

Greenpeace Canada Backgrounder: CSIS - TC Energy documents

Summary

Documents obtained under Access to Information legislation show that the pipeline company TC Energy proposed the establishment of an information-sharing arrangement with the Canadian Security Intelligence Service in February 2024. That proposal noted that under the legislative framework that existed at the time the proposal was made, CSIS was only allowed to share unclassified information and argued that legislative change was needed to enable the sharing of classified information with Canada's largest corporations.

CSIS responded very positively to this proposal. It began working on setting up a formalized mechanism of information exchange along the lines proposed by TC Energy. CSIS also encouraged TC Energy to support amendments to the *CSIS Act* that would allow greater information sharing with private sector partners.

Such an amendment was included in *Bill C-70: An Act respecting countering foreign interference*, which was rushed through Parliament so that it could be in place in time to address potential foreign interference in the 2025 federal election. Section 19 (2)(d) of the Act authorizes CSIS to disclose information to "any person or entity" (e.g. private companies like TC Energy), if the Minister believes doing so is in the public interest and the public interest clearly outweighs any invasion of privacy that could result from the disclosure to that person or entity.

Why this is of concern

The threat of foreign interference risks becoming cover for the suppression of democratic dissent. Canadian security agencies have a well-documented history of working with oil and gas companies to spy on Indigenous and environmental land and water defenders to suppress criticism of the industry. As described in an academic journal article ([Surveillance of environmental movements in Canada: critical infrastructure protection and the petro-security apparatus](#)) by two prominent Canadian researchers, peaceful land and water defenders opposing new fossil fuel infrastructure have been redefined as security threats:

"Environmentalists, along with other protest groups – notably indigenous peoples – are now a fixture in intelligence products produced by national security agencies. If individuals are publicly opposed to the energy sector, they will be placed under surveillance by the national security apparatus... Persons construed as threats to critical infrastructure and who raise questions about the need for pipelines are categorized as threatening outsiders and targeted for surveillance and future criminalization."

The enhanced collaboration proposed last year by TC Energy and supported by CSIS risks targeting individuals and organizations working peacefully to stop climate change as threats, making it harder to address the real threat posed by impacts of climate change like more extreme weather, floods and wildfires.

In addition, *Bill C2: The Strong Borders Act* (which was due to be debated in Parliament this year, but has since been delayed) would greatly expand the surveillance capacities of intelligence agencies. Under TC Energy's proposed information-sharing alliance, this expanded set of information could potentially be shared with multinational oil companies and foreign government agencies who could then use it to target their critics (including by the Trump Administration).

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What is in the documents

From ATIP document [A-2024-98 - Canadian Security Intelligence Service](#)

November 10, 2023

David Vigneault (then-Director of CSIS) writes to TC Energy (the individual's name is redacted, but based on context it is likely the CEO François Poirier) and [name redacted] from the Business Council of Canada (BCC), thanking them for joining Vigneault at the 5 Eyes Summit in Palo Alto, adding:

“As I’m sure you noticed, your presence and contribution to the event was widely recognized by our partners as an important sign of Canada’s commitment to broadening and deepening relationships and cooperation with governments and private sector partners on national security matters. Your ongoing efforts to publicly advocate for greater cooperation is important and effective. We look forward to continuing to grow this relationship and working together to advance Canada’s national security and prosperity.... We are keen to continue working closely with BCC and continue to collaborate, including your upcoming visit to DC.”

February 2024

The Executive Assistant, Office of the CEO of TC Energy sent an email to David Vigneault (then-Director of CSIS) on February 23, 2024 following up on a discussion that Vigneault had had with [name redacted, but given the context it was likely the CEO of TC Energy]. The email was cc-ed to René Ouellette (Director General of Academic Outreach & Stakeholder Engagement for the Canadian Security Intelligence Service) and one other person [name redacted].

Attached to the February 23 email was “A Proposal for interim information sharing between industry and government” on TC Energy letterhead. It states that “As an energy company active throughout North America, TCE faces acute threats from foreign adversaries seeking to sabotage critical infrastructure in any of the three countries. As a result, we have strong reason to support a good working relationship between industry and security agencies like CSIS.”

The proposal called for the establishment of a Canadian Security Alliance Council (based on a similar arrangement in the United States) to enable “private, high-level discussions about security threats facing Canadian industry.” The Alliance would involve representatives from Canada’s largest companies (with annual revenue over \$500 million), together with representatives from Public Safety Canada, CSIS and the RCMP.

Due to what TC Energy called “archaic elements in the CSIS Act, such as a restriction on CSIS’ capacity to share intelligence outside of government”, the proposal acknowledges that this could only include unclassified information initially. The proposal highlights that legislative change is needed and that the government had launched public consultations on this topic in November 2023.

May 2024

On May 22, Vigneault writes back to TC Energy, cc-ing Shawn Tupper (then-Deputy Minister of Public Safety), saying that CSIS is working on setting up an information-sharing alliance along the lines proposed by TC Energy and encouraging the company to advocate for the legislative changes to enable the sharing of classified information. From the email:

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“On the heels of CSIS Act consultations and our commitments to working with industry on mitigating threats to economic security, we’re taking very seriously efforts to facilitate information exchange. To that end, my outreach team has been engaging with BCC [Business Council of Canada] on the potential establishment of a formalized mechanism of information exchange, in the model of FBI’s Domestic Security Alliance Council... All of this is happening while the Government is considering possible legislation to enable CSIS to share more information with non-governmental partners... In the eventuality that legislation is introduced in Parliament to modernize national security legislative frameworks, I would invite you to indicate your interest and that of the BCC in contributing your voices to the initiative as it makes its way through the various stages of Parliamentary deliberation.”

From ATIP document [A-2024-110 - Canadian Security Intelligence Service](#)

June 20, 2024

An internal, all-staff memo from CSIS Deputy Director, Policy and Strategic Partnerships titled “Update on Bill C-70 and Amendments to the CSIS Act” celebrated the unprecedented speed with which the legislation was adopted, stating:

“When embarking on the policy work to modernize the CSIS Act in 2021, we could not have anticipated the events of the past 18 months or the outcome we face today.... it is historic — not even the Anti-Terrorism Act or Bill C-36, which was introduced after 9/11, has been so quick to move through the House of Commons or the Senate. It shows that all our hard work to demonstrate the seriousness of the foreign interference threat and the need to change the CSIS Act have paid off.”

The memo identifies the problem to be solved by amendments to CSIS Act disclosure authorities as “CSIS lacks authority to disclose information to partners outside the Government of Canada to build resiliency against threats.” Under the heading of “Better Equip National Security Partners”, it states:

“National security threats no longer target only the federal government. Foreign interference impacts every level of government - provincial, territorial, municipal, and Indigenous - as well as the private sector, academia, and Canada's diverse communities. Authorizing the Canadian Security Intelligence Service (CSIS) to share information more broadly and frequently with persons or entities outside the Government of Canada, can build society-wide resiliency against threats to the security of Canada. Sharing more CSIS information can increase the ability for persons and entities to understand and recognize threats, and to protect their information, assets, as well as Canada's interests.”

The memo (reproduced in part below) highlights changes in the legislation, including new authority to “disclose to any person or entity information that could not be released via a resiliency disclosure.” CSIS previously could only release information to ministers of the Crown or people in the federal public administration, but now can share with anyone, including private corporations like TC Energy, if the Minister approves. Personal information of citizens cannot be released under the new resiliency disclosure powers, but can be under the “essential in the public interest” power.

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Relevant Authorities Enabling CSIS To Disclose Information		
Objective	Current	Amendments
 Investigation and Prosecution of Legal Contraventions	May disclose to peace officers to investigate or to attorneys general to prosecute someone suspected of breaking the laws of Canada or a province.	✓ Allows for disclosure to <i>any person</i> with jurisdiction to investigate or to Attorney Generals to prosecute someone suspected of breaking the laws of Canada or a province.
 Build Resiliency	CSIS does not have legal ability to share information to build resiliency against threats to the security of Canada, except where it may lead to a concrete reduction of the threat.	✓ May disclose information to build resiliency. ✓ Cannot disclose personal information of a Canadian citizen, permanent resident or any individual in Canada, or the name of a Canadian entity or corporation incorporated in Canada, unless it is about the recipient of the disclosure. ✓ Information must be provided to the relevant federal department or agency.
 Essential in the Public Interest	• May disclose to any minister of the Crown or person in the federal public administration with the approval of the Minister of Public Safety. • The Minister must determine that disclosure is essential in the public interest and clearly outweighs any invasion of privacy. • Must report the disclosure to the National Security and Intelligence Review Agency.	✓ May disclose to <i>any person or entity</i> information that <i>could not be released via a resiliency disclosure</i>, with the approval of the Minister of Public Safety. ✓ The Minister must <i>still</i> determine that the disclosure is essential in the public interest and clearly outweighs any invasion of privacy. ✓ Must <i>still</i> report the disclosure to the National Security and Intelligence Review Agency.

For more information:

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