Submission on Bill C-42

Public Safety Act

CANADIAN BAR ASSOCIATION

February 2002

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PREFACE

The Canadian Bar Association is a national association representing over 37,000 jurists, including lawyers, notaries, law teachers and students across Canada. The Association's primary objectives include improvement in the law and in the administration of justice.

This submission was prepared by the Canadian Bar Association with assistance from the Legislation and Law Reform Directorate at the National Office. The submission has been reviewed by the Legislation and Law Reform Committee and approved by the Executive Officers as a public statement by the Canadian Bar Association.

Submission on Bill C-42
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I. INTRODUCTION

The Canadian Bar Association welcomes the opportunity to comment on Bill C-42, *Public Safety Act*. The CBA is a national association of 37,000 lawyers and jurists, dedicated to the improvement of the law and the administration of justice. Over the years, the CBA and its members have provided insight to Parliament and to government on proposed legislation dealing with criminal organizations, money laundering, terrorist fundraising, security considerations in immigration matters, and other matters relevant to this Bill. Most recently, we provided extensive submissions concerning Bill C-36, *Anti-Terrorism Act*.

The CBA acknowledges the importance of the fight against terrorism. At the same time, we must ensure that the rule of law is preserved, our legal traditions are respected and our rights and freedoms are infringed only to the extent that is demonstrably justifiable in a free and democratic society. Our common goal is to find the right balance between these considerations.

II. AERONAUTICS ACT

A. Disclosure of Security Measures and Emergency Directions

Proposed section 4.8(2) of the *Aeronautics Act* [clause 5 of the Bill] deals with disclosure of a security measure or emergency direction. Where a court or other body is requested to compel production or discovery of a security measure or emergency direction, the Minister of Transport is to be given notice. The court or other body is

then required to examine the security measure or emergency direction *in camera* and give the Minister a reasonable opportunity to make representations on whether it should be disclosed. The court or other body then weighs the public interest in the proper administration of justice and the public interest in aviation security before deciding whether to order production.

The proposed subsection gives the Minister the opportunity to make representations concerning the security measure or emergency direction. However, it is silent on the ability of other parties to make representations concerning the appropriate balancing of public interests. We recognize that the proposed provision is very similar to the current version of subsection 4.8(2). However, as a matter of fairness and natural justice, all parties to the proceeding — not just the Minister — should be permitted the opportunity to make representations.

A person can face criminal charges in relation to security measures and emergency directions. For instance, proposed section 4.85 contains a number of prohibitions relating to screenings that are required by a security measure or emergency direction. Proposed section 7.3(3) of the *Aeronautics Act* (clause 13 of the Bill) establishes a summary conviction offence when a person violates these provisions, a security measure or an emergency direction. The need to suppress disclosure of information affecting aviation security is understandable. However, part and parcel of the right to a fair trial is that persons charged with an offence are entitled to know the case they have to meet. This includes disclosure of the security measure or emergency direction which forms the necessary context to the offence. Again, we recognize that this provision is similar to the current section 4.8(1). However, proposed section 4.8(1) should expressly permit disclosure of a security measure or emergency direction to a person charged with an offence arising from such a measure or direction.

Alternatively, where a court or other body refuses disclosure of a measure or direction in a criminal proceeding, it should be entitled to make any order to protect the accused's right to a fair trial. We suggest a provision similar to that found in clause 37 of Bill C-36, amending the *Canada Evidence Act*:

> 37.3 (1) A judge presiding at a criminal trial or other criminal proceeding may make any order that he or she considers appropriate in the circumstances to protect the right of the accused to a fair trial, as long as that order complies with the terms of any order made under any of subsections 37(4.1) to (6) in relation to that trial or proceeding or any judgment made on appeal of an order made under any of those subsections.
>
> (2) The orders that may be made under subsection (1) include, but are not limited to, the following orders:
>
> (a) an order dismissing specified counts of the indictment or information, or permitting the indictment or information to proceed only in respect of a lesser or included offence;
>
> (b) an order effecting a stay of the proceedings; and
>
> (c) an order finding against any party on any issue relating to information the disclosure of which is prohibited.

RECOMMENDATION:

The CBA recommends that proposed section 4.8(2) be amended to permit all parties to a proceeding the opportunity to make representations on whether the security measure or emergency direction should be disclosed. In addition, the CBA recommends that proposed section 4.8(1) [clause 5] be amended to permit disclosure of a security measure or emergency direction to a person charged with an offence arising from such a measure or direction. Alternatively, the CBA recommends that where a court or other body refuses disclosure of a measure or direction in a criminal proceeding, it should be entitled to make any order to protect the accused's right to a fair trial.

B. Proof of Notice of a Security Measure, Emergency Direction or Interim Order

Under proposed section 6.2(3) of the *Aeronautics Act* [clause 8 of the Bill], which reflects the current wording in the *Act*, the Minister of Transport can sign a certificate stating that a notice containing a security measure, emergency direction or interim order was issued. In absence of evidence to the contrary, the certificate is proof that reasonable steps were taken to notify persons likely to be affected.

Individuals and businesses face criminal penalties for violation of security measures, emergency directions or interim orders (proposed section 7.3(3)). As a result, it is important that they be aware of the content of such measures so that they can govern themselves accordingly. Indeed, the Bill recognises this by requiring as a precondition to any conviction that reasonable steps had been taken to notify affected persons (proposed section 6.2(2)).

The Minister's certificate under proposed section 6.2(3) effectively creates a presumption that reasonable steps have been taken and imposes a reverse onus on the accused to rebut this presumption. We believe that the government in each case should be required to prove on the evidence that reasonable steps were taken. The simple issuance of a Minister's certificate should not be sufficient to discharge the government's obligation in this respect, particularly when there is no requirement to publish a security measure or emergency direction in the *Canada Gazette*. The mere fact that a notice has been issued does not mean that reasonable steps have been taken to bring it to the attention of affected persons.

RECOMMENDATION:

The CBA recommends that proposed section 6.2(3) of the *Aeronautics Act* [clause 8 of the Bill] be deleted.

C. Air Rage

The Bill would create a new offence under the *Aeronautics Act* for engaging in unruly or dangerous behaviour on an aircraft — commonly known as "air rage". Proposed section 7.41(1) [clause 15] would prohibit a person from endangering the safety or security of an aircraft in flight by intentionally: interfering with the performance of any crew member, lessening the ability of a crew member to perform his or her duties or interfering with any person who is following the instructions of a crew member.

We question the necessity of this proposed provision. Serious criminal behaviour of this sort is already covered by section 77 of the *Criminal Code*, which (among other things) prohibits a person who is on board an aircraft in flight from committing an act of violence against a person that is likely to endanger the safety of the aircraft. It also prohibits a person from causing serious damage to an aircraft in service that is likely to endanger the safety of the aircraft in flight. Unruly passengers can also be charged with uttering threats (*Criminal Code*, section 264.1), assault (section 265), assaulting a peace officer (section 270)[1] or mischief (section 430). Section 7(1) of the *Criminal Code* provides that an indictable offence is deemed to have been committed in Canada if it occurs on a Canadian aircraft in flight or an aircraft which terminates its flight in Canada. The *Canadian Aviation Regulations* currently require passengers to comply with the instructions of a crew member relating to safety.[2] Before enacting section 7.41, the government should be satisfied that it will not simply add to the number of charges which an accused might face for what would really be a single offence, and that the above provisions are not sufficient to deal with the problem of air rage.

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1 This includes the pilot in command of an aircraft in flight (s. 2, definition of "peace officer"(f)).

2 Part VI, Subpart 2, s. 602.05(2).

Proposed section 7.41 would include the serious incidents of air rage already found in section 77 of the *Criminal Code* and would extend to incidents of a relatively minor nature. Aside from our concern that proposed section 7.41 duplicates prohibitions already on the books, we question whether it is appropriate to criminalize behaviour that amounts to "interference" with a crew member's duties but falls short of "violence" or "damage" required under section 77. We acknowledge the difficult burden that air rage places on a flight crew. However, criminal prohibitions are the ultimate penalty in our society and should generally be reserved for conduct which is of a sufficiently serious nature. Mere interference, without any indication of a terrorist scenario, should not always be made a criminal offence.

The proposed provision is too broad. Arguably, it would include a passenger who repeatedly summoned a flight attendant for no valid reason or an inebriated passenger disturbing other passengers but not engaging in any violent behaviour. While such behaviour might be offensive, or even disruptive, it is not necessarily behaviour that warrants criminal sanctions.

RECOMMENDATION:

The CBA recommends that proposed section 7.41(1) be deleted.

III. IMMIGRATION ACT

A. Collection and Use of Passenger Information

Proposed section 88.1 of the *Immigration Act* [clause 69 of the Bill] would allow for the collection of passenger information. This data may be used for *any* purpose under the *Immigration Act*, not just for security, people smuggling or criminality. The proposed section has a potentially wide scope, as the purposes of the *Immigration Act* are very broad. They include enrichment of Canada's social fabric, facilitating

the reunion of families, facilitating the entry of tourists and other visitors and fostering a strong economy (see *Immigration Act* section 3). It appears, therefore, that proposed section 88.1 authorizes the government to collect and store information on international travel of Canadian citizens and permanent residents for possible unrestricted future use. We are very concerned that this violates the privacy rights of Canadian citizens and permanent residents.

The News Release accompanying the introduction of the Bill indicates that the government's purpose is to "conduct analyses, criminal record checks and assessment prior to people's arrival in Canada...[to be] better prepared to interview people upon arrival." If this is the reason for the collection of passenger data, then there is no reason to retain this information once a person has been admitted at the port of entry. We therefore recommend a temporal limit on the retention of this information. For example, the Bill could be amended to require that information be retained only for 24 hours after a person has entered the country.

We also recommend that section 88.1(2)(a) be amended to restrict the use of the information only to security, people smuggling and serious criminality issues.

RECOMMENDATION:

The CBA recommends that section 88.1(2) be amended to require that information only be retained for 24 hours after a person has entered the country and to restrict the use of the information only to security, people smuggling and serious criminality issues.

B. Voluntary Departure

Proposed section 52(1) [clause 68 of the Bill] would permit a person subject to a departure order to be deported to a country of the Minister's choice, even though the

individual may be ready, willing and able to leave Canada and go to a country of their own choice. This would greatly expand the power of immigration officers by eliminating much of the difference between departure orders and deportation orders. It would short-circuit the process by which a deportation order must be obtained from an adjudicator. It would also be contrary to the policy of the *Immigration Act* of permitting voluntary removal.

Departure orders are issued on the basis that an adjudicator believes that the person will comply and leave the country of their own volition. With the exception of previous deportees returning without the Minister's consent, immigration officers are only allowed to issue departure orders, not deportation orders. This ensures that orders with more serious consequences go before an independent decision maker who is subject to the rules of natural justice, including adequate notice to the person subject to the order, right to counsel and so on.

The proposed amendment would permit officers to summarily terminate an individual's status and immediately deport them to a country where there may be legitimate safety concerns about their return. This could occur even if the person was willing to leave to a country of their own choosing. The proposal would effectively eliminate the distinction between departure orders and deportation orders and usurp the power of the independent adjudicator.

We understand that the government wants to return people who are wanted in their home countries to face justice. However, if the Minister wishes to control the timing and destination of removal, then a deportation order should be sought from an adjudicator. We see no reason for changing this process, as it affords natural justice to a person facing a decision with serious consequences.

RECOMMENDATION:

The CBA recommends that clause 68 of the Bill be deleted.

C. Detention

Section 103.1(1) of the Bill [clause 76] would permit immigration officers to arrest and detain without warrant any person — other than a Canadian citizen, a permanent resident or a person found to be a refugee — who was unable to satisfy an officer as to their identity. Like section 55 of the recently enacted *Immigration and Refugee Protection Act* (Bill C-11), this would extend an officer's detention power beyond the port of entry to anywhere in Canada.

Our concern is with the treatment of people in the Post-Determination Refugees in Canada Class (PDRCC), which exists now, but would cease to exist under Bill C-11. PDRCC allows failed refugee claimants to obtain permanent residence where there is a risk to their life, excessive sanctions or inhumane treatment in the country of origin. Bill C-11 would exempt all "protected persons", including those who now fall under PDRCC, from warrantless arrest or detention. Bill C-42 should be amended to protect persons in the PDRCC class, in addition to those who have been found to be Convention refugees.

RECOMMENDATION:
The CBA recommends that section 103(1.1) of the *Immigration Act* [clause 76 of the Bill] be amended to exempt persons in the Post-Determination Refugees in Canada Class from arrest and detention under that section.

D. Criminal Organization

The definition of "criminal organization" in proposed section 94.4(2) of the *Immigration Act*, which mirrors the definition in Bill C-11, is different from the

definition contained in Bill C-24, which makes amendments to the *Criminal Code* dealing with organized crime.

In this Bill and Bill C-11, "criminal organization":

> means an organization that is believed on reasonable grounds to be or to have been engaged in activity that is part of a pattern of criminal activity planned and organized by a number of persons acting in concert in furtherance of the commission of an offence punishable under an Act of Parliament by way of indictment or in furtherance of the commission of an offence outside Canada that, if committed in Canada, would constitute such an offence.

In Bill C-24, "criminal organization":

> means a group, however organized, that
> (a) is composed of three or more persons in or outside Canada; and
> (b) has as one of its main purposes or main activities the facilitation or commission of one or more serious offences that, if committed, would likely result in the direct or indirect receipt of a material benefit, including a financial benefit, by the group or by any of the persons who constitute the group.
> It does not include a group of persons that forms randomly for the immediate commission of a single offence.

We question the rationale for having one definition of "criminal organization" for immigration and refugee purposes and another for criminal law purposes. This is confusing and could lead to litigation. We recommend that a common definition be developed.

RECOMMENDATION:

The CBA recommends that "criminal organization" be defined the same in Bills C-11, C-24 and C-42.

IV. MILITARY SECURITY ZONES

Proposed section 260.1 [clause 84 of the Bill] would amend the *National Defence Act* to allow the Minister of National Defence to designate certain areas as a "military security zone". The designation of a military security zone would be for the purpose of ensuring the safety or security of any person or thing. A zone may be designated in relation to a defence establishment, other property under the control of the government, vessels or aircraft of a visiting force or property that the Canadian Armed Forces have been directed to protect. The Forces may prohibit, restrict or control access to a military security zone. Persons who contravene a regulation respecting access to a military security zone face a fine or imprisonment (section 288 [clause 90]).

Although these provisions seem principally aimed at protecting military facilities and equipment, the CBA is concerned that they will be used to subdue and control democratic dissent. In media reports, some government officials have appeared to suggest that these security zones could be used to quarantine international meetings such as the upcoming G-8 summit in Kananaskis, Alberta. This would presumably allow for better control of the large number of protestors that now accompany these types of meetings.

The right to engage in legitimate protest against the policies of our government — or indeed any other government — is woven into the fabric of our democracy. Democratic dissent can be messy and is frequently disruptive. But it is absolutely vital to the health of our democracy. Protection of democratic dissent is one reason why freedom of expression and peaceful assembly are protected under Section 2 of the *Canadian Charter of Rights and Freedoms*.

It is, of course, necessary to ensure the safety and security of delegates to international meetings and of Canadians who live in places where those meetings are held. At the same time, safety and security must be balanced against the right of

Canadians to protest. We risk harming democracy by taking safety and security too far. We are concerned that the prospect of military security zones on civilian property leads us too far in that direction.

The CBA therefore recommends that the provisions governing military zones be limited to matters concerning military property. As a result, we recommend the deletion of the words "or property under the control of Her Majesty in right of Canada and" in proposed section 260.1(2)(b) and the deletion of proposed section 260.1(2)(d).

RECOMMENDATION:

The CBA recommends the deletion of the words "or property under the control of Her Majesty in right of Canada and" in proposed section 260.1(2)(b) and the deletion of section proposed 260.1(2)(d).

V. PROCEEDS OF CRIME (MONEY LAUNDERING)

The proposed amendment to section 65 of the *Proceeds of Crime (Money Laundering) Act* (*PCMLA)* [clause 109] would allow the exchange of information between the Financial Transactions and Reports Analysis Centre (FINTRAC) and the various bodies which regulate persons required to report suspicious transactions. This information would relate to the compliance of those persons with the *PCMLA* and could only be used for that purpose.

This proposed amendment would expand enormously the scope for information sharing under the *PCMLA*. Part I of the *PCMLA* applies to, among others, banks, trust companies, loan companies, life insurance companies, securities dealers, foreign exchange dealers, lawyers, accountants and real estate brokers. Many of these individuals and entities are regulated by different bodies — financial services

regulators, investment dealers associations, accountants' institutes and associations and law societies.

We question the need for such a provision. The scope of information that could be exchanged is very broad. Arguably, information "relating to compliance" could include the content of reports made by the above individuals concerning their clients. For example, FINTRAC could compare reports concerning a particular client from that client's accountant, bank and lawyer and determine that discrepancies point to lapses in compliance. It could then forward the contents of various reports to each of the relevant regulators for further action. These reports are to contain extremely confidential information concerning individuals' financial activities. It is inappropriate, in our view, to share this information with the various regulators.

Over the past several years, the CBA has urged that the *PCMLA* protect confidential information between clients and their solicitors. The government rejected this proposal, with the result that constitutional challenges have been commenced by a number of provincial and territorial law societies, supported by the CBA. So far, courts in three provinces (British Columbia, Alberta and Ontario) have agreed that the failure to protect solicitor-client confidences raises an arguable case of a violation of the *Charter of Rights*. We continue to object to the requirement that lawyers report information that is subject to solicitor-client confidentiality. By increasing the likelihood that solicitor-client confidences will be shared with entities outside of FINTRAC, Bill C-42 makes the *PCMLA* more objectionable and more constitutionally vulnerable.

The Bill also contains no accountability for persons who disclose information for purposes that are not authorized by proposed section 65. Section 74 the *Act* establishes an offence for improper disclosure but does not list section 65. In the event that this part of Bill C-42 remains, section 74 should be amended to provide an offence for improper disclosure under proposed sections 65(2) and 65(3). The

offence should apply to improper disclosure by officials of FINTRAC as well as the agencies to which the section would apply.

RECOMMENDATION:

The CBA recommends that clause 109 of the Bill be deleted. Alternatively, section 74 of the *PCMLA* should be amended to provide an offence for improper disclosure of information under section 65 by officials of FINTRAC as well as the agencies to which the section would apply.

VI. BIOLOGICAL AND TOXIN WEAPONS CONVENTION

A. Protection of Solicitor-Client Confidential Information

The importance of protecting solicitor-client confidential information cannot be understated. In its submission on Bill C-36, *Anti-Terrorism Act*, to the House of Commons Standing Committee on Justice and Human Rights, the CBA noted:

> Solicitor-client confidentiality is not for the benefit of lawyers. It does not provide a cloak for the commission of crimes. Rather, it is essential to the proper functioning of our legal system. It is part and parcel of the right to adequate representation. Lawyers cannot properly advise clients who do not feel comfortable telling them the whole story. Clients will only be forthcoming if they know that the information they communicate will remain in the lawyer's confidence. Diminishing protection for solicitor-client confidentiality provides clients with an incentive to withhold information from their lawyers. This does not serve the client, the legal system or, ultimately, the public.

> Solicitor-client confidentiality is distinguished from solicitor-client privilege. Solicitor-client privilege is an evidentiary rule which prohibits admission into evidence of oral and written communications passing between the client and the lawyer. Solicitor-client confidentiality is a wider rule that applies without regard to the source of the information or the fact that others may share that information. The Bill must protect from its exceptional measures both the narrower rule of privilege and the wider rule of confidentiality to ensure the continuing integrity of our legal system and of the solicitor-client relationship, a pillar of our legal system and of the rule of law.
>
> The importance of these principles is reinforced in recent appeal court decisions, which confirm the constitutional status of solicitor-client privilege. These cases have invalidated law office searches under section 488.1 of the Criminal Code on the basis that solicitor-client privilege is constitutionally protected under section 8 of the Charter. The courts in those cases also opined that there may be constitutional protection for solicitor-client privilege under sections 7 and 10 of the Charter.[3]

i) Inspections

Section 11 of the proposed *Biological and Toxin Weapons Convention Act* (the *BTWCA*) [clause 114] would permit inspectors to search any place in which the inspector believes on reasonable grounds there is any information relevant to the administration of the *BTWCA*. Inspectors may obtain copies of any document that the inspector believes contains information relevant to the administration of the *BTWCA*. Inspectors may also view and reproduce any information on a computer system. The proposed *BTWCA* would not protect information that is subject to solicitor-client confidentiality.

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3 Canadian Bar Association, *Submission on Bill C-36, Anti-Terrorism Act* (Ottawa: Canadian Bar Association, 2001) at 29-30 [footnote omitted]. See *R. v. Fink*, Court File No. C33537, December 4, 2000 (Ont. C.A.); *Lavallee, Rackel and Heintz v. Canada (Attorney General)*, [2000] A.J. No. 392; *White, Ottenheimer & Baker v. Canada (Attorney General)* (2000), 146 C.C.C. (3d) 28 (Nfld. C.A.). These cases are currently before the Supreme Court of Canada.

Although they currently are subject to *Charter* challenge, the provisions of the *Criminal Code* governing searches at least recognize the importance of solicitor-client confidentiality and provide a procedure for objecting to production of this information.[4] The Bill should provide a procedure for parties to refuse production of information on the grounds of solicitor-client confidentiality.

RECOMMENDATION:

The CBA recommends that proposed section 11 of the *BTWCA* be amended to provide a procedure for parties to refuse production of information on the grounds of solicitor-client confidentiality.

ii) Minister's Notices

Proposed section 18 would permit the Minister to send a notice requiring a person to provide information and documents relevant to the enforcement of the *BTWCA*. Again, there is no protection for solicitor-client confidences. The Minister should not be permitted to order production of solicitor-client-confidential information. Section 18 should exempt this information.

RECOMMENDATION:

The CBA recommends that section 18 be amended to ensure that no person is required to provide information that is subject to solicitor-client confidentiality.

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4 *Ibid. See Criminal Code*, s. 488. *See also Income Tax Act*, s. 232.

iii) Protection of Confidential Information under Proposed Section 19

Section 19 of the proposed *BTWCA* would provide some protection when a person obtains information under the *Act* from a person who has consistently treated the information in a confidential manner (which includes, presumably, a lawyer or other professional). The section provides that a person who obtains the information shall only disclose it:

- when there is consent of the person from whom it was obtained,
- for the purpose of enforcement of the *BTWCA* or any other Act of Parliament,
- under an obligation of the Government under the *Biologocal and Toxin Weapons Convention*, or
- when required in the interest of public safety.

This protection is insufficient to protect solicitor-client confidences. It permits disclosure of those confidences to a government official, such as the Minister or an inspector, which is inconsistent with the purpose of protecting solicitor-client confidences. It also permits that official to disclose the information in turn, in circumstances which are quite broad.

B. Venue of Proceedings

Section 16 of the proposed *BTWCA* allows proceedings under the *Act* to be commenced and conducted anywhere in Canada regardless where the offence took place. It also allows proceedings to be conducted anywhere in Canada, even if they were commenced elsewhere. The decision as to where the proceedings are to be conducted is made by the Attorney General.

We question the purpose of this provision. The federal Crown has ample resources to commence and conduct criminal proceedings in venues across the country. Indeed, it does so on a regular basis for all kinds of crimes prosecuted by the federal Crown — *Income Tax Act* violations, drug prosecutions and so on. An individual accused,

who is already facing the significant resources of the state in a criminal proceeding, should not be forced to travel across the country to conduct a defence. We can envision the federal Crown choosing to conduct proceedings, for example, in Ottawa for an offence committed in Red Deer or Prince George or St. John's. This is inappropriate. Criminal proceedings of this nature are already an expensive proposition without adding defence counsel's travel expenses, hotels, witness fees for the defence witnesses and so on.

At the very least, the selection of the venue of the proceedings should be made by a judge, not the Attorney General. The judge would impartially consider the submissions of the parties as to the most convenient place to hold the hearing, taking into account such factors as expense, location of the parties, location of counsel and location of witnesses.

RECOMMENDATION:

The CBA recommends that section 16 be deleted. In the alternative, section 16 should be amended to provide that a judge may order a change of venue on application of one of the parties.

VII. CONCLUSION

The CBA appreciates the opportunity to provide its input into this Bill. We all have a stake in the fight against terrorism. At the same time, our response to the terrorist threat must be appropriately balanced to preserves our values and traditions.

VIII. SUMMARY OF RECOMMENDATIONS

The Canadian Bar Association recommends:

1. **That proposed section 4.8(2) be amended to permit all parties to a proceeding the opportunity to make representations on whether the security measure or emergency direction should be disclosed. In addition, the CBA recommends that proposed section 4.8(1) [clause 5] be amended to permit disclosure of a security measure or emergency direction to a person charged with an offence arising from such a measure or direction. Alternatively, the CBA recommends that where a court or other body refuses disclosure of a measure or direction in a criminal proceeding, it should be entitled to make any order to protect the accused's right to a fair trial.**
2. **That proposed section 6.2(3) of the *Aeronautics Act* [clause 8 of the Bill] be deleted.**
3. **That proposed section 7.41(1) be deleted.**
4. **That section 88.1(2) be amended to require that information only be retained for 24 hours after a person has entered the country and to restrict the use of the information only to security, people smuggling and serious criminality issues.**
5. **That clause 68 of the Bill be deleted.**
6. **That section 103(1.1) of the *Immigration Act* [clause 76 of the Bill] be amended to exempt persons in the Post-Determination Refugees in Canada Class from arrest and detention under that section.**
7. **That "criminal organization" be defined the same in Bills C-11, C-24 and C-42.**
8. **The deletion of the words "or property under the control of Her Majesty in right of Canada and" in proposed section 260.1(2)(b) and the deletion of section proposed 260.1(2)(d).**

9. That clause 109 of the Bill be deleted. Alternatively, section 74 of the *PCMLA* should be amended to provide an offence for improper disclosure of information under section 65 by officials of FINTRAC as well as the agencies to which the section would apply.

10. That proposed section 11 of the *BTWCA* be amended to provide a procedure for parties to refuse production of information on the grounds of solicitor-client confidentiality.

11. That section 18 be amended to ensure that no person is required to provide information that is subject to solicitor-client confidentiality.

12. That section 16 be deleted. In the alternative, section 16 should be amended to provide that a judge may order a change of venue on application of one of the parties.