

De-mystifying the “Project Samossa” arrests

Community Advisory from the People's Commission Network

Montreal, September 2010

The recent arrests associated with the RCMP's offensively named "Project Samossa" have generated a lot of questions and uncertainties in communities targeted by Islamophobia and racism. This community advisory is aimed at providing information and advice to address some of those questions. We hope that it will contribute to confident resistance to profiling, marginalization and criminalization.

Questions

1. What is the Canadian Anti-Terrorism Act?
 2. What does it mean if individuals are arrested on terrorism-related charges?
 3. Why are they in prison if they haven't been found guilty of anything?
 4. In how much detail should I talk about an accused whom I may know?
 5. What do I do if someone I don't know asks me about an accused, related matters that have come up in the media, and what I think of the situation?
 6. How do we build secure communities and not fall prey to paranoia?
 7. Is it safe to go to the mosque?
 8. If I get involved with community and broader initiatives denouncing the racism and Islamophobia around this issue - including the racism in media and readers' comments – will I come under surveillance?
 9. What should I do if the police come to my door or ask to speak to me?
 10. What should I do if the Canadian Security Intelligence Service (CSIS) approaches me, my family, or my community?
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1) What is the Canadian Anti-Terrorism Act?

The Canadian Anti-Terrorism Act was passed in December 2001, in the wake of the events surrounding September 11th in the United States. The Liberal government at the time fast-tracked the passing of the legislation, curtailing debate over its potential for abuse and refusing all substantial amendments.

The explicit purposes of the changes were to allow the government to act “preventively” and to broaden the definition of terrorism to include more indirect support.

The Act introduced new offences under the Criminal Code, including the financing and facilitation of terrorist activities. It also granted the police broader powers, including permitting them to undertake "preventive" arrests and compel witnesses to testify before a judge. A broader use of secret evidence was allowed. In addition, the Anti-Terrorism Act made it easier for security agencies to use electronic surveillance.

Two of the measures which generated most controversy, preventive arrests and investigative hearings (compelling witnesses to testify), were temporary and expired in 2007. They were re-introduced by the Conservative government in fall 2007, and re-re-introduced as Bill C-17, The Combating Terrorism Act, in April 2010, which is currently at first reading stage in Parliament.

It is important to note that most, if not all, of the activities the Anti-Terrorism Act addresses are crimes and that many so-called terrorism offences could simply - and with far less stigma - be charged as “ordinary” criminal conspiracies.

At the heart of the legal definition of terrorist activities – what sets them apart from “ordinary” crimes - is a “motive clause”, stipulating that the Crown must prove that a terrorist activity was committed for political, religious, or ideological purposes. In 2008, the Court declared this portion of anti-terrorism law to be unconstitutional, after Mohammad Momin Khawaja’s lawyers argued that it violated fundamental freedoms of conscience and religion, and thought, belief, and opinion as well as expression. In its decision, the Court found that the motive clause, by focusing state attention on the religious and political beliefs of certain individuals and communities, carried a danger of racial and religious profiling. Although the decision is now in appeal, the case highlights the problems with Canadian anti-terrorism legislation and suggests that it can (and should) be challenged.

Offences under Canadian anti-terrorism legislation are defined very broadly. Some examples:

- The government has designated certain groups as terrorist organizations. It is a crime to collect funds for, facilitate activities in, or instruct anyone to take part in a listed group. The process of listing is highly, if not essentially, politicized, with the result that some very surprising groups are listed.
- Facilitating a terrorist activity is a very broadly defined crime. Notably, it is not necessary for the activity to be planned at the time of facilitation, nor for the terrorist activity to be actually carried out. Although the legislation stipulates that the person "knowingly" facilitate, they do not need to know that a *particular* terrorist activity is facilitated.

2) What does it mean if individuals are arrested on terrorism-related charges?

Despite the way the state and the media are portraying the recent arrests, just because people are arrested does not mean that they are guilty of any wrong-doing or even of any crime.

It is a cornerstone of the Canadian justice system that people are supposed to be considered innocent until proven otherwise. This goes for terrorism cases just as much as any other criminal case. There are, in fact, plenty of examples of intelligence and police agencies getting it completely wrong. Moreover, as noted above, Canadian anti-terrorism legislation is broadly defined and has the potential to capture activities that many would not consider to be wrong.

All these arrests mean is that the police have charged the individuals with breaking the law. These charges are not proven, but remain simple allegations.

3) Why are they in prison/under conditions if they haven’t been found guilty of anything?

Normally, those facing trial under criminal law are detained in prison with the possibility of being released on bail while they wait for the outcome of their trial. The accused will normally have bail hearings within the first weeks of their arrest.

Unfortunately, prejudiced attitudes, fear and political considerations do play into court decisions. This may mean that people accused of terrorism, who would be released if they were facing equally serious, but less sensationalized, charges, may be more likely to be kept in pre-trial detention. If they are not released at their initial hearing, they will be able to re-apply for release on bail later on.

If they are released pending the outcome of the trial, they can still be placed under strict conditions or even house arrest. These conditions can later be modified by the court on the request of either the defence or the Crown.

4) In how much detail should I talk about an accused whom I may know?

In general, whether in person, on the phone, on email or on Facebook, it is important not to speculate or repeat facts about the accused, especially those that could pertain to the criminal accusations that have been laid. As they say, “loose lips sink ships”. This is not because any of the accused have anything to hide, but because you will have no control over how your comments could be interpreted, taken out of context, or even manipulated.

It is particularly important to avoid commenting on whether or not you think that an accused may have committed an offense they are being charged with. A mantra to keep in mind is that everyone should be considered innocent until proven guilty.

While you should avoid speculating on the criminal charges laid against the accused, speaking in a humanizing way about the character of an accused and other aspects of their lives, as long as it isn't compromising (or personal!) information, may be helpful.

It is important to always keep in mind that electronic communications such as email and Facebook may be stored in databanks accessible to security agencies or be under surveillance. A litmus test to apply when communicating by email or Facebook is to consider whether any untoward consequences could come from your message being inadvertently forwarded to the wrong person or made public.

5) What do I do if someone I don't know asks me about an accused, related matters that have come up in the media, and what I think of the situation?

As a general rule, you are not under any obligation to talk with anyone about any of this simply because they ask you. If you feel uncomfortable for any reason, there is nothing wrong with politely saying you don't feel comfortable talking about the situation.

It must be recognized that the current context has created a general atmosphere of suspicion, in which there can be a tendency to wonder whether people we don't know are journalists, police officers or even intelligence agents. At the same time, it is healthy and normal to discuss issues and questions that are of deep concern to our communities, and to maintain a positive openness to strangers and a confidence in others. It is a question of balancing mindfulness of the potential consequences of our words and avoiding gossip and speculation, as outlined above, while not allowing our basic trust in other people to be destroyed.

6) How do we build secure communities and not fall prey to paranoia?

Knowing that intelligence and police are keeping tabs on and even going so far as to infiltrate targeted communities should not make us paranoid. A spirit of paranoia can divide us and weaken our organizations and communities. While recognizing that there is active surveillance, we should resist spreading rumours and increasing levels of suspicion and fear. In these times, it is important to maintain solidarity.

While we should never allow ourselves to be silenced, it is obviously important to be mindful of what we say, avoiding loose talk and gossip that may be falsely construed and used against you or others.

7) Is it safe to go to the mosque?

It is important to resist the pressure to stay away from certain places (mosques, community centres, etc.) when you otherwise would have gone.

We must not allow our fundamental freedoms and rights – including the freedom of conscience and religion and of association - to be stripped away by the atmosphere of fear created by mainstream media and government officials.

Going to the mosque with family members or friends is one way to alleviate potential anxiety. Our safety lies in sticking together and not allowing ourselves to be divided, isolated or intimidated.

8) If I get involved with community and broader initiatives denouncing the racism and Islamophobia around this issue - including the racism in media and readers' comments – will I come under surveillance?

Even though the fundamental freedoms of thought, belief, opinion and expression are formally protected by the Canadian Charter of Rights and Freedoms, it is an unfortunate reality that state surveillance, harassment and infiltration of marginalised ethnic/religious/racialized communities, as well as social justice activists exists.

Although people should be mindful of this reality, we should not allow these tactics to silence us or prevent us from participating in projects, campaigns or protests for social justice. Not only is there nothing wrong with speaking out against racism and Islamophobia, we should confidently assume the responsibility to do so. If we don't, who will?

9) What should I do if the police come to my door or ask to speak to me?

If police officers—from the RCMP or any provincial or municipal police force—approach you and want to talk to you, remember that you are never obliged to speak to the police. If you do not wish to talk to them, simply say so and close the door or walk away.

The police cannot force you to do anything unless they place you under arrest, which they cannot legally do unless there are reasonable grounds to believe that you have committed an offence. It is also illegal for them to search your home, car, community space or any other place unless they have a search warrant authorized by a judge.

You are not required to leave the premises in the event that your home is being searched with a valid search warrant. In fact, you are within your rights to observe the officers searching your home.

10) What should I do if the Canadian Security Intelligence Service (CSIS) approaches me, my family, or my community?

CSIS is Canada's principal intelligence agency, and it is often involved in gathering information about individuals, groups or communities before there is any indication that a crime may be committed.

People may come to the attention of CSIS for any number of reasons. In some instances, it may be due to their involvement or connections to an organization, initiative, or event. In some instances, it may be simply due to their membership in a targeted community. In general, there is no fail-safe way to ensure that you or your family won't be approached.

The People's Commission Network advocates total non-collaboration with CSIS. That means refusing to answer questions from CSIS agents who show up at your door, refusing to listen to whatever CSIS may want to tell you, and breaking the silence by speaking out whenever CSIS comes knocking.

This is not a question of having nothing to hide nor of protecting our communities from random acts of violence. It is a matter of recognizing that you have no control over information that you give to CSIS: your words can be misunderstood, taken out of context, misrepresented, passed on to other agencies overseas (such as the CIA, Mossad, and the mukhabarat of various countries), and used in unjust processes (such as "terrorist lists") as secret, unsourced evidence. It is also the case that CSIS is guided by domestic and international policies which do not take the interests of all communities into account.

Generally speaking, you are never obliged to talk to CSIS. CSIS has no power to force you to talk—or to listen—to them. They have no right to enter your home without your permission. You have the right to refuse to speak to them and ask them to leave.

If you are approached, the best way to keep CSIS from continuing to bother you is simply let them know you have nothing to say to them. CSIS looks for "sources of information" on various communities; if you refuse to speak to them, they will normally have little interest in coming back. If they persist in approaching you, ask them to contact a lawyer of your own choosing to set up a formal meeting or ask a lawyer to contact them on your behalf.

If you are in immigration proceedings and are called for a formal, mandatory, interview, or if you are in a vulnerable situation which makes you feel unable to refuse to speak to CSIS, we strongly advise you to insist that any interview with CSIS be conducted in the presence of a lawyer of your own choosing.

Above all, please remember to take care of each other during these times. CSIS visits can be upsetting and destabilizing. It is important that we stand together and support one another when CSIS visits occur and communities find themselves under surveillance.

If CSIS comes knocking (flyer in English, French, Arabic, Spanish, Turkish):
www.peoplescommission.org/en/csis/whattodo-csis.php

CSIS visits videos (in English and French):
www.peoplescommission.org/en/csis/videos.php

Top Ten Reasons not to Speak to CSIS (French, English, Turkish, Spanish):
www.peoplescommission.org/files/csis/top10_en.pdf

11) What can I do about the profiling of my community and its members by CSIS and other agencies, and the anti-Muslim media coverage?

- a) Write letters to the editor stating your objections to the racist framing of events and to media collusion in the targeting of Muslim communities.
- b) Ask organizations you are involved in (community groups, unions, political parties) to issue statements denouncing Islamophobia, rejecting the use of evidence extracted through torture, and insisting that the principle of innocent-until-proven-guilty be applied to all.
- c) Encourage your networks to refuse any cooperation with CSIS and distribute CSIS Watch materials (website links above).

12) Where can I go for more information or help?

The following groups have a variety of materials with related information, may be able to give you advice or refer you to other organizations or lawyers that can help.

In Montreal:

Muslim Council of Montreal (MCM): www.muslimcouncil.org
People's Commission: www.peoplescommission.org

In Toronto:

Canadian Arab Federation (CAF): www.caf.ca

In Ottawa:

Canadian Council on American-Islamic Relations (CAIRCAN): www.caircan.ca

The People's Commission Network is a grassroots network initiated in 2005 to address the issue of immigration security measures, such as security certificates, and to combat the oppression carried out in the name of the "national security" agenda. It aims to bring together individuals and groups - such as immigrants, racialized communities, indigenous peoples, social justice organizations and labour unions - to share information and experiences, forge alliances, coordinate strategies and work together for justice and dignity.

The People's Commission Network is holding a popular forum, *Whose Security? Our Security!*, 4 to 6 February 2011 in Montreal. See our website for more information.

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