



## **Submission to Standing Committee on Public Safety and National Security**

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Good evening, my name is Steve Anderson and I am here today on behalf of OpenMedia, a non-profit digital rights organization.

Last year we helped start the [Protect Our Privacy Coalition](#), which is the largest pro-privacy coalition in Canadian history with over 60 organizations involved.

You know you've hit on a common Canadian value when groups ranging from the Canadian Taxpayers Federation, to pro-democracy organizations, to small businesses, to labour unions, join together.

I am happy to be joined today by representatives from the Canadian Civil Liberties Association and the Principled Conservative forum Free Dominion.

To help ensure the voices of the majority of Canadians are heard I have brought with me petition signatures of over 100,000 people against this Bill, gathered by OpenMedia and LeadNow.

I also reached out online to get input for my testimony, and I will reference some of the input directly.

Support for C-51 is plummeting because **the more Canadians know about C-51, the less they like it.**

**My testimony falls under two themes:**

**1. Bill C-51 is reckless and dangerous.**

**2. Bill C-51 is ineffective.**

### **1. Reckless and Dangerous**

Canadians believe C-51 reckless and dangerous, in part because it exhibits a blatant disregard for our right to privacy.

**C-51 provides spy agency CSE with an offensive domestic mandate, thereby setting the eavesdropping agency loose on Canadians.** By empowering CSE to take unspecified disruptive measures, the bill provides the agency with open-ended powers to act against Canadians on our own soil.

New CSE digital disruption activities could also include measures such as false attribution to individuals, the takedown of legitimate websites, or the planting of malware on individual devices.

Concerningly, C-51 also facilitates the distribution of information on law-abiding Canadians, without our knowledge or consent, to no fewer than 17 agencies and institutions, along with foreign governments.

I think many Canadians agree with Allen Ramenberg who wrote on Facebook that if we “surrender our privacy and liberties to unaccountable, central authorities, the terrorists have won.”

Now I have heard a representative of the government claim that our sensitive data will not be stored in one big database, but I wonder why the legislation then explicitly states that the data will be quote “collated”.

That said, duplicated data flowing between multiple unsecured government databases might in fact leave Canadians even more open to being victimized by data breaches and cyber-criminals.

The reckless treatment of sensitive data strikes Canadians as fundamentally irresponsible, especially considering the fact that in recent years federal government agencies have seen over 3000 breaches of the sensitive private information of an estimated 750,000 innocent Canadians.

More than 200 Canadians have come forward in recent months to say their personal or professional lives have been ruined, due to information disclosures, despite never having broken the law.

Privacy is security in its most basic and individualistic sense.

## **2. Ineffective**

Not only is C-51 reckless and dangerous, it is also frankly ineffective in achieving its stated aim.

As Professor Roach pointed out to this committee, the information distribution envisioned in this bill would drown the government in information rather than providing actionable data points.

Furthermore, with zero added oversight and accountability there is no way even to know if these powers are working as intended.

Experts agree that what we need are *targeted tools* for the digital age, not mass disclosure of personal data.

**Additionally concerning**, many elements of the Bill are not even focussed on terrorist threats, but rather apply broad security-oriented powers to a range of other, less-serious contexts.

Careless drafting of this legislation will muddy the waters of investigations, taint the work of security officials, and make Canadians less safe.

Sadly for a bill that purports to take on terrorism it also lacks any measures to address the root causes of radicalization unlike the law passed by our counterparts in the UK this past December.

**Conclusion:**

C-51 is reckless, dangerous, and ineffective both in terms of content and process. The Bill is deeply flawed, and must not be made law.

I'll close with this comment submitted by a young Canadian on reddit: "As a Canadian citizen I feel that our country fosters and promotes values that encourage upcoming generations to voice their opinions and outlook without fear of repercussion or consequence. This is a Canadian value that, in my view, should be perpetuated."

Thank you. I will now turn this over to my colleagues from the Canadian Civil Liberties Association and Free Dominion.

**END:**

**Key Amendments:**

President of NFA "creeping police state bill"

**Key MPs:** Roxanne James and Daryl Kramp

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[1] Some of these excesses are summarized here:  
<<http://www.sirc-csars.gc.ca/opbapb/rfcrfx/sc02a-eng.html>>. The rest are documented comprehensively in the findings of the MacDonald Inquiry.

[2] These outcomes are documented in the findings of the O'Connor and Iacobucci Inquiries:  
<[http://www.sirc-csars.gc.ca/pdfs/cm\\_arar\\_bgv1-eng.pdf](http://www.sirc-csars.gc.ca/pdfs/cm_arar_bgv1-eng.pdf)>,  
<[http://www.sirc-csars.gc.ca/pdfs/cm\\_arar\\_bgv2-eng.pdf](http://www.sirc-csars.gc.ca/pdfs/cm_arar_bgv2-eng.pdf)>,  
<[https://cippic.ca/uploads/iacobucci\\_inquiry.pdf](https://cippic.ca/uploads/iacobucci_inquiry.pdf)>.

### **Questions and Answers:**

Q: What would you do to address the threat of terror?

A: First the input I've received from Canadians is that there is that threat at times has been overstated and there's a perception of fear mongering on the part of the government -- in particular regarding communications that escalated fears about the Edmonton Mall. I believe even the Conservative MP Laurie Haun (spl) expressed frustration over that over the top fear mongering.

I think Canadians are worried first and foremost about the economy considering the drop in oil prices and the lack of forthought and diversification. I think the delay in the federal budget combined with the this rushed process has Canadians wondering if our economy has been mismanaged.

That said, I think while overblown by some, there is a threat. I think the best approach is start over and have a thoughtful legislative the balances civil liberties and includes broad consultation, including your privacy commissioner, and most importantly, everyday Canadians. I would think that rather than the current reckless, vague and overly broad measures, you would find targeted and effective measures reveal themselves.

### **Q: Why shouldn't we move quickly on this?**

A: This is Bob Dechert, parliamentary secretary to the minister of Justice, on Physician Assisted Suicide:

*... given the special circumstances of this issue, which is among the most important that we will ever have to deal with, and in the context of this year, I do not think we should be*

*rushed into doing something that is inappropriate and not take the time to properly and carefully consider it and hear all opinions.*

I think that holds true here.

“aftermath of the 9/11 terror attacks, the Liberal government of the day also introduced sweeping legislation that gave the state unheard-of powers to combat terrorism. The committee that studied the 2001 bill sat for 19 days and heard from 80 witnesses. The government actually listened to the witnesses and, ultimately, agreed to substantial amendments.

The Official Opposition at the time was the Canadian Alliance, precursor to the modern Conservative party. Were they content with 80 witnesses and 19 days of committee study? Here’s what Alliance leader Stockwell Day had to say at the time:

*I am disappointed and concerned that the government decided to rush through this complicated, controversial and powerful piece of legislation without debate and input. That was necessary for legislation of this nature.*

*The Canadian Alliance has consistently called for legislation that would give the government the tools to fight terrorism. However, the government has cut off debate and cut it off in a premature fashion.*

*This reveals what we have pointed out before: an ongoing contempt for the democratic process ...”*

**Public Support:**

A recent Forum Research [poll](#) revealed that support for Bill C-51 has plummeted, with just 19% wanting Parliament to pass the legislation as written.

KEN RUBIN'S ARTICLE:

Wake up: Bill C51 erodes our rights, transparency, privacy

protection

The vague wording and broad nature of Bill C51 amends some legislation but leaves other federal

acts in tatters or with new hidden powers for the government.

By KEN RUBIN Hill Times March 16, 2015 p. 13

OTTAWA—Bill C51, the government's antiterrorism legislation, would give immense and illdefined

information sharing powers to federal agencies like CSIS, CSE, Health Canada, and CRA, to collect and

share indefinitely individual and group information and communications that undermine Canadian security

here and abroad. This information sharing would be done without much public scrutiny, would increase the

government's secrecy and its intrusive powers, and would undercut Canadians' privacy protection and

exclude Canadians from knowing much of anything about what is then transpiring.

Past prime ministers, top former judges, privacy commissioners, respected lawyers, and other Canadians are

mobilizing and speaking out against the many faults found in Bill C51, including its lack of checks and

balances and its inadequate oversight.

With Wikileaks and Snowden revelations about widespread surveillance and power politics in a world with

new terrorist threats and radicalization, people are divided on Bill C51: those wanting the government to

get more unfettered information sharing and intervention powers and those who say the extended powers go



too far and are too broad. It does not help matters either that the Conservatives are making political funding

itches and speeches on the scary possibilities Bill C51 reputedly is meant to combat.

Wanting CSIS to get into the bigtime spy leagues with an ability to operate internationally and, more

broadly, yet largely in secret in Canada and abroad with limited oversight, is central to and no longer a

distant wish under Bill C51.

Bill C51 is now before the House Public Safety Committee this month where some witnesses will suggest

amendments or the bill's withdrawal, but the Conservatives don't appear open to amendments and have no

intention of withdrawing the legislation.

If only the omnibus Bill C51 were that simple and straightforward to move ahead so quickly or that we

could so readily forget the effects that previous antiterrorist bills have had on transparency and personal

information.

In 2001, after 9/11, Canada speedily passed its first antiterrorist bill, providing what then was the largest

single override to getting access to government and personal information records. Parliamentary committee

witnesses, including then information commissioner John Reid and myself, pointed out those changes were

excessive, but we were ignored.

The new restrictions in the 2001 antiterrorist bill created difficulties in my getting access to the records of

Maher Arar with his consent, and that of his wife, Monia Mazigh. Even the O'Connor Commission, with its

investigative powers, only got partial documentation and limited answers to events surrounding Arar's

rendition. Arar now says that Bill C51's increased secretive information sharing powers could have legally

left him in Syria.

Getting access to various government records of public interest, post 9/11, became harder. For instance,

pesticide safety records no longer were available because that might reputedly aid some terrorist to poison

our waters.

Now, one area that Bill C51 targets for greater secrecy is Canada's crumbling and, at times, unsafe but

critical infrastructure. Many of the records obtained pinpointing the safety problems of Montreal's

Champlain Bridge, or the details about the crumbling MacdonaldCartier Bridge in the capital would be off-

limits.

Surveillance reports on individuals and groups such as environmentalists, aboriginals and journalists would

be more difficult to get and possibly may be required to be run through CSIS for review first.  
Budget items

and expansion program reports of security intelligence and law enforcement agencies, already highly

censored, would be harder to get.

Yet nowhere in Bill C51 are the Access to Information, or Privacy Acts, or PIPEDA (Personal Information

Protection and Electronic Documents Act), explicitly amended. The consequences of Bill C51 on the

tenuous protection these acts offer are enormous. For example, under Bill C51, the exemptions under

national security expand, and the rules of personal information collection, retention, and uses are

dramatically altered and lessened, subject to a lesser standard of review while opening the door to greater

state intrusions.

The same could be said about the effects on other laws like human rights and employment acts where no

consequential amendments are made, despite Bill C51 cutting through them, too. The vague wording and

broad nature of Bill C51 amends some legislation but leaves other federal acts in tatters or with new hidden

powers for the government.

The bill has international implications as well. But there is only one discernible direct reference to its

altering the intent of international covenants, agreements, and rules of law.

Many changes to Bill C51 are being proposed to protect Canadians' civil liberties and to restrict and

tighten and make more explicit its broad and flawed wording.

I have four suggestions for changes:

1. The greater and new oversight provisions for monitoring security intelligence law enforcement and

government agencies should be provided. But this should also include specific added binding order and

audit powers for the information and privacy commissioners to ensure there is a duty to document actions

and a mandate added to assess and report on the privacy and access implications of such information-

sharing and security intelligence agencies' activities. The auditor general should also be given new

reinforced powers to investigate and report on the costs and value of such activities, as proposed under Bill

C51.

2. The sunset provisions should be introduced as in earlier antiterrorist legislation, but with the twist that

the sunset reviews that Parliament does every three years also include an ability to drop certain provisions

as well as a legal review mandate to investigate less invasive measures. This means examining better

information sharing practices and restrictions, greater public transparency, and privacy protection, and more

international rules on information sharing.

3. The amendments should include giving Canadians more proactive disclosures on matters like security,

intelligence and law enforcement agency costs, environmental, health and infrastructure safety, and on all

information sharing agreements and arrangements.

4. Canadians should be given the right in most cases to be notified when their personal information is being

accessed and shared by government or by the private sector.

No act should pass that disrupts and overrides so many laws and changes so many institutions and practices

so dramatically, contributing to a climate of fear and illthoughtout state messaging and censorship.

Ken Rubin can be reached at [kenrubin.ca](http://kenrubin.ca)

The Hill Times

–]citizen\_four\_canada“in order to define what threatens the “economic and financial stability of Canada” one must define what is negated (i.e. what “doesn’t” threaten the ‘Canadian economy’). Thus, the government cannot and should not give powers to a secret agency that with such powers, could stifle social or technological innovation”

Information sharing

I would encourage you to read the Internet before applying censorship to it.

GreenWald “Beyond the technical issues, trying to legislate ideas out of existence is a fool’s game: those sufficiently determined will always find ways to make themselves heard. Indeed, as U.S. pop star Barbra Streisand **famously learned**, attempts to suppress ideas usually result in the greatest publicity possible for their advocates and/or elevate them by turning fringe ideas into martyrs for free speech” .... “*far more damage* has been inflicted historically by efforts to censor and criminalize political ideas than by the kind of “terrorism” these governments are invoking to justify these censorship powers.”

Good thing = peace bonds

a short story:



Five years ago a Canadian named Diane, ended her relationship with a common-law spouse. He didn't take it well and vowed revenge.

Unknown to her, the spouse called the police to falsely report that Diane had assaulted him.

Thankfully charges were withdrawn 11 months later. You can imagine how stressful this period in her life was for Diane.

Several years later, after completing a two-year program at George Brown College, Diane was working as a counsellor in Toronto in October 2012 when she was asked to provide a sector police check — as a condition of her employment.

While Diane was never convicted of any wrongdoing and was rather seemingly a victim herself -- The record of the accusation was made available to her employer.

In Diane's words: "Just when you think you put this behind you, it comes up again and people assume you're guilty and have done something terribly wrong,"

She as any of us would, felt a sense of disbelief, shock and a lot of anger.

I have to say, if the government, including members of this committee, were listening to the concerns of Canadians, there's no way this legislation would be moving forward in its current state. Bill C-51 is quite frankly reckless, dangerous and ineffective.

I would highlight some of the experts, organizations and notable Canadians that oppose this bill, but that list is just too long.

It's not just privacy, but also our economy. The Guardian has raised concerns that E-reader Kobo may not be able to keep data the open-ended information distribution measures in the bill.

This unauthorized distribution of highly sensitive information on innocent Canadians erodes the trust between Canadians and their government by removing the reasonable safeguards that allow Canadians to provide the state their information (for census, tax

compliance, health services and a range of other purposes) without fear that the information will be used against them.

Privacy is security -- in it's most basic and individu

There is some debate at to whether C-51 should be taking up this much attention of the government, rather than the economy.

Finally, because politicians like data, please refer to the CSIS internal report which found that 40% of lone wolf terrorist attacks have no clear ideological motivation, 17% are extreme right wing & white supremacist, 15% Islamic extremism, and that the "notion the Western world is at war with Islam plays into terrorist recruitment strategies".

There is a privacy and accountability deficit in Canada. It is the result of a democratic deficit. My hope is that my testimony has helped in some small way to address that deficit.

“.I would say that IF this government took away the long form census for "privacy concerns" then they should be just as concerned about protecting privacy now”

The Bill is so vague that it will even empower the Public Safety Minister to direct airlines to do “anything he wants”

Ineffective: The RCMP has been successfully countering plots and arresting suspects but now faces duplication with CSIS, which may lead to turf wars, silos and miscommunications. As **Krystal Moore** noted on Facebook, “It has been suggested that it was the noncooperation of the RCMP and the CSIS that led to the country’s worst incident of terrorism in 1985 which was the bombing of Air India Flight. The bill will now muddy the waters between the division of labour and expose our national security”

Reckless: The government has slapped this legislation together without expert input, the government’s own Privacy Commissioner has been blocked from appearing before this Committee, and now proposes to pass the Bill with less than 2 weeks of debate. If the final bill is to have legitimacy I think the government office holders that we pay to be experts on these matters should weigh in.

Privacy:

[tonka joe](#) · 4 days ago

Get a Warrant! If its important enough to Canadian Security to be spied upon and then shared with who knows whom its important enough to be supervised by a Judge.

In so doing I hope to model the more open and participatory process I wish this government would adopt when considering issues of such public import.

I should add that the open online dialogue that has helped instruct my testimony is a good example of why we should be very careful and targeted when considering provisions in C-51 that could chill legitimate expression.

Concerning CSIS, C-51 again features frighteningly vague language around what constitutes terrorism - opening up the possibility of our spy agencies profiling and actively disrupting law-abiding Canadians.

As online commenter Don Narine summarized: "This legislation is vague, leaves too much room for interpretation or agendas and thereby [is] dangerous."

Along these same lines, another Canadian eloquently noted that accountability is a principle that is, "fundamental to conservatism, and I fear our Conservative party has lost its focus, and in doing so has lost its integrity."

The censorship measures in the bill could actually end up undermining work to connect with those who have radical views, by driving them further underground and making them more difficult to detect.

## 2. Dangerous

C-51 opens the door for violations of our Charter Rights including censorship of free expression online.

**Censorship Provisions:** C-51 criminalizes language in excessively broad terms that may place the authors of innocent comments and the operators of online platforms such as Facebook, and Twitter, along with Canada's Hootsuite and Slack, at risk of criminal sanction for activities carried out on their sites. The Bill further empowers CSIS to take unspecified and open-ended 'measures', which may include the overt takedown of multi-use websites or other communications networks without any judicial supervision. To make matters worse, the bill covers private one-to-one personal conversations that may not even lead to any unlawful activity.

Jessica Schmidt is one of many people who wrote to me just to say free expression "is fundamental to "Canadian" values", and not something worth sacrificing. My colleague from Free Dominion will touch on this issue as well.

**CSIS' new offensive mandate:** CSIS was created because it had become evident that mixing clandestine intelligence-gathering activities with offensive policing powers led to repeated and unpreventable violations of our most fundamental democratic values and laws. When the RCMP had a mandate similar to that now envisioned for CSIS we saw break-ins and robberies of the offices of Canadian newspapers, the burning of the meeting location of political opponents, and the use of 'dirty tricks' such as the infiltration and subversion of legitimate citizen groups within Canada.

Setting CSE loose on Canadians without making any attempt to address the long-standing problems inherent in CSE's oversight and control framework, is frankly reckless and irresponsible.

Rod Edmonds made what I think is a reasonable request that through a comment submitted on Facebook: "the language [should] be changed in bill C-51 to be very specific and not blanket all of Canada with spying or data collection."

As any project manager will attest, endeavors that lack measurable performance indicators are likely to be mismanaged and highly ineffective.

Canadians are wondering why you would not specifically target terrorism. As one person concisely put it to me, "it's the job of the elected legislators to make clear and concise laws that can't be interpreted differently by non-elected bureaucrats".

These new powers come in the context where last year it was revealed that government institutions requested access to sensitive citizen data over 1.2 million times in just 12 months. We are not talking about sharing a few email addresses here.

The bill also notably adds powers for the government to disclose our information to quote "any person, for any purpose" as stated in Section 6 of your Information Sharing Act.

As Graham commented on OpenMedia's website: "With no parliamentary oversight, agents may be tempted to use their powers without necessity, wasting valuable time on law-abiding citizens."

The reality is that C-51 will facilitate the monitoring of the private lives of innocent, law-abiding Canadians **for an incredibly wide range of purposes, most of which have nothing to do with terrorism.**