

Canadian spy agency regularly using new “disruption” powers

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Canada’s premier domestic spy agency, the Canadian Security Intelligence Service (CSIS), is making regular use of the new “disruption” powers it was given last year under a Conservative-authored, Liberal-supported police-state law, Bill C-51.

A strong advocate of the need for such powers, CSIS head Michel Coulombe recently told a Senate committee that CSIS has used its power to “disrupt” activities it deems potentially harmful to Canada’s public security close to two dozen times since last fall.

Coulombe refused to provide any details of the measures taken by CSIS agents, or to specify the nature of any of the threats they were intended to counter. He claimed that in making use of its new disruption powers, CSIS has not yet had to request a judicial warrant authorizing it to break the law or violate targets’ constitutional rights as spelled out in the Charter of Rights and Freedoms.

Such assurances are worth little given CSIS’s well-documented history of lying to the courts and arrogating new powers through patently unconstitutional interpretations of the law. For example, both CSIS and Canada’s signals intelligence agency, the Communications Security Establishment (CSE), have maintained that they have the right to collect the metadata of Canadians’ electronic communications—cell calls, emails, internet use, etc.—because it isn’t “constitutionally-protected communications,” merely an “envelope.”

Coulombe refused to answer reporters’ questions on whether CSIS had been successful in thwarting any “threats” through the use of its “disruption” powers. Instead, he sought to justify the vast powers CSIS has available it to by telling the Senate hearing that they are akin to those of spy agencies in allied countries.

Under Bill C-51, CSIS is empowered to use any means it can to “disrupt” suspected threats to public security. The only provisos are: it must obtain permission from a

secret court, operating on the basis of secret jurisprudence, when it breaks the law or violates targets’ Charter rights; it cannot kill someone or cause them bodily harm, whether intentionally or by criminal negligence; it cannot pervert the course of justice, or violate someone’s “sexual integrity.”

Citing the need to protect national security, CSIS and the government have said next to nothing about how the spy agency might employ its disruption powers. But it has been widely noted in the media that it could illegally disrupt communications, detain people or impede their travel, and carry out break-ins to plant electronic bugging devices or steal money or information. CSIS could also press employers to fire targeted individuals and mount smear campaigns. Craig Forcese and Ken Roach, academics who have written extensively on Bill C-51, contend that under its new “disruption” powers CSIS, working in cahoots with secret courts, could even set up a secret detention facility and/or subject individuals to torture.

The Conservatives justified Bill C-51 in the name of fighting terrorism. But virtually all the new powers the legislation gives CSIS and Canada’s other intelligence-security agencies are applicable to anything those agencies deem a potential threat to either “public security” or to “national security,” including Canada’s “economic stability,” critical infrastructure and “territorial sovereignty,” diplomatic interests or constitutional order.

This is also true of CSIS’s disruption powers.

Apart from gaining a judge’s consent in cases where CSIS deems its disruption will involve breaking the law or violating someone’s Charter rights, Bill C-51 contains only one other provision for mandatory “oversight” of CSIS’s “disruption” activities. CSIS must provide the minister of Public Safety with a periodic report on the number of “disruption” activities it has conducted.

In February, the *Toronto Star* reported that had obtained reveal that CSE had told its ostensible political master, Liberal Defence Minister Harjit Sajjan, it can assist CSIS with its “disruption” activities without court authorization.

“This was the sleeper in (Bill) C-51,” legal scholar Forcese told the *Star*, “because CSE is barely mentioned in C-51.” Forcese compared CSE’s new role to that of a “hacker” for the domestic intelligence services. “CSE has been a watcher.. .. It has not been able to do things kinetically to people. But under the umbrella of CSIS assistance, it can now go kinetic.”

CSIS’s frequent use of its “disruption” powers confirms the warnings made by the *World Socialist Web Site* about the sinister character of Bill C-51. The legislation was rushed through parliament by the former Conservative government in the wake of the twin, October 2014 killings of Canadian Armed Forces’ personnel in St. Jean-sur-Richelieu, Quebec and Ottawa. Prime Minister Stephen Harper whipped up a climate of fear, casting Canada as a country under siege by jihadi terrorists so as to justify a vast expansion of the powers of the national security apparatus.

The Liberals, then only the third-largest party in the House of Commons, voted for Bill C-51 at every stage of its passage through parliament. They did so while claiming to have certain reservations, principally on the issue of parliamentary oversight of the security agencies, and promising to amend the legislation if they formed the government after the October 2015 election.

The Liberals’ support for the key features and thrust of the Conservatives’ authoritarian legislation was exemplified by Justin Trudeau’s denunciations of the New Democratic Party’s tepid criticism of the law as “fear-mongering.”

Having been sworn in as prime minister, Trudeau is now deepening intelligence collaboration with the United States, which leads a global spying network of unheard of proportions. At his meeting with President Obama in Washington March 10, Trudeau agreed that Canada and the US will share information on everyone entering and exiting their countries across their common land border. This will build on the comprehensive collaboration that already exists between the Canadian and US national security apparatuses, including through the US National Security Agency-led “five eyes” alliance.

Speaking in a CBC interview prior to Trudeau’s visit, US National Security Adviser Susan Rice said of information sharing between Ottawa and Washington,

“Fundally, our concern is not that there is too much, but at times there’s been too little.”

Liberal Public Safety Minister Ralph Goodale, tasked by Prime Minister Trudeau with overseeing amendments to Bill C-51, has initiated a public “consultation,” but says no legislation should be expected before the fall. The major change to the legislation anticipated is the establishment of a parliamentary oversight committee for Canada’s spy agencies along the lines of the congressional committees in the United States and Britain’s parliamentary committee. Such bodies, staffed by trusted representatives of the ruling elite, have done absolutely nothing to prevent the emergence of a police-state apparatus in both countries, including mass surveillance of the population.

Yet even the Liberals’ proposal to make minor modifications to Bill C-51 has prompted pushback from the intelligence agencies. A week after Trudeau sent a ministerial-mandate letter to Goodale instructing him to repeal certain elements of Bill C-51, including the provision permitting CSIS to violate the Charter of Rights and Freedoms, CSIS head Coulombe arranged a private briefing with the public safety minister to argue against any changes to the legislation.

The Liberals’ attempt to pose as a party concerned with upholding the democratic rights of Canadians was always a fraud. In the wake of 9/11, the Liberal governments of Jean Chretien and Paul Martin dramatically expanded the powers and reach of Canada’s national security agencies. It was the Chretien Liberal government that launched an assault on core democratic rights, such as the right to remain silent and the presumption of innocence, and it was under Martin that CSE was secretly authorized to carry out the mass surveillance of Canadians’ electronic communications.



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