**Submission to Consultation on National Security, December, 2016**
**by Canadian Friends Service Committee**

**SECTION 1: ACCOUNTABILITY**

**Should existing review bodies – CRCC [Civilian Review and Complains Commission for the Royal Canadian Mounted Police], OCSEC [Office of the Communications Security Establishment Commissioner] and SIRC [Security Intelligence Review Committee] – have greater capacity to review and investigate complaints against their respective agencies?**

Existing review bodies are under-resourced and limited in their abilities to do their jobs effectively. SIRC, for example, has a budget of less than $3 million and around 26 employees. It is tasked with reviewing an agency, the Canadian Security Intelligence Service (CSIS), with a budget of some $500 million. There is substantial consensus among independent observers that SIRC is not resourced to do any meaningful review of CSIS.

Furthermore the Canadian Border Services Agency (CBSA), which conducts certain activities related to national security, has no review body at all. A major reform is urgently needed.

We are aware of what we consider significant abuses of power by CSIS, including complicity in the deportation of multiple individuals from Canada to torture. In a recent court decision, CSIS was found to have illegally collected and retained data on Canadians. It remains entirely unclear how CSIS and individual agents are being held accountable for illegal acts or acts that grossly violate human rights. This is hugely problematic and undermines Canada's standing on the world stage, and credibility when claiming to be a human rights defender. It also undermines the trust that Canadians have in the government's ability to provide an environment of security.

We strongly suggest the creation of a single independent review body able to review any and all government national security operations. This body should be mandated to provide reviews and investigate all complaints. And it must have the powers, and the funding, necessary to do its job. It's funding and staffing needs should be calculated taking into account the staff and budget sizes of the agencies it is reviewing.

**Should the existing review bodies be permitted to collaborate on reviews?**

There should be only one review body, which would address this problem of information not flowing between review bodies.

**Should the Government introduce independent review mechanisms of other departments and agencies that have national security responsibilities, such as the CBSA?**

The new independent review body should have jurisdiction over all agencies with national security responsibilities.

**The proposed committee of parliamentarians will have a broad mandate to examine the national security and intelligence activities of all departments and agencies. In light of this, is there a need for an independent review body to look at national security activities across government, as Commissioner O'Connor recommended?**

A Parliamentary Committee on National Security would be an additional review body, not a substitute. Members of Parliament don't have the time, or the expertise, to do this work thoroughly. Their committee can at best compliment an independent and well resourced review agency, which is absolutely essential.

**The Government has made a commitment to require a statutory review of the ATA [Anti-Terrorism Act], 2015 after three years. Are other measures needed to increase parliamentary accountability for this legislation?**

It is important for parliament to examine if national security laws have proven necessary and useful and to adapt laws accordingly. The review by parliament should be specifically required to consider how security laws have been used to violate the constitutional and Charter rights of Canadians. The results of this review must be made public and lead to necessary changes to legislation.

**SECTION 2: PREVENTION**

**The Government would like your views about what shape a national strategy to counter radicalization to violence should take. In particular, it is looking to identify policy, research and program priorities for the Office of the community outreach and counter-radicalization coordinator. What should the priorities be for the national strategy?**

This question and the national security thinking underlying it have too often been tainted by a worldview that is biased in how it characterizes and defines people and communities as "threats". The assumption appears to be that violence committed by members of certain religions, creeds, races or ethnicities is "radical" and worthy of particular attention and resources to prevent, while violence committed by others is not worthy of special note or response. This thinking is a recipe for endless violence by continuing to marginalize certain groups.

Canada's responses to *all forms of violence* should be proportionate to the harm created by that violence, and should seek to prevent and reduce harm for all, taking great care not to increase harm deliberately or accidentally.

No special emphasis should be given to some acts of violence over others. Whether violence is perpetrated against Indigenous women who go missing and are murdered at shocking rates, by a gang, by a police officer, by individuals motivated by racism, by groups with hopes of harming the Canadian state or society more generally, etc., violence should be dealt with in measured and proportionate ways.

To prevent future violence, Canada's responses to violence should carefully examine and address root causes.

Conditions of exclusion, injustice and inequality too often lie at the roots of violence. Services including adequate housing, employment opportunities, and culturally safe mental and other health services, promote feelings of belonging. The Religious Society of Friends (Quakers) supports such initiatives for all Canadians, noting that these are among the conditions that result in healthy and peaceful communities.

**What should the role of the Government be in efforts to counter radicalization to violence?**

We would advise Canada to look for opportunities to foster inner peace (providing training and resources for people to develop attitudes, behaviours, and beliefs conducive to peace with oneself), interpersonal peace (supporting the development of the skills of nonviolent conflict analysis and transformation, active listening, and other ways of relating peacefully between individuals), and structural peace (creating fair and inclusive political and social structures that support peace grounded in justice).

In our experience and review of conflicts around the world spanning decades, the single biggest too often over-looked factor in reducing violence is that work which "changes hearts". Canada should take advantage of every opportunity to establish a culture of peacebuilding (see http://quakerservice.ca/peacebuilding) through initiatives that demonstrate compassion and change the hearts of those who have been so injured or perceive themselves to have been so wronged, that they seek to lash out with violence.

**Research and experience has shown that working with communities is the most effective way to prevent radicalization to violence. How can the Government best work with communities? How can tensions between security concerns and prevention efforts be managed?**

Prevention must be prioritized, recognizing that it is never going to be 100% effective. If prevention is largely effective and does not increase harm, those should be taken as measures of major success.

The "war on terror" mentality creates an inherently unwinnable "war" being fought with an undefined enemy, with no evidence of success after years of fighting (since at least 2001). Non-state actors don't follow the rule of law so "war" thinking is largely outdated and unhelpful here.

Security should therefore be re-conceptualized as "shared security", meaning that no community or country is secure on its own, and our security will be greatest when all communities are most secure and therefore least steeped in the conditions that lead to violence. This approach seeks to engage with other parties involved in conflicts, rather than distancing from them and escalating hostilities. It recognizes the complex and interrelated nature of emerging threats, which must be addressed on multiple fronts at once, not by attacking only certain symptoms like violence.

The security of majority populations cannot be won through state pressure on and further alienation of certain communities. Shared security means working to meet the human needs and uphold the human rights of all.

Too often we've seen state responses escalating, rather than preventing, violence. To take one example, as reported in the media the case of John Stewart Nuttall and Amanda Korody demonstrated that government agencies may go to extremes (including entrapment) to help move some individuals toward terrorism, rather than to prevent it.

Would targeted care from mental health professionals to address the needs of individuals identified as risks of committing violence not have been less expensive and better for national security and the individuals involved?

In rare cases, police should intervene to prevent violence, but this should not be the first response, as too often it escalates, rather than deescalating, the situation, putting police, as well as the individuals policed, at greater risk of harm.

**Efforts to counter radicalization to violence cannot be one size fits all. Different communities have different needs and priorities. How can the Office identify and address these particular needs? What should be the priorities in funding efforts to counter radicalization to violence?**

Particular communities will have particular needs and concerns with respect to their members' feelings of alienation or their likelihood to become violent. Any programs developed to address violence should therefore be developed in close consultation with communities.

Understanding and addressing the needs of communities is essential and should be done within the shared security framework described above. If situations are improved in communities, based on local priorities, the root causes of violence will be removed and violence will decrease. This is a critically important and worthwhile preventative approach.

**Radicalization to violence is a complex, evolving issue. It is important for research to keep pace. Which areas of research should receive priority? What further research do you think is necessary?**

Scientific studies of approaches that are healing and do not involve power from the state to counter violence should be conducted. We believe that shared security approaches are ultimately far more effective and less costly than the "war on terror" approach and would like to see further studies testing this belief.

**What information and other tools do you need to help you prevent and respond to radicalization to violence in your community?**

See above.

**SECTION 3: THREAT REDUCTION**

**CSIS's threat reduction mandate was the subject of extensive public debate during the passage of Bill C-51, which became the ATA, 2015. Given the nature of the threats facing Canada, what scope should CSIS have to reduce those threats?**

It is entirely unclear to us what "the nature of the threats facing Canada" is perceived to be, as no definition is offered. Similarly no meaningful definition of terms like "terrorism" has been put forward.

The danger here is that "terrorism", being such a vague concept, may be misapplied as a label to criminalize legitimate forms of protest and dissent, or illegal forms of protest and dissent that do not require a "war on terror" approach to be most effectively addressed.

"Threat" may be applied to any activity which is not popular with the government of the day or with powerful lobbyists. This is deeply disturbing and unacceptable in the extreme. This is among the many problems we have expressed with Bill C-51.

We have no reason to believe, based on the information that we have through the media and through the federal government's debates around Bill C-51, that CSIS has the need to engage in "threat reduction". We are deeply concerned about the potential for abuse of this power. We strongly support the removal of this mandate from CSIS.

**Are the safeguards around CSIS's threat reduction powers sufficient to ensure that CSIS uses them responsibly and effectively? If current safeguards are not sufficient, what additional safeguards are needed?**

We've read in the mass media about CSIS targeting nonviolent protests for intelligence gathering. These are activities protected by the Canadian Charter of Rights and Freedoms and ones that pose no possible threat. The Raging Grannies and other peaceful groups of Canadians were reportedly surveilled. This is wasteful, absurd, and deeply damaging to our democracy. Clearly CSIS does not have adequate safeguards even for intelligence gathering, much less threat reduction. We strongly support narrowing the mandate of CSIS and ensuring that it be allowed only to gather intelligence when there is a genuine need to do so.

The Religious Society of Friends has been the target of surveillance, arrest, and persecution in various countries for centuries due to our religious beliefs and actions. As Quakers, we are well aware how dangerous surveillance and a "police state" can be. This approach is the opposite of the shared security approach we advocate. Shared security would require space for nonviolent dissent and protest, recognizing that others' views may help the government. At times, perhaps the Raging Grannies should be listened to by governments, not listened in on.

**The Government has committed to ensuring that all CSIS activities comply with the Charter. Should subsection 12.1(3) of the CSIS Act be amended to make it clear that CSIS warrants can never violate the Charter? What alternatives might the Government consider?**

As mentioned above, CSIS has already been found by courts to have violated the Charter. Such actions only undermine the security of Canadians and their democratic institutions. An independent review body capable of examining and responding to complaints about all agencies carrying out national security work should be a top priority.

**SECTION 4: DOMESTIC NATIONAL SECURITY INFO SHARING**

**The Government has made a commitment to ensure that Canadians are not limited from lawful protest and advocacy. The SCISA explicitly states that the activities of advocacy, protest, dissent, and artistic expression do not fall within the definition of activity that undermines the security of Canada. Should this be further clarified?**

Such a commitment is welcome but must be backed up through action. In particular, how is Canada ensuring that police are not brought in to stop nonviolent and lawful protests? Such use of police appears to us a regular occurrence, justified through reference to "security". The SCISA includes acts which "threaten the country’s economic interests and financial stability." This "threat" is overly broad. It could include noncooperation and civil disobedience, perhaps even boycotts.

Allowing nonviolent pressure and protest, including civil disobedience, is one means by which to prevent escalation to violence. This point is very important. If nonviolent protests like blocking pipeline developments are met with excessive force and attempts at criminalization and surveillance, those actions are escalations of the situation which increase violence and potential for "radicalization".

A shift to shared security would address this problem. If protests are not violent, they should never be responded to in ways that escalate the situation. For this reason, the SCISA should be repealed and replaced with legislation taking a different conceptual and practical approach so as to protect the Charter and other rights of all.

**Should the Government further clarify in the SCISA that institutions receiving information must use that information only as the lawful authorities that apply to them allow?**

This is not an adequate solution to the problems we've named. Furthermore, this question seems to be asking if Canadian institutions should be instructed to use information only for purposes allowed under law. That this question is up for consultation is chilling. We should not have to explain to Canadian institutions that they are expected to act within the confines of the law.

**Do existing review mechanisms, such as the authority of the Privacy Commissioner to conduct reviews, provide sufficient accountability for the SCISA? If not, what would you propose?**

Existing mechanisms are inadequate. The Privacy Commissioner should have the time and resources to do a privacy audit of legislation before it is tabled. Recommendations from the Privacy Commissioner should either be included in the legislation or made available to parliamentarians before debate. This approach would address new privacy issues before they arise, rather than having non-binding recommendations made after legislation has already passed.

**To facilitate review, for example, by the Privacy Commissioner, of how SCISA is being used, should the Government introduce regulations requiring institutions to keep a record of disclosures under the SCISA?**

This should be a requirement, but more importantly, the independent review body should have the power to ensure that all appropriate records are actually kept.

**Some individuals have questioned why some institutions are listed as potential recipients when their core duties do not relate to national security. This is because only part of their jurisdiction or responsibilities relate to national security. Should the SCISA be clearer about the requirements for listing potential recipients? Should the list of eligible recipients be reduced or expanded?**

The threshold for information sharing, "suspicion" that someone may be a "threat", neither of these being clearly defined or limited, is extremely low. Too many institutions have access to Canadian's private information without sufficient demonstration of need for such access.

**SECTION 5: PASSENGER PROTECT PROGRAM**

**At present, if the Minister does not make a decision within 90 days about an individual's application for removal from the SATA List, the individual's name remains on the List. Should this be changed, so that if the Minister does not decide within 90 days, the individual's name would subsequently be removed from the List?**

The SATA List ("No-Fly List") is deeply problematic because:

1. A need for such a list has not been demonstrated given existing policing and criminal law tools to keep suspected dangerous persons from flying.

2. The efficacy of such a list has not been demonstrated.
3. Individuals get onto such lists through opaque processes and are not allowed to know the reasons for their inclusion, or even if they are on the list.
4. Obvious errors like children being on the lists are not immediately corrected, and airline personnel are not allowed to use their own judgment in such absurd instances.

Although recent measures have been taken to create a process for Canadians on the SATA List to take actions prior to their flights to ensure that they are able to fly, a better solution would be to end the use of the List altogether.

If Canada continues to use the SATA List, then yes, if the Minister does not decide within 90 days, individual's names should be removed from the List. Furthermore, individuals should be informed immediately when their names are listed, so that they can take action to clear their names if warranted.

**To reduce false positive matches to the SATA List, and air travel delays and denials that may follow, the Government has made a commitment to enhance the redress process related to the PPP. How might the Government help resolve problems faced by air travellers whose names nonetheless generate a false positive?**

If use of the SATA List continues, individuals who are not removed from the List by the Minister should be able to hear the evidence against them and argue in a court of law for their innocence. If evidence for inclusion of an individual on the List is meaningful, Canada's courts should be able to decide this.

We are also deeply concerned that often Canadian airlines seem to use the American No-Fly List, which provides even less possibility of Canadians being removed if they have been unjustly and wrongfully included. Canada must negotiate a process for the removal of Canadians from the American No-Fly List or prevent Canadian airlines from using the List.

**Are there any additional measures that could enhance procedural fairness in appeals of listing decisions after an individual has been denied boarding?**

Individuals would clearly need to know the evidence, otherwise there can be no fair way of responding.

**SECTION 6: CRIMINAL CODE TERRORISM MEASURES**

**Are the thresholds for obtaining the recognizance with conditions and terrorism peace bond appropriate?**

Present law allows for the use of peace bonds and preventative arrest for up to seven days. The challenge with this approach is that officers only have to "suspect" someone "may" carry out a terrorist activity. This is a very low threshold. Clearly being the target of a peace bond will affect one's reputation even having never been convicted of any crime. It is unclear and of concern to us how it could ever be meaningfully determined if this process was abused by police placing someone under a peace bond.

**Advocating and promoting the commission of terrorism offences in general is a variation of the existing offence of counselling. Would it be useful to clarify the advocacy offence so that it more clearly resembles counselling?**

It is critically important to provide clarity so that individuals discussing news and world events by repeating the words of terrorists, words they do not support, would not be considered to be "advocating". The current vague language likely creates a chill on free speech and public debate. This affects journalists in particular. As "counselling" was already a terrorism offence under the Criminal Code, it is entirely unclear to us why the offense of "advocating" and "promoting" was created.

**Should the part of the definition of terrorist propaganda referring to the advocacy or promotion of terrorism offences in general be removed from the definition?**

Yes.

**What other changes, if any, should be made to the protections that witnesses and other participants in the justice system received under the ATA, 2015?**

New protections for witnesses were not required and existing Canadian law prior to the ATA, 2015 was sufficient.

**SECTION 7: PROCEDURES FOR LISTING TERRORIST ENTITIES**

**Does listing meet our domestic needs and international obligations?**

The challenge we noted above about the definition of "terrorism" is important. The definition is too politicized to be useful. It fails to account for massive violations of the rule of law, including war crimes, committed by states ("state terrorism"). Also, legitimacy of entities may shift over time. We feel strongly that Canada has a major role to play in peace diplomacy, and that labeling some entities as terrorists may dissuade Canada from engaging in important dialogue and peace diplomacy efforts.

**The Criminal Code allows the Government to list groups and individuals in Canada and abroad. Most listed entities are groups based overseas. On which types of individuals and groups should Canada focus its listing efforts in the future?**

Canada should focus on prevention and responding to criminal acts, rather than on labeling/listing. We do not feel that labeling/listing increases shared security.

**What could be done to improve the efficiency of the listing processes and how can listing be used more effectively to reduce terrorism?**

See above.

**Do current safeguards provide an appropriate balance to adequately protect the rights of Canadians? If not, what should be done?**

Listed entities should know the case against them and be given a fair court hearing of that case. Listing processes are often based on secret evidence. This may violate procedural fairness guaranteed by the Charter of Rights and Freedoms.

**SECTION 8: TERRORIST FINANCING**

**What additional measures could the Government undertake with the private sector and international partners to address terrorist financing?**

We are in favour of strong sanctions against financial institutions and others found to be facilitating terrorist financing. In recent years, investigative journalists, thanks to information provided by whistle-blowers, appear to have uncovered massive financing of all forms of violent and terrorist activity facilitated by major international banks. Canada should investigate banks and do everything in its power to prevent all forms of money laundering, terrorist financing, and tax evasion. This is a meaningful step toward shared security.

In our opinion, the international arms trade plays a significant and under-considered role with respect to terrorism. As one of many examples, investigative journalists have found that many of the weapons used by Daesh were originally provided by Western governments to allies of the Coalition Canada has been supporting in Iraq. In other words, if we wish to stop arming terrorists one very practical way to do so would be to implement much stricter arms controls on Canadian arms exports. To that end, we call on Canada to sign and ratify the *United Nations Arms Trade Treaty* without further delay, and to share information about its involvement in the international arms trade in a thorough, timely, and transparent manner. We hope that stronger arms export controls will be recognized as a necessary aspect of shared security and preventing material support for terrorism.

**What measures might strengthen cooperation between the Government and the private sector?**

Unsure.

**Are the safeguards in the regime sufficient to protect individual rights and the interests of Canadian businesses?**

Guidelines around FINTRAC should be clarified to ensure that businesses collect and report required information, no more and no less. The Privacy Commissioner has found that information not required, such as the Social Insurance Numbers of individual Canadians, has been collected and stored by FINTRAC although it is not mandated to have this information. Collecting and storing such information puts it as some degree of future risk of inappropriate disclosure either deliberately or due to hacking.

**What changes could make counter-terrorist financing measures more effective, yet ensure respect for individual rights and minimize the impact on Canadian businesses?**

Firms profiting from sales of products later used for the purposes of terrorism anywhere in the world should be held responsible insofar as it would be seen as reasonable to foresee such use.

**SECTION 9: INVESTIGATIVE CAPABILITIES OF THE DIGITAL WORLD**

**How can the Government address challenges to law enforcement and national security investigations posed by the evolving technological landscape in a manner that is consistent with Canadian values, including respect for privacy, provision of security and the protection of economic interests?**

It appears to us that law enforcement will express frustrations and claim challenges due to technology or privacy limitations even when these may be false claims made unnecessarily. Evidence of needs and of the actual effectiveness of technologies is critically important.

In general we believe that old fashioned low tech police work is likely to be more productive and cost effective than bulk data collection and other massive invasions of Canadians' privacy. One of the many issues with bulk data collection is that law enforcement and intelligence agencies have access to too much information, which may prevent them from being able to determine what is relevant. It is in our best security interests to use the limited human resources available only on fruitful and targeted police work, and bulk data collection does not seem to help this.

We feel that law enforcement had the tools to do their jobs prior to the ATA, 2001, or the ATA, 2015 and that both constituted unnecessary and dangerous overreaches of national security powers.

Examples of powers created through new technologies include multiple aspects of Canada's involvement in the "Five Eyes" intelligence alliance, such as Canada's support for efforts to weaken internet encryption protocols as well as the use by some law enforcement of "String Rays" and other technologies that collect bulk data, putting the privacy of innocent individuals at risk.

**In the physical world, if the police obtain a search warrant from a judge to enter your home to conduct an investigation, they are authorized to access your home. Should investigative agencies operate any differently in the digital world?**

When a genuine need for digital access is demonstrated, a warrant should be provided for such access. The warrant should be narrow and clear in scope and purpose. We have read about instances where single warrants have been used to access many different online users' data far beyond the scope of what could reasonably be deemed necessary. This produces an unacceptable violation of privacy.

**Currently, investigative agencies have tools in the digital world similar to those in the physical world. As this document shows, there is concern that these tools may not be as effective in the digital world as in the physical world. Should the Government update these tools to better support digital/online investigations?**

This question and this document are deeply flawed on this point.

We do not believe that the tools in the digital world are less effective than those in the physical world. Documents published by *The Intercept* and *The Guardian* related to Canada's involvement in the "Five Eyes" intelligence alliance clearly demonstrate that Canada's powers, whether deployed legally or illegally, in the digital world are if anything *far greater* than in the physical world, and are extremely dangerous to Canadians' privacy.

As noted above, a federal court recently ruled that CSIS engaged in illegal bulk data collection. The readiness of government agencies to engage in activities in flagrant violation of the law is deeply troubling and makes the need for this consultation to lead to enhanced oversight and accountability very urgent.

**Is your expectation of privacy different in the digital world than in the physical world?**

Metadata and bulk information can be revealing about individuals in ways that information in the physical world generally cannot be. Therefore in the digital world privacy controls should be much stricter than in the physical world. We see just the opposite happening currently.

Basic Subscriber Information (BSI)

**Since the *Spencer* decision, police and national security agencies have had difficulty obtaining BSI in a timely and efficient manner. This has limited their ability to carry out their mandates, including law enforcement's investigation of crimes. If the Government developed legislation to respond to this problem, under what circumstances should BSI (such as name, address, telephone number and email address) be available to these agencies? For example, some circumstances may include, but are not limited to: emergency circumstances, to help find a missing person, if there is suspicion of a crime, to further an investigative lead, etc.**

This question may be misleading. It is our understanding that in emergency circumstances the Criminal Code already allows police, without a warrant, to have access to BSI. The *Spencer* decision seems appropriate and should be adhered to.

**Do you consider your basic identifying information identified through BSI (such as name, home address, phone number and email address) to be as private as the contents of your emails? your personal diary? your financial records? your medical records? Why or why not?**

This question also seems to be framed in such a way as to lead to a particular response.

Our feeling is that some elements perhaps not (e.g. name). However IP address, which is part of BSI yes, that is certainly as private as the other information listed because of how it can be used.

**Do you see a difference between the police having access to your name, home address and phone number, and the police having access to your Internet address, such as your IP address or email address?**

Certainly! In the digital world, information like an IP address can be used to find all kinds of other personal and private information.

Interception Capability

**The Government has made previous attempts to enact interception capability legislation. This legislation would have required domestic communications service providers to create and maintain networks that would be technically capable of intercepting communications if a court order authorized the interception. These legislative proposals were controversial with Canadians. Some were concerned about privacy intrusions. As well, the Canadian communications industry was concerned about how such laws might affect it. Should Canada's laws help to ensure that consistent interception capabilities are available through domestic communications service provider networks when a court order authorizing interception is granted by the courts?**

If a court order authorizing interception is granted by the courts, such interception is acceptable. In our opinion it is clear that law enforcement *already have* very significant interception capabilities.

The above mentioned revelations about Canada's bulk data collection and other indiscriminate spying appear to have given Canadians very legitimate concerns about our national security agencies' respect for due process, court orders, and the privacy rights of individual Canadians.

Encryption

**If the Government were to consider options to address the challenges encryption poses in law enforcement and national security investigations, in what circumstances, if any, should investigators have the ability to compel individuals or companies to assist with decryption?**

The problem with such an approach is that it would presumably require companies to build backdoors or decryption keys into their encryption software. This is not something that would just be available to the companies, but would compromise security for all users, as the backdoors would be accessible to hackers, violent groups, totalitarian governments, etc. Compelling individuals to reveal their passwords in circumstances significant enough to warrant such revelation of passwords appears to us less risky, but decisions on this should be made with careful review of what is permissible under Canada's Constitution.

**How can law enforcement and national security agencies reduce the effectiveness of encryption for individuals and organizations involved in crime or threats to the security of Canada, yet not limit the beneficial uses of encryption by those not involved in illegal activities?**

This is not possible. Law enforcement must rely on other techniques aside from weakening encryption.

Data Retention

**Should the law require Canadian service providers to keep telecommunications data for a certain period to ensure that it is available if law enforcement and national security agencies need it for their investigations and a court authorizes access?**

Presently police can get a Preservation Order, which a judge grants to require preservation of information in particular cases. This is basically proposing a preservation order for all data held by telecommunications providers. It is unclear to us that such a preservation order is required and it raises concerns about the vulnerability of such private and sensitive data. A demonstration of necessity and efficacy in promoting shared security should be made before taking such an extreme decision.

**If the Government of Canada were to enact a general data retention requirement, what type of data should be included or excluded? How long should this information be kept?**

We do not feel that the benefits of a general data retention requirement have been demonstrated and are therefore not in favour of such a requirement.

**SECTION 10: INTELLIGENCE AND EVIDENCE**

**Do the current section 38 procedures of the *Canada Evidence Act* properly balance fairness with security in legal proceedings?**

The idea of “state secrets” may be prejudicial against defendants and constitute a barrier to a fair and equitable criminal trial. We are aware of trials introducing hearsay and information obtained by foreign governments through the use of torture. This information would be inadmissible in a court normally and is deeply problematic as it appears to demonstrate the tacit support of Canadian courts for torture abroad. Further, there is no obligation to share all of the evidence, only that which appears to help make the case. This is deeply disturbing to us and seems in clear violation of principles of fair trials.

**Could improvements be made to the existing procedures?**

Evidence used against a defendant should be made known to the defendant and their lawyer.

**Is there a role for security-cleared lawyers in legal proceedings where national security information is involved, to protect the interests of affected persons in closed proceedings? What should that role be?**

Both the lawyer and the defendant should have access to the evidence in the case.

**Are there any non-legislative measures which could improve both the use and protection of national security information in criminal, civil and administrative proceedings?**

Not that we're aware of.

**How could mechanisms to protect national security information be improved to provide for the protection, as well as the reliance on, this information in all types of legal proceedings? In this context, how can the Government ensure an appropriate balance between protecting national security and respecting the principles of fundamental justice?**

We would like to see such processes used less frequently and reviewed by the independent oversight body to be created.

**Do you think changes made to Division 9 of the IRPA through the ATA, 2015 are appropriately balanced by safeguards, such as special advocates and the role of judges?**

"Security Certificates" are of deep concern to us at Canadian Friends Service Committee. Division 9 is irrevocably flawed and should be fully repealed. Security Certificates have been used for indefinite detention without laying any charges. This is horrifying. The standards of proof used in reviewing Security Certificates are the lowest of any courts in Canada. Individuals under Security Certificates may be deported even when doing so would lead to their torture or worse. How is the Security Certificates program constitutional? If evidence exists against someone, then charges should be laid. If evidence does not exist or is based on hearsay or torture, then how is it acceptable that the accused simply be detained under extremely severe restrictions indefinitely? We cannot ensure the security of Canadian values by violating them with Security Certificates. Division 9 must be repealed.

**GENERAL FEEDBACK**

**What steps should the Government take to strengthen the accountability of Canada's national security institutions?**

An independent body with whole-of-government review powers must be created. It must demonstrate its independence from the agencies over which it has authority. It must have the budget to meaningfully provide oversight and respond in a timely manner to complaints. The body would make regular reports to the public, explaining the uses of national security resources and recommending to parliament necessary policy changes.

Mechanisms must be put in place to respond quickly and fully if any agency is found to break the law during national security activities.

**Preventing radicalization to violence helps keep our communities safe. Are there particular prevention efforts that the Government should pursue?**

A "war on terror" mentality typically involves much discussion about countering "radicalization". We place the term "radicalization" in quotes not to minimize the very real impacts of radical violence, but because the term is typically used with respect to some communities, in particular Muslims, and not others, in particular white non-Muslims. We find this usage deeply damaging, inherently Islamophobic, and part of an "us" vs. "them" mindset that ultimately *feeds* radicalization. We refuse to participate in such thinking and strongly encourage a shift to a shared security mindset. We repeat that violence is violence. For example, violence against women in Canada is a huge and persistent problem. Its prevention should be resourced in proportion to the extent of harm it creates, which is impacting many-fold more Canadians than the few instances of violent terrorism in this country.

Public discussion of responses to radicalized individuals seems to centre around which forms of violent or coercive force are most appropriate for the state to deploy, and what limits should exist on these powers. But we need not feel that the only options are to support such existing failed interventions or to stand back and do nothing.

We strongly support the establishment of a culture of peacebuilding to promote shared security. In our view a culture change from the deeply damaging and ineffective "war on terror" mentality is essential.

We encourage the Government to establish a Department of Peace, with the aim of fostering a culture of peacebuilding domestically and supporting it internationally. Prevention is ultimately more humane, cost-effective, and successful than an unending "war on terror", which by its very nature is nothing like a war with a particular state, and cannot be conclusively won.

Turning to the example of the rise of Daesh in parts of Syria and Iraq, we conclude that the actions of Canada and our allies unwittingly supported radicalization in many ways.

Studies suggest that, in general, those who join groups like Daesh do not display signs of major mental health problems or other particular markers to help identify them. Almost all, however, have actual or perceived grievances based on violence that they or a close relative or friend experienced, and for which they seek revenge.

For every militant killed in the name of eradicating terrorism and making Canada or our world generally more secure, many non-combatant civilians are killed too, often with no consequence for those who killed them, nor reparations or reconciliation. This means that a great many family and friends develop grievances, and some may turn to violence. Therefore, far from reducing the numbers of militants, a violent response from nations like Canada (we include sanctions which resulted in massive death tolls in Iraq as violent) may fuel radicalization.

Prevention therefore seems to us the most reasonable and under-funded form of action. We feel that for this approach to be engaged in properly, a distinct government body must be created to lead prevention work. We therefore recommend the establishment of a federal Department of Peace.

A Department of Peace could:

- Monitor and identify incessant escalating conflict internationally.
- Develop a coherent plan with multiple sources for intervention, assessing the situation on the ground from a peacebuilding and shared security perspective.
- Fund women's groups and support women to actively engage in grassroots peacebuilding.
- Use mediation, conflict transformation, trauma counselling, and unarmed civilian accompaniment to engage all parties in respectful processes, keep people safe, and witness and document situations.
- Create opportunities for dialogue so that groups in conflict can experience a sense of shared humanity and feel compassion instead of dehumanization and hatred.
- Engage in relentless peace diplomacy with conflicted parties and sources of influence to help multiple sides in a conflict understand their interests and how these can be served without violence.

Ultimately it is only through building shared security and responding to human needs and upholding human rights that the root causes of terrorism will be addresses and radicalization will be curtailed.

We understand that the techniques described above may not always be effective, however the evidence is clear that after incredible sums of money being spent on the "war on terror", terrorism is increasing. After at least 15 years of the "war on terror", its ineffectiveness is incontrovertible. Therefore innovative approaches like those a Department of Peace would champion are urgently needed.

**In an era in which the terrorist threat is evolving, does the Government have what it needs to protect Canadians' safety while safeguarding rights and freedoms?**

We believe that prior to the ATA, 2001, Canada already had everything it needed in terms of legislation to protect Canadians' safety. We find that increasingly heavy-handed security policies are counter-productive and move us away from shared security and a culture of peacebuilding. We stated as much at the time, and feel 15 years later ample evidence, some of which we've referred to above, has shown our concerns to be accurate and important ones.

We urge Canada to help prevent violence of all kinds through investing in shared security.

**Do you have additional ideas or comments on the topics raised in this Green Paper and in the background document?**

We reiterate that the Green Paper presents a particular bias about security which seems to feel that current approaches are necessary, helpful, and respond to actual risks, but are hindered by the lack of additional powers for agencies working on national security.

We recognize the challenges faced by these agencies and the desire to do their jobs well to promote national security. However we strongly disagree with the basic premises about what provides for genuine security and call for a reframing of the issues to take an evidence-based shared security approach, with a focus on prevention through meeting human needs and upholding human rights.