

New maritime security law will deputize U.S. officers “in every part of Canada” during integrated operations

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On November 27, Public Safety Minister Peter Van Loan and Justice Minister Rob Nicholson tabled legislation that would transform designated U.S. police and security agents into peace officers equal to the RCMP “in every part of Canada” during joint maritime border operations. As if [holding the RCMP accountable](#) for its officers’ actions isn’t hard enough, nothing in the new legislation should make Canadians feel comfortable that any complaints against U.S. agents operating on Canadian territory will be dealt with swiftly or fairly.

Bill C-60, the [Keeping Canadians Safe \(Protecting Borders\) Act](#), is being sold by Van Loan and Nicholson as a way to “strengthen cooperative bilateral policing efforts to stem the flow of cross-border criminal activity in shared waterways and further protect community safety and security in Canada.” It is the legislative face of a cross-border “Shiprider” agreement [dreamed up by past governments](#) under the now defunct Security and Prosperity Partnership and signed this May by Van Loan and U.S. Homeland Security czar Janet Napolitano.

But Bill C-60 will go further than coastal waters. Section 11 states:

In the course of an integrated cross-border operation, every designated officer is a peace officer *in every part of Canada* and has the *same power to enforce an Act of Parliament as a member of the Royal Canadian Mounted Police* (italics mine).

In the case of a complaint against a U.S. officer deemed a ‘designated officer’ by the RCMP commissioner, there doesn’t seem to be any way to guarantee a fair hearing because so much is left to the discretion of the force and the public safety minister. Even if you do end up with a full public hearing, there is every chance it will actually be private because of broadly worded exceptions:

23. (10) A hearing to inquire into a complaint must be held in public, except that the Commission may order the hearing or any part of the hearing to be held in private if it is of the opinion that during the course of the hearing any of the following information will likely be disclosed:

(a) information the disclosure of which could *reasonably be expected to be injurious to international relations*, the defence of Canada or any state allied or associated with Canada or the detection, prevention or suppression of subversive or hostile activities;

(b) information the disclosure of which could *reasonably be expected to be injurious to law enforcement*;... (italics mine in both cases)

The public hearing into the tasing of Robert Dziekanski was clearly injurious to law enforcement and has renewed calls for the Canadian government to reform the practice of police investigating themselves. Would the new joint maritime security bill rule out public hearings into taserings on the Great Lakes?

DETENTIONS AT SEA

What about accountability in the case of people arrested or detained in shared waters?

Under “detentions of persons,” Bill C-60 states that:

12. (1) The laws of Canada apply to any person detained or taken into custody within Canada in the course of an integrated cross-border operation.

(2) No person referred to in subsection (1) may be removed from Canada, except in accordance with the laws of Canada.

The laws of Canada apparently allowed Canada Border Services Agency officers to drive [Algerian refugee claimant Benamar Benatta](#) over the border into the United States in late 2001 where he spent the next five years in prison under conditions the United Nations Working Group on Arbitrary Detention called tantamount to torture. The RCMP was also happy to leave Maher Arar with U.S. security officers at JFK airport in New York, who quickly deported the Canadian citizen to torture in Syria and have yet to admit their mistake.

WHY DO WE NEED THIS BILL?

On top of the obvious questions raised above there’s the lack of any evidence from Van Loan, Nicholson or the Conservative government that we need to let U.S. security officers put around the Great Lakes, St. Lawrence Seaway and other shared sea and inland waters with the same powers as Canadian police officers. What was so wrong with the previous arrangement that we need extraordinary measures?

You can write to Ministers Nicholson (NichoR@parl.gc.ca) and Van Loan (VanLoP@parl.gc.ca) to get their version. You can also [click here to find your MP’s contact information](#) to let them know you expect them to ask these questions and more when Bill C-60 comes up for second reading in the House. We’ll keep you posted about when that might be.

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