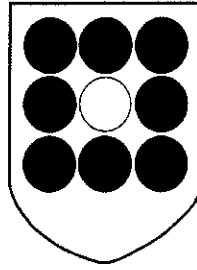


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23 August 2010

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RE: Need for strong federal leadership in reviewing G8/G20 governance and security

Dear Minister Toews,

This week marks the two months anniversary of the G8 and G20 Summits in Huntsville and Toronto, Ontario, respectively. The summits provided the country with a leading opportunity to showcase our foreign and economic policy achievements before a global audience. But these successes came at a serious price. The summits extracted an unprecedented cost from the public purse, from the constitutional liberties of Canadians and from the public's confidence in policing in this country. Canadians have good reason to question these costs and to demand proper accountability and review of them.

The G20 was a federal summit, hosted by the federal government and financed with federal funds. As such, the federal government must also take a leading role in the aftermath of the summit and step up to provide this accountability and review. This letter highlights some of the G8/G20-related concerns that only the federal government is best situated to address. It also canvasses some of the mechanisms available to the government to make this happen. Of these options, it is the opinion of the CCLA that an independent inquiry continues to be the most cost-efficient and effective means of providing accountability to Canadians on these important issues.

Several aspects of summit governance and security – especially in relation to the G20 Summit in Toronto – have raised the alarm of the Canadian Civil Liberties Association (CCLA). They have also attracted considerable debate and concern

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amongst the Canadian public more broadly. In the opinion of the CCLA, they require the immediate attention and scrutiny of the federal government as part of a G8/G20 review. These issues include:

- *The unprecedented security costs associated with hosting the G8/G20 Summits:* According to a report released by Parliamentary Budget Office on June 23, 2010, the federal government expended \$930-million on summit security. As you are aware, these costs far exceed those incurred by any other host country for a G8 or G20 Summit. From a policy perspective, the federal government should inquire into whether excessive spending on security contributed to an unreasonable limit on Canadians' right to freedom of expression, assembly and association during the G8/G20 Summits. International policing reports, including the one commissioned by the UK government following the 2009 G20 London Summit, highlight the way in which excessive police presence contributes to confrontation and undermines the exercise of freedom of expression and freedom of peaceful assembly.
- *The activities of the RCMP and CSIS before and during the G8/G20 Summits:* According to the Parliamentary Budget Office, the RCMP was allocated \$507-million for summit security and deployed nearly 5000 officers. An untold number of CSIS agents were also deployed. Both agencies participated in infiltration/surveillance operations in the months preceding the summit to gather intelligence on G20 protest groups. The use of such tactics, particularly in relation to non-violent political groups, raises troubling concerns for civil liberties. An independent agency should review the conduct of the RCMP /CSIS prior to and during the summits to determine whether their activities were in accordance with Canadians' rights to freedom of expression and association. Such a review should inquire into how many groups were subject to infiltration/surveillance and whether those groups had an actual connection to criminal or injurious conduct.
- *Lack of adequate legal framework for mass public policing events:* A large majority of the 1105 arrests made on the weekend of the G20 Summit – the largest mass arrest in Canadian history – were made on the basis of old common-law offences that have been codified into the *Criminal Code*, R.S.C. 1985, c. C-46. These include breach of the peace (ss.30, 31), suppression of riots (s. 32) and unlawful assembly (s.63). Over 827 of the 1005 individuals who were arrested were later released without charge. Based on CCLA's first-hand observations and monitoring at the time, it appears that the powers of arrest associated with these offences were misused. In light of the potential for misuse, it should be time to review antiquated provisions of the *Criminal Code* dealing with riots, unlawful assemblies and breaches of the peace to ensure that mass public events are policed in a manner that is compliant with the *Charter*.
- *Federal compensation for businesses vandalized during the G20 and for those who suffered violations of their constitutional rights:* The federal government established a limited compensation program for businesses that were directly and adversely affected

by the G8/G20 Summits. This program was not available to businesses that were indirectly affected by the summits, such as by vandalism. The federal government should review and revise its compensation scheme to ensure that *all* businesses that were adversely affected by G20 policing and demonstrations are properly compensated. The federal government should also closely review the implications of the Supreme Court's recent decision in *Vancouver (City) v. Ward*, 2010 SCC 27. In *Ward*, the Court held that monetary damages are an available remedy for violations of constitutional liberties. In light of this decision and to avoid unnecessary litigation, the federal government should expand the compensation program to include individuals who were subject to unlawful arrests, unlawful searches/seizures or denials of due process during the summits.

The above issues deserve the immediate attention of the federal government and are ripe for inclusion in a review of the G8/G20 Summits. Although other bodies, such as the Toronto Police Service Board (TPSB) and the Office of the Independent Police Review Director (OIPRD) are conducting reviews of certain aspects of G20 policing, none of these bodies has jurisdiction to consider the issues listed above. The federal government is best situated to address them and to provide Canadians with answers to the important questions they raise.

There are a variety of mechanisms the federal government could employ to review laws, policies and decisions associated with the G8 and G20 Summits. It is the opinion of the CCLA, however, that considering the scope of the topics raised and the need to avoid duplication and redundancy, it is best if these are addressed in a single, comprehensive process. With this in mind, the CCLA calls upon the federal government to establish a federal inquiry into G8/G20 governance and security. This inquiry need not be established under the *Inquiries Act*, R.S.C. 1985, c. I-11. What is essential, however, is that the inquiry be independent, comprehensive, have national security clearance and allow for participation by members of the public. Only a *comprehensive* inquiry will be equipped to examine the wide-ranging concerns raised by Canadians in respect to the summits. Likewise, only an *independent* inquiry will be able to examine these issues in a non-partisan manner and to restore public confidence in policing in the country.

Should the government decline to establish a federal independent inquiry into G8/G20 governance and policing, the CCLA calls upon the federal government to adopt the following measures:

- Issue a formal apology to those individuals who were subject to violations of their constitutional rights in the course of the G8/G20 Summits — and expand the federal compensation program to provide such individuals with a reasonable compensation package in accordance with the principles set out in *Vancouver (City) v. Ward*, 2010 SCC 27.
- Convene a special meeting of the House of Commons Standing Committee on Public Safety and National Security to consider issues such as the scale of the G8/G20 security

budget, the expansion of the federal compensation program, and other G8/G20-related issues.

- Convene a special meeting of the House of Commons Standing Committee to draft new legislation on police powers during mass public events in order to ensure such powers are in conformity with the rights of Canadians to freedom of expression, association and peaceful assembly.
- Convene a board of inquiry under s. 24.4(1) of the *Royal Canadian Mounted Police Act*, R.S., 1985, c. R-10, to examine the policy and conduct of RCMP officers prior to, and during, the G8 and G20 Summits, including the infiltration/surveillance of political groups.
- Task the Security Intelligence Review Committee (SIRC) under s.54 of the *Canadian Security Intelligence Service Act*, R.S., 1985, c. C-23, to furnish a report on the conduct and policies of CSIS agents prior to, and during, the G8 and G20 Summits, including the infiltration/surveillance of political groups.

Nearly \$1-billion in security expenditures and over 1000 arrests mark an event that cannot pass by without proper review and scrutiny. Canadians are entitled to accountability for G20 governance and security and the federal government has an essential role to play in providing it. Only strong federal leadership can address the concerns of the public and restore the damage done to our constitutional values and our confidence in Canadian policing.

We would be pleased to meet with you to discuss these recommendations further.

Yours Sincerely,



Nathalie Des Rosiers
General Counsel



Anthony Navaneelan
Acting Program Director
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