

Tough-on-crime legislation takes aim at civil liberties

Some proposals hinder privacy rights



By Ian Mulgrew
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The Conservative government's omnibus "tough-on-crime" legislation should be redubbed "tough-on-civil-liberties" if it embraces all the last Parliament's law-and-order leftovers.

Prime Minister Stephen Harper vowed during the recent election campaign to push through a sweeping all-inclusive package of the bills within 100 sitting days and that commitment was reinforced in the June 3 throne speech.

But there are serious flaws in this hodgepodge of would-be laws that stiffen sentences for child predators, end house arrest for the violent, recast the young offender legislation and supposedly improve the anti-terrorism panoply.

Aside from concerns over the radical change to the country's approach to crime-and-punishment, some of the proposals run roughshod over privacy rights and individual liberties.

For instance, the "lawful access" bill has measures — such as the authorization for warrantless searches by police of Internet use — that trample on constitutional protections and go too far.

Under the rubric "Investigative Powers of the 21st Century," the proposal would require service providers to disclose customer information without prior judicial approval and provide law-enforcement access for "real-time surveillance."

There is no question these investigative tools make it easier for police to track child pornographers, but do we really want to surrender our privacy to this extent?

Neither the government, RCMP nor the national security agencies has provided evidence we need to allow this incredible intrusion.

Similarly, the criminalization of hyperlinks to "hate" sites and using a pen name on the Internet also raise concerns.

The country's privacy commissioners and ombudspersons were so taken aback when these provisions were unveiled they joined forces to oppose them.

"We believe that there is insufficient justification for the new powers, that other, less intrusive alternatives can be explored and that a focused, tailored approach is vital," they said in a letter to the hard-nosed Tories. "In our view, this balance has not been achieved."

They called for consultation and study. That remains a good idea.

"The feds are really trying to sneak this one past us, because they really don't want to have the debate," said Vincent Gogolek, executive director of the non-profit B.C. Freedom of Information and Privacy Association.

"Of course, one of the reasons for dumping this legislation into an omnibus bill is that anyone voting against it would be accused of voting against 'Sébastien's Law' and siding with criminals against righteous, law-abiding Canadians."

Named after Sébastien Lacasse, who was slain in 2004, that bill

creates harsher juvenile laws so it's easier to sentence violent kids as adults, publicly identify them and turn irresponsible behaviour into a crime.

These are changes many people support, but do we want to see such amendments rushed into law without proper scrutiny?

Why, for instance, do we want to make it tougher for Canadians imprisoned abroad — such as jailed mail-order-cannabis-seed-selling-czar Marc Emery — to gain transfer home to serve their sentences?

The Conservatives maintain that the opposition needlessly prevented passage of these bills when they had a minority but the truth is much of the legislation simply demands close examination.

In the past such controversial legislation has not made it beyond second reading, but the Conservatives now have a majority and can ensure passage of the patchwork compilation.

No matter how many of the Tory changes are truly worthy of consideration, it seems to me it's asking for trouble to so cavalierly rewrite the criminal law.

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