central to determining whether the conclusions are reasonable. As stated in Decision CSIS-2023-04, the application of the "likely to assist" threshold requires contextual analysis. The Director may rely on a single or numerous factors to determine that the foreign dataset will likely assist CSIS in the performance of its duties.

In conducting my reasonableness review, I need to understand the Director's rationale, including which factors justify his conclusion.

28. Although the Director does not define the parameters of the threshold, I am of the view that the context and detail found in his conclusions show how he understands and applies it. To support his conclusion that the retention of the Foreign Dataset is likely to assist CSIS, the Director first relies on [...].
29. Second, the Director provides an explanation for the use of the dataset for each legislative provision involved. The Director explains how the Foreign Dataset will be useful under section 12 of the *CSIS Act*, [...]. The dataset is also likely to assist with the execution of threat-reduction measures under section 12.1 or [...] information useful to section 15 assessments. Finally, the dataset is likely to assist [...] which is sought for the purpose of section 16.
30. The Director's conclusions establish a logical nexus between the information in the dataset and CSIS' duties and functions. The nature of the information found in the dataset and the various factors used by the Director collectively demonstrate how the foreign dataset will likely assist CSIS' duties and functions under sections 12, 12.1, 15 or 16. I am satisfied that the Director is justified in claiming that the Foreign Dataset will likely assist CSIS in this manner and that his conclusions are reasonable. Nevertheless, I note that the Director's conclusions could have been strengthened by explaining how certain activities of the foreign state from which the information in the dataset originates relate to the Government of Canada's current Intelligence Priorities. I address this issue further in my remarks.

iii. CSIS has complied with its continuing obligations - section 11.1 of the CSIS Act

31. With respect to a foreign dataset, a designated CSIS employee shall, during the 180-day evaluation period, comply with the following continuing obligations of CSIS set out in section 11.1 of the *CSIS Act* (s 11.07(6)(b), *CSIS Act*). As required, CSIS must take reasonable measures to:

- a) Delete any information in respect of which there is a reasonable expectation of privacy that relates to the physical or mental health of an individual; and
- b) Remove any information that by its nature or attributes relates to a Canadian or a person in Canada. In addition, when the Canadian-related information is removed from the foreign dataset, CSIS shall pursuant to subsection 11.1(2) of the *CSIS Act* (a) destroy it without delay; (b) collect it as a Canadian dataset; or (c) add it as an update to an existing dataset.

a) Deletion of any information related to the physical or the mental health of an individual (s 11.1(1)(a))

32. The Foreign Dataset is organized in columns and rows. CSIS did not identify any column headings or data types that could potentially contain information related to the physical or mental health of individuals. Given its assessment that the column headings accurately reflected the actual information in those columns, CSIS concluded that the Foreign Dataset did not contain any health-related information.
33. The record also confirms that a similar analysis of the dataset was done as required during the evaluation period to confirm whether the dataset columns contained personal information that in the opinion of CSIS, is not relevant to the performance of its duties and functions (s 11.07(6)(a), *CSIS Act*). No such information was identified.
34. In his conclusion, the Director explains that he is satisfied with the steps taken by CSIS to identify health-related information. The Director acknowledges the continuing nature of CSIS' obligations to delete any information related to the mental or physical health of an individual from the Foreign Dataset.
35. Based on the manner in which the information is organized in the Foreign Dataset as well as the assessment that the information in the columns accurately reflects the column headings, I am satisfied that the Director's conclusion that CSIS has met its obligations under paragraph 11.1(1)(a) of the *CSIS Act*, and will continue to do so, is reasonable.

b) Removal of any information that by its nature relates to a Canadian or a person in Canada (s 11.1(1)(c))

36. To satisfy its obligation to remove any Canadian-related information from the dataset, CSIS first conducted an analysis based on the structure of the dataset to identify whether the categories of information in the dataset could potentially contain information that could relate to a Canadian or a person in Canada. CSIS identified [...] categories and following a review, concluded that no Canadian-related information was present.
37. Second, CSIS filtered the contents of the dataset using search terms designed to identify the presence of information relating to Canadians and persons in Canada. While some records were initially identified, a manual review of the results by the designated CSIS employee assessed the results as false positives. As a result, CSIS concluded that the dataset did not contain Canadian-related information.
38. In his conclusion, the Director confirms that he is satisfied that CSIS complied with its obligations under paragraph 11.1(1)(c) of the *CSIS Act*. He again acknowledges the continuing nature of CSIS' obligations to remove information related to a Canadian or a person in Canada should any be identified in the future.
39. Based on the nature of the information contained in the Foreign Dataset and CSIS' evaluation methodology explained in the record as well as the evaluation results, I am of the view that the Director's conclusion that CSIS has met its statutory obligations is reasonable.
- iv. The update provisions are reasonable*
40. The *CSIS Act* does not explicitly state that the Director's conclusions concerning how a foreign dataset could be updated are subject to the Intelligence Commissioner's review. Nevertheless, paragraph 11.17(2)(b) of the *Act* requires that an authorization to retain a foreign dataset specify the manner in which CSIS may update it. Consequently, I am of the view that update provisions form part of my reasonableness review.
41. As stated in the Intelligence Commissioner's jurisprudence, CSIS cannot have carte blanche to modify and update a dataset after its authorization has been approved. Reviewing the

reasonableness of the conclusions related to proposed update provisions ensures that any updates will not change the nature of the authorized dataset and that the updates will satisfy the threshold of likely to assist CSIS in the performance of its duties and functions.

42. The Director approved two types of updates. Type 1 updates are administrative in nature and allow CSIS to add, delete or replace data that was erroneous or missing from the original dataset. These updates would correct typographical errors or add supplementary data that is currently missing. They would also ensure data integrity or completeness of the dataset without changing the nature of the dataset.
43. Type 2 updates are related to new information. They will allow CSIS to update the Foreign Dataset with new data records, should updates to the dataset become available. The updates will allow new data records relating to existing data in the dataset to be added.
44. In his conclusions, the Director explains the nature of the update provisions and is satisfied that they will likely assist CSIS in its duties and functions based on the same rationale for the retention of the Foreign Dataset. In my view, the Director's conclusions show his understanding of the two update provisions and the fact that they will not alter the nature of the dataset. Further, the Director acknowledges that updates are subject the criteria outlined above. Should that dataset not meet the update criteria, a new authorization for retention of the information would be required. As a result, I find the Director's conclusions with respect to the update provisions reasonable.

V. REMARKS

45. I would like to make the following three remarks which do not alter my findings regarding the reasonableness of the Director's conclusions.

A. Director's conclusions should address rationale for retention period

46. The Authorization is for a period of ten-years, which is the maximum possible validity period under the *CSIS Act*. June 2024 legislative amendments to the dataset regime doubled the previous maximum allowable validity period of "not more than five years" to "not more than 10 years" (s 11.17(3), *CSIS Act*). Given that the Director has the discretion to determine the

period, and that it has changed from previous authorizations – this is the first-ever request for a ten-year authorization – the Director’s conclusions would have been strengthened by explaining his rationale for authorizing the retention for the longest permissible period. I have raised a similar issue in previous remarks (CSIS-2023-04; CSIS-2025-02) and I expect the conclusions in future authorizations to provide additional support for the validity period.

B. Updating of dataset – Importance of proper record-keeping

47. The granting of an authorization for the maximum ten-year validity period renders record-keeping even more essential. This is both for the purpose of ensuring proper compliance – and potential review – over the course of the authorization, as well as to provide relevant information where an authorization is amended or renewed.
48. In particular, I wish to emphasize the importance of record-keeping regarding any updates to the dataset. Good record-keeping should serve to enable any future application for amending or renewing the authorization to clearly reflect the updates to the dataset that have been made over the course of its retention. As I have previously stated in a remark made in Decision CSIS-2023-04, applications for renewal should also be able to indicate how the previously approved dataset was useful, as this may be a factor in considering the “likely to assist” threshold.
49. More specifically, the following should be documented: how new information was obtained; the rationale for an update; whether the new information added is consistent with the existing types of information, and why or how the new information is assessed to be relevant to CSIS’ performance of its duties and functions under sections 12, 12.1, 15 or 16 of the *CSIS Act*. Finally, the record should provide a description of how any information added meets CSIS’ continuing obligations with regard to section 11.1 of the *CSIS Act*.

C. Provision of a complete record

i. Intelligence Priorities

50. In contrast to past authorizations pertaining to foreign datasets, the present record does not include the Government of Canada’s Intelligence Requirements/Priorities (Intelligence Priorities) or the associated Ministerial Direction to CSIS on Intelligence Priorities

(Ministerial Direction). I note, however, that brief references to intelligence priorities are made in the Application (i.e. “generating new investigative leads in line with intelligence priorities with respect to...”) (emphasis added). The Application also concludes with the statement that CSIS “anticipates that threats related to [...] will continue to be identified as intelligence priorities for the foreseeable future”. In the Authorization, the Director concurs that the threat actor “will likely continue to be a priority for years to come.”

51. I am mindful of the fact that *Vavilov* instructs that whether a particular decision is consistent with a decision-making body’s past decisions, as well as longstanding practices, is a constraint that should be considered when determining whether the decision is reasonable. Further, where a decision maker does depart from a longstanding practice, they bear the justificatory burden of explaining that departure in their reasons (*Vavilov*, at para 131).

52. While the description of the nature and scope of threats included in the Application is sufficiently detailed to allow me to be satisfied that the Director’s conclusion that the threat actor “will continue to be a priority for years to come” is reasonable, I note that in previous authorizations similar conclusions were founded on – and strengthened by – references to both the Ministerial Direction and Intelligence Priorities. Indeed, in finding similar past conclusions reasonable I have noted in past decisions the clear link made between them and the Intelligence Priorities (CSIS 2024-04 and 2024-06).

53. Additionally in those decisions, where applications contained references to Intelligence Priorities which had in the meantime been replaced (due to the significant delay between CSIS’ requests for authorization and issuance by the Director), the Director in his conclusions specifically addressed how the conclusions remained valid in relation to the updated Intelligence Priorities, or addressed how they are expected to be consistent with what was at the time a forthcoming updated Ministerial Direction. I note that such considerations would be equally relevant to an authorization such as this one spanning ten years, and therefore multiple sets of intelligence priorities.

54. In short, given their longstanding inclusion in records and Director’s conclusions, I would have expected the Intelligence Priorities and Ministerial Direction to have been included and

referenced in the record, or alternately for their absence to have been addressed in the conclusions.

ii. Operational policies

55. In my recent decision CSIS-2025-02 in relation to a class of Canadian datasets, I noted that following the June 2024 legislative amendments, CSIS was in the process of updating its operational policies. As I had remarked, up-to-date policies have an important role to play in providing designated employees with the necessary guidance and to ensure that statutory requirements and privacy protections are properly operationalized. I note that the policies were not included, nor referenced, in the record before me, and look forward to an update on the progress of CSIS' work to update them and/or to their inclusion them in the next record pertaining to a dataset.

VI. CONCLUSIONS

56. Pursuant to section 17 of the *IC Act*, I am satisfied that the Director's conclusions made pursuant to subsection 11.17(1) of the *CSIS Act* and on the basis of which the retention of the Foreign Dataset was authorized are reasonable.

57. Therefore, pursuant to paragraph 20(2)(a) of the *IC Act*, I approve the Director's authorization to retain the Foreign Dataset.

58. As indicated in the authorization, and pursuant to subsection 11.17(3) of the *CSIS Act*, this authorization expires ten years from the day of my approval.

59. As prescribed in section 21 of the *IC Act*, a copy of this decision will be provided to NSIRA for the purpose of assisting the Agency in fulfilling its mandate under paragraphs 8(1)(a) to (c) of the *National Security and Intelligence Review Agency Act*, SC 2019, c 13, s 2.

July 15, 2025

(Original signed)

The Honourable Simon Noël, K.C.
Intelligence Commissioner