

**House of Commons Standing Committee on
Public Safety and National Security**

November 29, 2016

Re: Public Consultation on Canada's National Security Framework, the *Anti-terrorism Act, 2015*, formerly Bill C-51.

To the Members of the Standing Committee on Public Safety and National Security:

Queer Ontario is a Province-wide social justice organization based in Toronto. Through our various membership modes, Queer Ontario reaches over 2000 individuals who identify as or are allies with LGBTQ people in Ontario. As an LGBTQ organization with a long history of civil rights advocacy and community education we wish to address the serious matter of Canada's National Security Framework specifically embodied with the *Anti-terrorism Act, 2015* (ATA, 2015), formerly Bill C-51.

At the Pride Day Parade in Toronto following the celebrated passage of inclusion of "sexual orientation" as grounds for protection into the Ontario Human Rights Code in 1986, two groups were asked to lead that march. One group was the Coalition for Lesbian and Gay Rights in Ontario (CLGRO), which is the predecessor of our group Queer Ontario (QO). The other was a group named the Right To Privacy Committee (RTPC). These groups were chosen by the Pride committee to mark the degree of importance placed on the right to privacy in our communities and the protection of minority opinions and dissenting voices.

Accomplishing this success, which was met with tremendous resistance and had been the major focus of CLGRO for 12 years, enabled us to lobby for and eventually win recognition federally in the Charter of Rights and Freedoms. Resistance to these accomplishments within Canadian society continues. We see the *Anti-Terrorism Act 2015/Bill C-51* as an example of that resistance and an effort to undermine the Charter of Rights and Freedoms.

Much as we appreciate the need for the government to protect the Canadian public from the threats of terrorism, we keep in mind that a major goal of those threats is to undermine our way of life and destroy those rights and freedoms for which Canadians have so long fought. The aspects of Bill C-51 which undermine Canada's *Charter of Rights and Freedoms* would, we feel, actually work to support the goals of the terrorists in this regard.

We entreat the government to repeal the *Anti-terrorism 2015 Act* created by Bill C-51 and ensure that legislation brought forward to protect the Canadian public from threats of terrorism will also protect those rights enshrined in the Canadian Charter of Rights and Freedoms. As an organization that has fought for sexual and gender minority rights in Ontario for over 3 decades (including our predecessor organization, CLGRO), we are deeply concerned with any law which seeks to curtail individual and group rights for free association, free speech, and the right to dissent and level criticism of social policy and governments, all enshrined in Canada's Charter of Rights and Freedoms.

We see the *Anti-terrorism Act 2015* as deeply flawed and entreat lawmakers and policy makers to take heed of these areas that we deem especially grievous:

First, the anti-terror law expands the definition of security threats to potentially include an extraordinary range of social justice activities. Law Professors Kent Roach (University of Toronto) and Craig Forcese (University of Ottawa) have stressed that what is covered by ‘terrorism offences’ is a much broader category than what is regarded as actual terrorism. In a 27-page brief dated February 3, 2015 they are concerned about an overbroad definition of terrorism, especially the language, “advocating and promoting terrorism,” and, relatedly, its vagueness and stresses that this could include many activities and speech acts that fall short of actual terrorism but that may be used to arrest someone. Roach and Forcese point to the constitutional guarantees against vague and overbroad laws that risk being violated under the new terrorism law.¹

Daniel Therrien, Canada’s Privacy Commissioner, is concerned and has stated that, “all Canadians – not only terrorism suspects – will be caught in this web. Bill C-51 opens the door to collecting, analysing and potentially keeping forever the personal information of all Canadians in order to find the virtual needle in the haystack. To my mind, that goes too far.”²

Second, Canada’s Security Agency, CSIS, was created to erect a buffer between the collecting of information and the ability to act on that information as law enforcement due to the history of past human rights abuses duly recognized. Bill C-51 radically redefines CSIS’s role to one which bears resemblance to a secret state police force with little or no public accountability. This is not compatible with the most fundamental tenets of liberal democratic states and is in violation of the Canadian Charter.

Alex Neve, Secretary General of Amnesty International Canada, has stated that the anti-terrorism bill could be used to target environmental activists and aboriginal protesters, or any other form of protest that has not been granted an official permit. Neve states that “*It is absolutely vital that terrorist threats be addressed through measures that are in keeping with international human rights obligations. Anti-terrorism laws cannot put human rights second to security; and absolutely must not be used to target or have disproportionate impact on individuals and groups exercising their fundamental rights to freedom of religion, expression and association.*”³

And finally, we are very concerned with the provisions that will give CSIS the power to act like a police force. The 1960s and 1970s saw serious rights abuses by the RCMP as they undertook security intelligence as per their mandate at the time. Human rights abuses against LGBTQ people and others have been well documented by Professors Gary Kinsman and Patricia Gentile.⁴ CSIS was created to separate security and intelligence gathering activities from enforcement, following recommendations from the McDonald Report of 1981. The new anti-terror law sets us back in this regard, and, as the B.C. Civil Liberties Association have stated, we too are concerned about how the secret nature of security intelligence may have no public accountability in the courts if these roles are not scrupulously separated.

¹ Kent Roach and Craig Forcese, *Bill C-51 Background #1*. February 3, 2015, p. 5. Available: <http://craigforcese.squarespace.com/national-security-law-blog/category/bill-c-51>.

² Daniel Therrien, *Office of the Privacy Commissioner of Canada*, “Without big changes, Bill C-51 means big data,” *The Globe & Mail*, (March 6, 2015). Available: <http://www.theglobeandmail.com/opinion/without-big-changes-bill-c-51-means-big-data/article23320329/>

³ Alex Neve, “Insecurity and Human Rights: Canada’s proposed national security laws fall short of international human rights requirements.” (March 9, 2015). Available: <http://www.amnesty.ca/news/news-releases/insecurity-and-human-rights-canada%E2%80%99s-proposed-national-security-laws-fall-short>.

⁴ G. Kinsman and P. Gentile. *The Canadian War on Queers*. (Vancouver: UBC Press, 2010).

We urge Parliament to repeal the *Anti-terrorism 2015* Act created by Bill C-51 and ensure that any future legislation brought forward will also protect those rights enshrined in the Canadian Charter of Rights and Freedoms.

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Queer Ontario is a provincial network of gender and sexually diverse individuals — and their allies — who are committed to questioning, challenging, and reforming the laws, institutional practices, and social norms that regulate queer people.

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