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Ottawa seeks secrecy in Tamil migrant case

By Jane Armstrong

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The government wants to go behind closed doors to introduce secret evidence at detention-review hearings for 11 Tamil migrants who turned up on the West Coast.

Department of Justice lawyers informed lawyers for some of the migrants yesterday that they have applied under a special section of the Immigration and Refugee Protection Act to keep their information secret as they argue for continued detention of some of the men.

Vancouver lawyer Doug Cannon said government lawyers have made the application in at least six cases.

If the applications are granted, a government lawyer could present evidence at the hearings that would be disclosed only to an IRB adjudicator and a special government-appointed advocate. The detainees, their lawyers and the public would not be privy to it.

Mr. Cannon, who represents one of the Tamil migrants, said he's not surprised at the new government tack.

Two months after 76 Tamil migrants sailed into Canadian waters aboard a disguised vessel, all but one remain behind bars. The men have all made refugee claims, but the government wants them kept in custody while it investigates suspicions that some may be members of the Liberation Tigers of Tamil Eelam, a Sri Lankan separatist group viewed by Canada as a terrorist organization.

But IRB members increasingly are ordering the men be released, arguing they have not been presented with sufficient evidence to link them to the Tamil Tigers.

This week alone, six migrants were ordered released during detention hearings at Vancouver's Immigration and Refugee board. Ottawa moved swiftly to prevent those releases, taking the cases to the Federal Court of Canada to seek stays.

But lawyers for the migrants argue that their clients must be released at some point if the government fails to explain why they believe they are Tigers.

One of the government's main advisers in the Tamil migrant case is Singapore-based Rohan Gunaratna. He has told the board that several of the migrants are Tigers and that their ship was an LTTE-owned vessel that transported weapons from North Korea to Sri Lanka during the two-decade long civil war between the Tigers and the government.

However, Mr. Gunaratna has refused to reveal his sources during the hearings, saying it could jeopardize his informants.

Mr. Canon said he suspects the government's application to produce evidence in secret will permit it to reveal these sources.

Lawyer Lorne Waldman, who represents 23 of the migrants said he's seen no evidence that links his clients to the Tamil Tigers.

"Based upon what we've been told by our clients, we have no indication that any of them are connected to the Tigers. They've all indicated to us that they're not."

Under section 86 of the Immigration and Refugee Protection Act, the government can "make an application for non-disclosure of information" to avoid revealing sensitive intelligence during detention review or admissibility hearings.

Under the immigration process involving secret evidence, special advocates will be appointed to scrutinize confidential evidence the government puts forward, helping safeguard the rights of the refugee claimants.

Mr. Waldman said four potential special advocates have been nominated, subject to federal approval.

"We'll just have to wait and see what happens."

Hannah Mahoney, a spokeswoman for the Canada Border Services Agency, had no immediate comment.