[*EXTERNE/EXTERNAL***]**

Hello,

I am submitting written testimony on Bill C-22, which received first reading in the Senate on 18 June 2026. The text follows below.

WRITTEN TESTIMONY ON BILL C-22, THE LAWFUL ACCESS ACT, 2026.

Submitted by Danilo Dzyuban, Ottawa, Ontario
2 September 2026

SUMMARY.

Bill C-22 received first reading in the Senate on 18 June 2026. Three matters are set out below. Each is taken from the text of the bill and from the Government's own published documents. Each can be verified without evidence from me.

PART 1: THE CHARTER STATEMENT OMITS THE TWO DECISIONS THE BILL WAS BUILT TO ANSWER.

The Charter Statement for Bill C-22 was tabled on 24 April 2026, 43 days after the bill was introduced. It does not mention R. v. Spencer, 2014 SCC 43. It does not mention R. v. Bykovets, 2024 SCC 6.

The Department of Justice ministerial briefing binder for the House committee, dated 5 May 2026 and published on the Open Government Portal, describes the same provisions in these terms: a production order for subscriber information is a "Solution to R. v. Spencer, 2014 SCC 43"; other measures are a "Partial solution to impacts of R. v. Bykovets, 2024 SCC 6".

The same department produced both documents. In the one prepared for the Minister, the bill is an answer to two decisions of the Supreme Court of Canada. In the one tabled under section 4.1 of the Department of Justice Act, those two decisions do not appear.

The binder also anticipates the question whether the confirmation of service demand becomes "a de facto workaround to the Spencer decision". The prepared answer is that "the Government believes that this tool is a reasonable legal authority and the Minister of Justice is of the view that it is consistent with the Charter". A belief is recorded. The analysis that would support it is not in the Charter Statement.

I ask the committee to require the Minister of Justice to produce the section 8 analysis of Spencer and Bykovets that was conducted, or to state that none was conducted.

PART 2: THE BILL ADMITS A FOREIGN STATE INTO THE CHAIN, AND IN ONE PLACE IT REMOVES THE CANADIAN JUDGE ENTIRELY.

Clause 11 enacts a new subsection 487.0195(3) of the Criminal Code:

"For greater certainty, no production order or warrant, or confirmation of service demand made under section 487.0121, is necessary for a peace officer or public officer to receive any information from a person or a telecommunications service provider, as the case may be, who is lawfully in possession of it, and to act on the information, if the person, without being asked for it, provides it voluntarily or is required by law, including a law of a foreign state, to provide it."

The effect is that information about a person in Canada, handed over by a provider because a foreign statute compels it, may be received and acted upon by Canadian police with no Canadian judicial authorization at any point. The words "for greater certainty" present this as a restatement of existing law. Spencer decided the opposite question against the Crown.

Clause 29 enacts a new section 22.07 of the Mutual Legal Assistance in Criminal Matters Act. A foreign state applies to the Minister; the Minister may authorize; a Canadian judge may make the foreign decision enforceable. Under subsection 22.07(3) the judge is directed to a single question: whether the conditions in subsection 487.016(2) or 487.0142(2) of the Criminal Code are met. Those are the domestic thresholds. The section contains no requirement of dual criminality. It contains no ground of refusal. It contains no reference to the treatment of the person whose data is sent. Non-disclosure orders apply by subsection 22.07(6), and under subsection 22.07(9) the record is sent to the foreign state within 5 days.

The ministerial binder states that these amendments maintain "the safeguards built into Canada's mutual legal assistance framework, including those for Charter protections and other privacy rights". I ask the committee to require the Government to identify, by section number, the safeguard that applies to a request made under section 22.07 and that would prevent the transfer of data about a person in Canada to a state that would use it to prosecute that person for their religion or their political opinion.

PART 3: THE BILL COUNTS ITS ORDERS TO COMPANIES AND DOES NOT COUNT ITS DEMANDS ABOUT PEOPLE.

Section 49 of the Supporting Authorized Access to Information Act, enacted by Part 2, requires the Minister to report annually on the number of orders made to electronic service providers and on the number not approved by the Intelligence Commissioner.

Part 1 contains no reporting obligation of any kind. The confirmation of service demand under section 487.0121 is issued without prior judicial authorization, on reasonable suspicion, and the officer who issues it may himself impose a non-disclosure condition for a period of up to one year under subsection 487.0121(6). Nothing in the bill requires that these demands be counted, reported or published.

Parliament has counted interceptions since 1974. Section 195 of the Criminal Code requires an annual report. A power exercised without a warrant, on a lower threshold, and with a gag imposed by the officer himself, is to be exercised without any count at all.

I ask the committee to consider an amendment placing Part 1 on the same footing as section 195 of the Criminal Code and as section 49 of the Act enacted by Part 2 of this same bill.

WHAT I ASK THE COMMITTEE TO DO.

1. That subsection 487.0195(3) be deleted, and at a minimum that the words "or is required by law, including a law of a foreign state, to provide it" be struck.

2. That section 22.07 of the Mutual Legal Assistance in Criminal Matters Act be amended to require that the conduct under investigation be an offence in Canada, and to require refusal where there are substantial grounds to believe that the information would be used to prosecute or punish a person on the basis of religion, political opinion, or any ground protected by section 15 of the Charter, or where the person faces a risk of torture or the death penalty.

3. That a non-disclosure condition attached to a confirmation of service demand be imposed by a justice, not by the officer making the demand.

4. That Part 1 carry an annual reporting obligation equivalent to section 195 of the Criminal Code.

5. That the Minister of Justice be required to produce the section 8 analysis of Spencer and Bykovets, or to state that none was conducted.

I do not seek to appear. I ask that this testimony be placed on the record in full. Questions from the committee are welcome in writing and will be answered in writing within the time the committee sets.

Danilo Dzyuban