

Daryl Kramp, Chair, Standing Committee on Public Safety
and National Security and Members of the Committee
Sixth floor, 131 Queen Street
House of Commons, Ottawa ON K1A 0A6

March 16, 2015

To Chair Kramp and Members of the Committee,

I am writing to your committee as a citizen concerned about the secrecy, privacy and statutory implications of the anti-terrorism bill C 51.

I had appeared as a witness during the first 2001 anti-terrorist bill C 36 hearings. There I expressed concerns about the bill's override provisions to Canada's Access to Information Act that enabled more records to be exempt and more records to be excluded under the Canada Evidence Act. I pointed as well to its wide omnibus nature, lack of oversight mechanisms, and its effects on privacy legislation.

I have also appeared before other parliamentary committees and made submissions mostly on access and privacy legislation or on the secrecy provisions of other legislation.

I have had much experience using Canadian access legislation so I am aware that bill C 51 would extend government secrecy much further. As one too who has assisted others to obtain their own personal information, I am also aware just how greatly their efforts at access or protection of their records will be effected by bill C 51.

If I could leave one thought with the Committee, it is that bill C 51 is not well-thought out in its tremendous changes it would create to Canada's existing statutes passed by Parliament.

In particular, nowhere in bill C 51 are the Access to Information or Privacy Acts or PIPEDA (Personal Information Protection and Electronic Documents Act) explicitly amended. But the consequences of bill C 51 on the tenuous disclosure and privacy protection these acts offer are enormous.

For example, under bill C 51, 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.

Same as I have written could be said about the effects bill C 51 would have on other laws like human rights and employment acts where no consequential amendments are made despite bill C 51 cutting through them, too. The vague wording and broad nature of bill C 51 amends some legislation but leaves other federal acts in tatters or with new hidden powers for the government.

The bill has international implications, too. But there is only one discernible direct reference to its altering the intent of international covenants, agreements and rules of law (Chemical Weapons Convention).

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

Will all Canadian acts be assessed primarily on their national security impacts alone from now on rather than for their impacts on transparency, privacy, the environment, the economy, social justice and Charter freedoms?

Parliamentarians make laws and help uphold them. They are not there to pass vanity and vigilancy laws, to create narrow partisan wedge legislation, or to pass legislation that is badly flawed and open to significant Charter challenges.

As has been noted by many others, including those appearing or about to appear before your committee, bill C 51 has Canadian Rights and Freedom Charter implications and many civil liberties impacts that need to be tightened and changed.

Four suggestions for change are presented here:

1. That greater and new oversight provisions for monitoring security intelligence law enforcement and government agencies should be provided. But that this 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. And that the Auditor General be given new reinforced powers to investigate and report on the costs and value of such activities as proposed under bill C 51.
2. That sunset provisions be introduced as in earlier anti-terrorist legislation but with the twist that the sunset reviews parliament does, every three years, 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. That amendments include giving Canadians more pro-active disclosures on matters like security and intelligence and law enforcement agency costs, environmental, health and infrastructure safety, and on all information sharing agreements and arrangements.
4. That Canadians 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.

Canada needs to continue addressing legally terrorist activities but bill C 51 is far too broad and lacks the privacy, accountability and transparency safeguards needed to improve, not crush our democracy.

Respectfully submitted,

Ken Rubin
kenrubin.ca
Ottawa