



**NATIONAL COUNCIL
OF CANADIAN MUSLIMS**

Your Voice. Your Future.

**ORAL SUBMISSION ON BILL C-59, AN ACT RESPECTING
NATIONAL SECURITY MATTERS**

THE STANDING COMMITTEE ON PUBLIC SAFETY AND NATIONAL SECURITY

HOUSE OF COMMONS | DECEMBER 12, 2017

**OPENING STATEMENT BY
IHSAAN GARDEE, EXECUTIVE DIRECTOR**

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A. INTRODUCTION

My name is Ihsaan Gardee and I am the Executive Director of the National Council of Canadians Muslims (NCCM) and I am joined today by Prof. Faisal Bhabha, NCCM's Legal Counsel and the chair of our National Security Policy Committee. The NCCM was founded in 2000 as an independent, non-partisan and non-profit grassroots organization that, for over 17 years, has been a leading voice for Muslim civic engagement and the promotion of human rights.

The NCCM's mandate is to protect the human rights and civil liberties of Canadian Muslims, advocate for their public interests, build mutual understanding, and challenge discrimination & Islamophobia. We work to achieve this mission through our activism in four primary areas including community education and outreach, media engagement, anti-discrimination action, and public advocacy. The NCCM has a long-standing and robust public record of participating in major public inquiries, intervening in landmark cases before the Supreme Court of Canada, and providing advice to security agencies on engaging communities and promoting public safety.

B. OUR POSITION

The NCCM has always supported the government's responsibility to ensure national security. We commend the current government for fulfilling its election promise to review Bill C-51, as its condition for supporting the bill in the first place, and to consult with Canadians. While we welcome, for instance, that Bill C-59 proposes to create a national security review agency with more oversight and review than we currently have, our general objection remains constant: this law goes too far, it virtually guarantees constitutional breach, and it offers

inadequate justification. It strengthens the security establishment when the evidence available gives every indication that the institutions carrying out national security intelligence gathering and enforcement mandates are in disarray—rife with bias and bullying from the top down. Oversight of those agencies is not sufficient; real reform is necessary.

For the purpose of our opening statement today, I will be focusing our testimony on two major substantive concerns we have with Bill C-59 – (1) the powers given to CSIS; and (2) the failure to address systemic problems with the No-Fly List.

C. OUR REASONS

Canadian Muslims are just as concerned about security as other Canadians. We face the same risk of untimely death or injury at the hands of terrorists as any Canadian. In fact, globally, the overwhelming majority of victims of political violence, including ideological extremist violence, have been Muslims. Being a population with global connections, Canadian Muslims are threatened and impacted by global terrorism as much, if not more, than other Canadians. We thus have a high interest in Canada developing a strong and sound national security policy with robust oversight, accountability, and redress mechanisms to guard against abuses and mistakes.

At the same time, members of Canadian Muslim communities have been victims of Canadian national security policy. Over the last 15 years, we have seen three separate judicial inquiries, numerous court rulings, out of court settlements and apologies that acknowledge the constitutional violations committed against innocent Muslims by national security intelligence and enforcement. Canadian Muslims are not only disproportionately affected by these errors and abuses, but we also bear the brunt of social impact when xenophobic and anti-Muslim sentiment surges.

NCCM agrees with the plurality of experts who state that more power to security agencies does not necessarily mean more security for Canadians. National security mistakes not only put innocent people at risk of suspicion and stigma, they also divert attention away

from actual threats and obstruct effective action to promote safety and security. At the same time that Alexandre Bissonette was dreaming up his murderous plot to attack a Quebec City mosque, the RCMP were “manufacturing crime” (according to the BC Superior Court judge in the case) against John Nuttall and Amanda Korody, Muslim converts and recovering heroin addicts living on social assistance, whose terrorism charges were stayed last year after a court found they had been entrapped by the police.

Bill C-59 strengthens the security establishment but does not address the security needs of Canadian Muslims. While the idea of prevention is laudable, any potential benefit from this approach will be negated by the incursions on Charter rights that disproportionately affect members of our community that will continue to happen under the guise of threat reduction, information sharing, and no-fly listing. If the government wishes to collaborate with communities on prevention, it needs to build trust and confidence first. For many young Canadian Muslims, the documented and admitted involvement of intelligence and enforcement agencies in rendition and other human rights abuses and the complete lack of accountability and perceived impunity that has been created as a result have bred a lack of confidence in the Canadian security establishment.

This past summer, a group of CSIS employees filed a civil claim against the Service alleging discrimination, harassment, bullying and abuse of authority. They described a working environment within the Service that is racist, Islamophobic, sexist and homophobic; where the culture is like an ‘old boys club’ and where minority representation in management is abysmally low. The day after the claim was filed, two senior former CSIS employees were quoted in the media saying they were not surprised by the allegations.

In October 2017, CSIS released the report of an independent third-party investigation into allegations of harassment in the Toronto Region office. The findings noted an “old boys culture”, demeaning treatment, swearing and discriminatory statements, distrust among employees towards management, and a lack of diversity among the staff.

If these kinds of reports are indicative of the overall culture that exists within these organizations towards their own employees, it does little to assuage concerns within Canadian Muslim communities about unfair profiling and error.

The Canadian Human Rights Commission conducted employment equity audits of CSIS in 2011 and 2014 and the findings are shocking for a powerful public institution operating in a 21st century multicultural democratic society. Zero percent visible minorities in senior management positions at a time when visible minorities were about 20% of the Canadian population. We have to infer from that not just a glass ceiling but an actual bar. The CHRC also noted an institutional culture that undervalued minorities and reproduced attitudinal barriers, which resulted in fewer hiring and advancement opportunities for minorities.

The security agencies' loss of trust within Canadian Muslim communities has been exacerbated by the lack of accountability for past wrongs committed against innocent Muslims. While government has concluded significant settlements and made apologies, no one from within those agencies has been held to account. To the best of our knowledge, there has been no disciplinary action and no public acknowledgements. Instead of accountability, some of those involved in the well-known torture case of Maher Arar have even been promoted within the agencies. At best, there was individual and institutional incompetence in the security agencies; at worst, it was gross negligence or bad faith. Neither is acceptable and the tax-paying Canadians who fund these agencies deserve better. The lack of accountability projects a culture of impunity within Canadian security agencies that reinforces the insecurity that Canadian Muslims experience.

The problems with CSIS will not be mitigated by Bill C-59. No amount of administrative oversight can cure the systemic ills. The agencies need reform. We do not see any attention given in this proposed legislation to the real impact that bias in national security has in producing insecurity and harm within our communities. Without a clear statutory mandate and direction from government, we do not believe that civil society alone can change the culture within CSIS and other security agencies. We are willing to help but that burden cannot fall only on us.

D. KEY RECOMMENDATIONS

End the No Fly List

The No Fly List, formally known as the Passenger Protect Program, continues to cause serious damage to Canadian families without effective remedy or recourse. The NCCM has and continues to receive reports from Canadian Muslims who have had difficulty travelling both domestically and across international borders.

While immediate relief is necessary for those currently listed for erroneous or invalid reasons—and we expressly endorse the recommendations of the No Fly List Kids Coalition—no amount of tinkering is going to fix the systemic problem that it is one of the most damaging instruments of racial and religious profiling in place in the country. It is the national security analogue to carding in the urban policing context. Since its implementation, the No Fly List has caused so much damage, without any proven benefit, that it simply cannot be justified in a rule-of-law democracy. What Canada needs is not a list of banned flyers, but better investigative and intelligence work so that people who are actual threats are dealt with through the criminal justice system.

Reform CSIS

With respect to CSIS, the Service requires key reform before it should be granted any additional powers. There is too much evidence of systemic bias and discrimination to ask Canadian Muslims and our fellow citizens to trust that any new powers will not be exercised improperly and discriminatorily. As has been mentioned but is worth reiterating, abuses in national security disproportionately affect Muslims. This is not a coincidence. A thorough culture shift is necessary within CSIS and other national security agencies before Canadians can trust that bias and stereotypes are not driving investigations and will not shape disruption activities.

Part of the solution is large-scale recruitment, training and promotion of minorities, including Muslims within CSIS, on an urgent basis. Another part of the solution is a thorough

program of internal training, including audits to check progress, with the aim of implementing a culture shift within the Service.

Subject to your questions, that concludes our opening remarks.