

Canada's government tables bill to expand intelligence agency powers

By Roger Jordan and Keith Jones
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Canada's Conservative government tabled legislation in parliament yesterday to significantly strengthen the powers of Canada's premier domestic intelligence agency, the Canadian Security Intelligence Service or CSIS.

This includes explicitly authorizing it to plug into the US National Security Agency-led Five Eyes global electronic eavesdropping, via the NSA's Canadian counterpart, the Communications Security Establishment Canada, and to exchange intelligence with the other security-intelligence agencies of the "Five Eye" member states—the US, Britain, Australia, and New Zealand.

In introducing Bill C-44, the so-called "Protection of Canada from Terrorists Act," Public Security Minister Steven Blaney made clear that it was only a first step and that the government would soon be announcing further legislation to boost the powers of Canada's spy and police agencies in the wake of attacks in Ottawa and St. Jean-sur-Richelieu, Quebec last week that left two soldiers dead.

Implying that the vast surveillance and coercive powers already at the state's disposal are woefully inadequate, Blaney told MPs, "We will not overreact. But it is also time that we stop under-reacting to the great threats against us."

Bill C-44 will amend the "CSIS Act" to give CSIS additional information gathering and monitoring capabilities and further insulate its activities and claims from public scrutiny.

It will extend "class privilege" to CSIS informants, meaning that their identities must be kept secret from defence lawyers, defendants, and even judges. Moreover, they will be exempt from examination by defence lawyers and judges, gravely undermining efforts to expose contradictions, holes, and lies in their testimony.

The government is claiming that with this change CSIS informants will only have the same blanket immunity accorded police informants in criminal cases. But the testimony of CSIS informants may be used in cases such as immigration hearings where standards of evidence are much lower than in criminal trials.

The bill does provide for two "exceptions" to the ban on an informant's identity being disclosed in legal proceedings: if both the informant and the head of CSIS agree or if knowing the identity "is essential to establish the accused's innocence" in a criminal trial.

The bill also makes it a criminal offence to "divulge any information that would lead to the disclosure of the identity of a CSIS employee who was, is, or is likely to become engaged in covert operational activities."

This would open left-wing, aboriginal and other groups subject to CSIS infiltration to state sanction if they sought to expose the identity of a CSIS agent whom they had uncovered inside their ranks.

The bill increases CSIS's overseas surveillance capacities. It states, "Without regard to any other law, including that of a foreign state, a judge may in a warrant ... authorize activities outside Canada to enable the Service to investigate a threat to the security of Canada."

To facilitate this, the bill gives the agency explicit authorization to exchange information on Canadian "terrorist suspects" who have travelled overseas with the foreign intelligence agencies of the "Five Eyes" states.

Michael Geist, a cyber security expert at the University of Ottawa told the *iPolitics* web site, Bill C-44 is "granting CSIS effectively unlimited powers globally--the bill says warrants can be issued without regard to any [foreign] law." He called this "shocking" and said it could be open to legal challenge.

The proposed bill would also amend the recently passed "Strengthening Canadian Citizenship Act" to speed up the process whereby individuals convicted of "terrorism" offenses can be stripped of their Canadian citizenship if they hold the citizenship of a second country.

News reports had suggested that the government, citing last week's attacks, might include in Bill C-44 new measures targeting individuals in Canada on the national-intelligence apparatus's terrorism "watch list." But ultimately the government, as signaled by Blaney, decided to put that off for another day.

This is only because it is considering a vast array of new measures and is no doubt carefully calculating what on the CSIS-CSEC-Royal Canadian Mounted Police (RCMP) wish-list it can now prevail on Canadians to accept.

The Conservative government seized on last week's attacks to whip up a climate of fear, portraying Canada as a country under assault by organised terrorism. As well as preparing the ground for the assault on democratic rights begun by yesterday's bill, this reactionary campaign has as its goal the rallying of support behind Canada's participation in the new Middle East War.

The opposition parties have assisted the government in promoting its false narrative, by similarly casting last week's killings, which were carried out by lone, disturbed individuals, as an attack on Canadian values and democracy.

In comments to the *Globe and Mail* on Friday, Justice Minister Peter MacKay advised that the changes still to come will include reducing the evidentiary threshold for preventive arrest—that is for detaining people who have committed no crime—and likely new “terrorism-related” offenses.

In an emailed statement, MacKay declared that the reforms “will build on our record of better equipping our security forces and law enforcement with the critical tools they need to intercept and disrupt threats and ultimately convict and incarcerate those who pose a danger to Canadian families and communities.”

An indication of what is being discussed in government circles has been given by RCMP Commissioner Bob Paulson. At a press conference last Thursday he complained about the evidentiary threshold the state must meet to make a “preventive arrest.” Paulson said a “balance” needed to be struck between allowing police to “act decisively, quickly, preventatively and perhaps at a threshold that is somewhat lower” and not “throwing someone in jail forever.”

One new criminal offense the government is said to be considering creating so as to give police-intelligence agencies increased power to arrest people is that of “inciting” or expressing support for terrorism on the Internet. This would be in addition to existing Criminal Code provisions that ban hate speech, which is defined as speech targeting an “identifiable group.” The current maximum penalty for violating this law is two years imprisonment.

Such draconian powers have been implemented in Britain since 2006 and have resulted in the conviction of individuals who had no connection to organized terrorist groups, but had merely expressed “pro-terrorist” opinions on social network sites.

In recent months, the British government has been considering going even further and, in the name of

countering terrorism, banning “extremist” online material—a formulation so broad that it could include virtually any views differing from those advanced by the establishment parties and the corporate media.

Another major change under discussion in Canada would see the police gain new monitoring capabilities to track the movements and activities of individuals who have not been charged with any crime. Under section 810 of Canada's Criminal Code, restrictions can be placed on suspects compelling them to report regularly to police officers, a provision which may now be extended to include those against whom no charges have been levelled. The Criminal Code already permits authorities to impose movement restrictions and electronically tag terrorism suspects. Failure to comply with such restrictions can result in up to a year's imprisonment.

Canada's extensive terrorist legislation contains provisions that would allow its powers to be deployed against a much broader range of targets than is being admitted. The 2001 Anti-Terrorism act, passed just weeks after 9/11, contains an all-embracing definition of “terrorism.” This includes anything deemed by the government to pose a threat to national security and public safety or disrupts social-economic life, language which could be used to label mass protests or political strikes by sections of workers as “terrorist” acts.

With the government's support, Canada's intelligence agencies have already arrogated the power to systematically spy on Canadians' electronic communications, including cell calls, text messages and Internet use. The government has justified this illegal spying on the basis of the spurious claim that the metadata generated by electronic communications are not part of the communication and, therefore, not constitutionally protected.

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