



CLA Statement on Bill C-51, the *Anti-terrorism Act, 2015*

March 13, 2015

The safety and security of Canadians is an important responsibility of the Government of Canada. Given the deplorable events in Ottawa and Saint-Jean-sur-Richelieu last October, the government's desire to protect citizens more effectively is understandable. The Canadian Library Association (CLA), however, has serious concerns about Bill C-51 (the *Anti-terrorism Act, 2015*) in relation to the risks that it poses for the privacy of Canadians and for their freedom of expression, both of which are essential to a free and democratic society. We are especially concerned that this bill is proceeding through the parliamentary process much too quickly for it to be fully analyzed and debated in terms of its implications for these important Canadian values.

The CLA therefore urges the government, with respect to Bill C-51, to:

- Incorporate considerably greater restrictions and independent oversight into the *Security of Canada Information Sharing Act* provisions.
- Limit and clarify the kinds of expression that would be criminalized or restricted as “terrorist propaganda.”
- Allow Parliament to fully examine and properly debate the bill’s provisions, giving as much time as needed for all appropriate consultation.

Privacy and Bill C-51

Canadian libraries and library professionals, who have traditionally guarded the privacy and unfettered information access of their readers and researchers, are sensitive to the importance to Canadians of being able to learn, to communicate and to pursue personal interests and knowledge without surveillance by governments and corporations. We are concerned that the sharing of information about Canadians across many federal government entities, as allowed by Bill C-51, may be insufficiently limited and lacking in independent oversight. This may result in the private information of Canadians who are far from committing terrorist acts being shared across federal institutions for reasons that have nothing to do with preventing terrorist atrocities.

Specifically, Bill C-51 contains a new *Security of Canada Information Sharing Act*, which would allow 17 federal government departments and agencies to share any information about a person with each other in relation to an open-ended list of “activities that undermine the security of Canada”. Moreover, receivers of this information can pass it on “to any person, for any purpose.” We note that “terrorism” appears among the examples given of problematic activities, but that it remains undefined in the context of this *Act*. There is no independent oversight provision in this *Act*, such as review by a judge or an officer or committee of Parliament. We worry that, in spite of some very general principles according to which information is supposed to be shared, there is considerable risk of private information being shared in relation to an excessively wide and subjective definition of terrorism.

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The CLA asks that the government of Canada respect core principles of democracy by amending this part of Bill C-51 to include clearer limitations around such government information sharing and to incorporate independent oversight mechanisms to monitor the sharing of private information of Canadians under this law.

Freedom of Expression and Bill C-51

In addition to a concern for privacy, Canadian libraries and library professionals have a time-honoured professional duty to defend the freedom of expression of Canadians. While the CLA recognizes that this and other freedoms are constitutionally constrained, we are concerned that provisions in Bill C-51 around “terrorist propaganda” risk jeopardizing potentially legitimate expression, however unpopular or controversial it may be.

Specifically, Bill C-51 proposes a number of amendments and additions to the *Criminal Code*. The additions of particular interest to us are those around advocating or promoting the commission of “terrorism offences in general,” which becomes in itself an indictable offence with this bill. Specifically, a judge may warrant seizure of copies of printed material that is deemed “terrorist propaganda,” which is defined as “any writing, sign, visible representation or audio recording that advocates or promotes the commission of terrorism offences in general...or counsels the commission of a terrorism offence.” A judge may also warrant the removal of terrorist propaganda from a “computer system” and the provision-of information to identify and locate the person who posted the material. We note that in both of these situations, there is the requirement of a judicial warrant and there is an appeal process. In addition to the *Criminal Code* amendments, terrorist propaganda is added to the list of materials in the *Customs Tariff* that already references obscene, hateful, treasonous or seditious materials, all of which can be confiscated by border officials. Although there are checks and balances in place via the judicial process, the potential for these investigations to proliferate based on loosely defined parameters is high, and puts an onerous burden on the accused.

We urge the government to considerably narrow and clarify the definition of the kinds of expression that would become illegal under this legislation.

Proper Parliamentary Analysis and Debate of Bill C-51

Bill C-51 was introduced in Parliament only on January 30, 2015, and passed at Second Reading already on February 23. While terrorism is a current concern for Canadians and frequently appears in newspaper headlines, there is no clear emergency requiring such rapid passage of this legislation.

Furthermore, when very strong cautions about this bill are delivered in an open letter by more than a hundred law professors from across the country, and in another by four former Prime Ministers and a range of former Supreme Court justices, cabinet ministers and officers of Parliament, and when the current federal Privacy Commissioner expresses grave concerns, Canadians rightly expect the government to allow Parliament to fully examine and properly debate this bill that has so many implications for the privacy of Canadians and their freedom of expression – whether or not it can be passed before Parliament’s summer recess.

The CLA urges Parliament to insist on extensive consultations and hearings on Bill C-51 to ensure that all relevant knowledge, opinions, and perspectives can be heard and considered. As well, we urge the government, based on such testimony, to amend Bill C-51 if the evidence suggests that the bill in its present form is not in the best interest of *both* public safety *and* the democratic freedoms cherished by Canadians.

The Canadian Library Association/Association canadienne des bibliothèques (CLA/ACB) is the national voice for Canada's library communities, representing the interests of libraries, library workers, and all those concerned about enhancing the quality of life of Canadians through information and literacy. CLA/ACB represents 1410 library workers, libraries and library supporters; and Canadian libraries serve in excess of 34 million Canadians through the nation's public, school, academic, government and special libraries.

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