



CANADIAN
UNITARIAN
COUNCIL

CONSEIL
UNITARIEN
DU CANADA

NAME OF URGENT RESOLUTION: Pervasive Surveillance

PROPOSERS: Jack Dodds, First Unitarian Congregation of Toronto, and the requisite 25 individuals who are members of at least three different member congregations located in at least three of the four CUC Regions, as required under Category E of the CUC Resolutions Process.

CONTACT: Jack Dodds, brmdamon@hushmail.com

DATE: Approved as amended, May 16, 2014
CUC Annual General Meeting, Montreal, QC

Note:

The Pervasive Surveillance Resolution was presented as an “Urgent Resolution.” According to the CUC’s Resolutions Process, an

“Urgent Resolution is a matter (which) arises too late for a resolution concerning it to follow the normal procedure, but is important enough to warrant attention and action by the delegates at the Annual General Meeting. For this situation an extraordinary procedure is provided for what will be termed an Urgent Resolution.

The motion shall be accompanied by a statement as to why it is urgent, why it was not known of before the closing date for regular motions, and what immediate action steps are recommended for congregations.

When the Urgent Resolution is moved at the AGM, the presiding officer must make a ruling as to whether the matter arose too late to follow the normal procedure. Of course, like all rulings, this ruling is subject to appeal of the delegates.”

For a complete description of the Resolutions and Urgent Resolutions Process, please refer to the [Governance - Resolutions](#) section of the CUC website.



Background

1. It has become known that the governments of some democratic countries have been secretly engaging in routine surveillance of the communications, associations and movements of large numbers of citizens, referred to here as “pervasive surveillance”;
2. The Communications Security Establishment Canada (CSEC) issued a statement on January 30, 2014, asserting that it is legally authorized to collect and analyze communication metadata under the National Defence Act;
3. The Minister of National Defence in the House of Commons on January 31, 2014 declined to acknowledge that tracking the locations of Canadians by CSEC is against the law or is wrong;
4. Unitarian-Universalists covenant to affirm and promote the right of conscience and the use of the democratic process within our congregations and in society at large;
5. Democracy can only function effectively when citizens can freely associate and exchange ideas without government interference;
6. Citizens involved in social justice work may engage in lawful activities that some politicians and government officials may want to discourage;
7. Citizens, through their elected representatives, cannot exercise democratic control over their government when it acts or makes policy in secret;

THEREFORE BE IT RESOLVED

that this 2014 Annual Meeting of the Canadian Unitarian Council recommends that each of its member congregations call on the government of Canada to:

- Provide to its citizens a comprehensive and forthright account of all the pervasive surveillance programs that have been carried out by government agencies over the past five years; and,
- Assign the authority to oversee surveillance activities undertaken by the government to an agency that is responsible directly to Parliament, not to the Cabinet; and,
- Bring forward legislation that would make it unlawful for the government to engage in pervasive surveillance, including the routine mass collection or storage of its citizens’ communications, movements, or metadata; and,

Be it further resolved

that this 2014 Annual Meeting of the Canadian Unitarian Council recommends that its member congregations invite their individual members, the larger UU community, and the larger communities of Canada to write their elected representatives to express concern about pervasive surveillance, and encourage coordination and action at all levels to promote the transparency and limitation of government surveillance activities, and their support for the changes outlined above.



THE RESOLUTION ON PERVASIVE SURVEILLANCE QUALIFIES AS AN URGENT RESOLUTION for the following reasons:

1. The existence of pervasive surveillance in Canada was not an issue on December 15, 2013.

There had been considerable public debate about the “Lawful Access” bill which proposed to lower the threshold which would have to be met by law enforcement to obtain access to Internet and telephone communications. This legislation was introduced in February 2012 and withdrawn early in 2013 due to widespread criticism, only to be replaced by a new bill late in 2013. The first version was the subject of Vic Toews infamous comment that people “can either stand with us or with the child pornographers.”

One of the criticisms of this bill is that it “opens the door” to pervasive surveillance. In other words, knowledgeable and qualified observers believed that pervasive surveillance was not permitted by the law as it presently exists, and were concerned that adoption of the new law would permit it. Thus, the discussion was not about present government activities, but about activities that might take place if the new legislation were approved. (See for example Note 1 below.)

2. Statements made in January 2013 showed that the Canadian government claims the right to engage in pervasive surveillance.

A CBC news story of January 30 described a test of analysis techniques which was performed using two weeks of data obtained from a “Canadian special source”. The CBC story was based on a document leaked by Edward Snowden. It appears to be a set of slides from an oral presentation. Without the accompanying words, it can be interpreted in various ways, some more damning than others. For that reason, the proposed resolution is not based directly on the leaked document.

The response of the government, on the other hand, is well documented. It is referenced in and forms the basis of the resolution. CSEC makes an unqualified claim that it is legally authorized to collect metadata. The Minister of Defence, given the opportunity to disagree in Parliament, does not do so. That is, the government believes that pervasive surveillance is permitted by the law as it presently exists. This represents a dramatic change from the public knowledge of the situation one day before. Again, this not just the belief of the proposers of this resolution, it is the assessment of knowledgeable observers. (See for example Note 2 below.)

3. This issue is important enough to warrant attention and action by the delegates at the AGM.

As a result of revelations of pervasive surveillance in the U.S.A., the First Unitarian Church of Los Angeles has sued the U.S. Government. It has been joined by a diverse group of more than 20 other organizations, from gun ownership advocates to opponents of the “war on



drugs”. These organizations see pervasive surveillance as a threat to their political freedom because it discourages people from associating with organizations that are unpopular with the government. (See Note 3.) First Unitarian Los Angeles has members who remember being subjected to FBI surveillance in the Vietnam era, to the point where the congregation felt obliged to stop keeping a membership list. This is an issue of real importance to society in general and U-Us in particular.

U-Us have a special contribution to make to this debate. In the U.S.A. the arguments against pervasive surveillance often center around its constitutionality. Here in Canada, the issue has typically been approached from a legalistic point of view. For U-Us, our seven principles have a lot to say about the way that society should be organized, and the fifth principle in particular places spiritual value on the use of the democratic process. Pervasive surveillance endangers this democratic process.

4. As redrafted, the resolution is limited to recommending immediate action steps by congregations.

The first four background points state objective facts.

The fourth to seventh background points make statements that contain elements of opinion, but in the U-U community, they are unlikely to find substantial opposition. To this end, the sixth background point has been qualified slightly (“often engage” becomes “may engage”; “want to discourage” becomes “may want to discourage”).

The “be it resolved” clause has been modified to recommend that congregations take the action described, rather than the original wording which would have directed the CUC itself to act.

The “be it further resolved” clause has been modified to recommend that members of congregations write their elected representatives, rather than to “urge” them to do so.

Notes:

Dr. Michael Geist is a law professor at the University of Ottawa where he holds the Canada Research Chair in Internet and E-commerce Law. He is the author of a blog and a newspaper column in which frequently analyzes issues of communications privacy. References to his columns support some of the statements made above. Short quotes are included - the entire column or blog gives a bigger picture.

Note 1: Public knowledge as of 2013-12-15.

Geist 2103-11-21 <http://www.michaelgeist.ca/content/view/7003/125/>

“This particular provision is enormously problematic as it opens the door to cooperation on the widespread surveillance revealed by the Snowden documents. It has become increasingly clear that many telecom companies willingly provided millions of documents on



their subscribers[in the U.S.A.]. With this immunity in hand, Canadian telcos could 'voluntarily' provide surveillance data without fear of any liability.”

Note 2: Effect on public knowledge of the 2014-01-30 CBC report and government response to it.

Geist 2014-02-04 <http://www.michaelgeist.ca/content/view/7062/125/>

“I'm left with four takeaways from the past week.

“First, CSEC's surveillance activities of Internet communications in Canada are far more extensive than previously realized. Its trove of metadata - presumably obtained with the cooperation of Canada's major telecom companies - provides enormous insight into the communications habits and activities of millions of Canadians. The use of metadata has been the subject of some concern from the CSEC Commissioner, yet the full scope of activities remain largely secret. Moreover, the ministerial directive on metadata appears to be so broad that it enables widespread tracking and surveillance as CSEC is able to mine the data for a myriad of purposes.”

Note 3: The importance of the issue of pervasive surveillance.

See <https://www.eff.org/cases/first-unitarian-church-los-angeles-v-nsa> .

“When the government gets access to the phone records of political and activist organizations and their members, it knows who is talking to whom, when, and for how long. This so-called “metadata,” especially when collected in bulk and aggregated, tracks the associations of these organizations. After all, if the government knows that you call the Unitarian Church or Calguns or People for the American Way or Students for Sensible Drug Policy regularly, it has a very good indication that you are a member and it certainly knows that you associate regularly. The law has long recognized that government access to associations can create a chilling effect—people are less likely to associate with organizations when they know the government is watching and when the government can track their associations.”



CANADIAN UNITARIAN COUNCIL ACTION PLAN FOR PROPOSERS OF RESOLUTIONS

An Action Plan needs to accompany any proposed resolution, outlining action steps that might be necessary to implement the resolution. This is to provide delegates with a clear idea of the resources that might be involved, and how much staff and volunteer time needs to be allocated.

NAME OF RESOLUTION: Pervasive Surveillance

PROPOSERS: A group of members of CUC congregations

CONTACT: Jack Dodds brmdamon@hushmail.com

We propose the following actions to support the implementation of our resolution, if approved by delegates at the Annual General Meeting:

PROPOSED ACTION	DETAILS	WHO IS RESPONSIBLE	SUGGESTED COMPLETION DATE
For Proposer of resolution	Draft sample letters and announcements - from CUC to congregations; - from a congregation to its members; - from members to MPs and other government officials.	Jack Dodds and other proposers will coordinate a process involving the proposers and others who may wish to participate.	2014/05/15 - CUC to congregations. 2014/06/01 - congregations to members. 2014/06/15 - to MPs etc.
For CUC	Review sample letters and announcements, revise and approve. Send letters and announcements to congregations.	President, Executive Director.	2014/06/01
For Democracy Monitoring Group	Contribute as its members deem appropriate to draft letters/announcements and related activity.	To be determined.	To be determined.
For Member Congregations	Review sample letters and announcements, revise and approve. Send to members. Organize letter writing events (similar to Amnesty International.)	Social action chair, denominational affairs chair, proposers who are members of congregation.	2014/06/15