



March 17, 2004

The Honourable Senator Joan Fraser
Chair
Senate Committee on Transport and Communications
The Senate
Ottawa, ON K1A 0A4

Dear Senator,

Re: Bill C-7 — *Public Safety Act, 2002*

The Canadian Bar Association (CBA) is pleased to have the opportunity to present its concerns about Bill C-7, *Public Safety Act, 2002*, to the Senate Committee on Transport and Communications. The CBA represents over 38,000 members of the legal profession, including lawyers, students, notaries and law teachers. The CBA is dedicated to improvements in the law and the administration of justice, and it is with that mandate in mind that we have considered this important legislation.

The CBA is committed to working with the government to ensure that the Canadian response to terrorism is an appropriate response. Fighting terrorism and ensuring the security of Canadians are important and legitimate government objectives. However, these objectives must be achieved in a manner that respects the rule of law and that impairs as little as possible the guarantees enshrined in the *Canadian Charter of Rights and Freedoms*, notably civil liberties, privacy, due process rights and equality.

Bill C-7 is the fourth version of the *Public Safety Act* introduced since 2001. The CBA has expressed serious concerns about each version, noting the wide scope of provisions governing air rage, military security zones and collection of passenger information. Bill C-7 moves a bit further along the path to a more tailored response. For example:

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- Section 4.72 would now authorize the Minister to make an aviation security measure only “if secrecy is required”.
- Under s. 4.73, the Minister could delegate authority only to the Deputy Minister.
- Emergency directions under sections 4.76 to 4.78 would be limited to 72 hours.
- A restriction on the disclosure of passenger information is added, so that the RCMP Commissioner or Director of CSIS must believe that there is an immediate threat to transportation security or the life, health or safety of someone, and that disclosure will be required to respond to that threat.

But the tinkering at each stage has not assuaged our overall concerns. The CBA continues to oppose passage of this Bill because it still fails to find any appropriate balance between security and privacy and human rights. Interpretations of “terrorism” or “serious threat” can shift with the climate of the moment. Permitting airline passenger information to be cross-referenced for extended law enforcement purposes threatens to intrude unnecessarily on privacy rights. So too does permitting passenger information to be shared with foreign states. Controlled access military zones remain, renamed as controlled access zones. We remain of the view that Bill C-7 must not be adopted without further amendments.

The CBA is concerned about the insidious invasions of privacy and fundamental rights creeping into Canadian law over the past few years. Bill C-7 is but one such measure. Canadians are now beginning to see the negative impact on individual liberties of the various government measures intended to combat terrorism. A full and rigorous review of all security-focused legislation is needed, to assess its cumulative effect on privacy, individual rights and freedoms, and checks and balances on state powers. The government needs this assessment before adopting even more laws that may compromise the key values of Canadian society — the very targets of the terrorists — freedom, justice and the rule of law.

The CBA urges the Senate not to pass Bill C-7.

Yours very truly,

A handwritten signature in black ink, appearing to read "William Johnson". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

F. William Johnson
President

Cc Till Heyde, Clerk, Senate Transport and Communications Committee