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**Chair**

Mr. Paul Zed

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Wednesday, June 1, 2005

• (1535)

[English]

**The Vice-Chair (Mr. Kevin Sorenson (Crowfoot, CPC)):** I call this meeting to order, pursuant to the order of reference of December 9, 2004, the study of the Anti-terrorism Act by the Subcommittee on Public Safety and National Security.

We're pleased to welcome here today Commissioner of the Royal Canadian Mounted Police Giuliano Zaccardelli. Welcome, Mr. Zaccardelli. It's always a pleasure to have you here. As we have been going through the exercise of review of Bill C-36, the anti-terrorism legislation, we've been meeting with a number of individuals, and we certainly look forward to what you have for us today.

You also have with you Mr. Scrivens, the senior counsel.

You know how this process goes. We welcome your opening statement, and we will then have time for questions, Mr. Commissioner.

[Translation]

**Commissioner Giuliano Zaccardelli (Commissioner, Royal Canadian Mounted Police):** Good afternoon.

[English]

Thank you, Mr. Chair. I would like to make a few opening comments before we get to the questions and answers.

My remarks today will address several key aspects of the task before you, the review of Canada's Anti-terrorism Act. I would like to share with you my thoughts in three important areas. The first is law enforcement's integrated and measured response to terrorism. Second, law enforcement fully respects the rights and freedoms of individuals, while pursuing the goal of ensuring safe homes and safe communities. Third, law enforcement in this country views the Anti-terrorism Act as a Canadian solution to a global problem that aims to prevent, deter, and disrupt terrorist acts from happening, and that provides consequences for those who commit these criminal acts.

Our main objective has been and will continue to be ensuring public safety. For the police community the Anti-terrorism Act focuses on terrorists, their criminal action, and support networks.

[Translation]

For the RCMP, investigating criminal offences—including those involving national security—has always been a fundamental part of our mandate. Today, that mandate includes working more closely

with municipal and provincial police, government departments and international partners such as the British, Australia, France and the U.S.

No one agency can do everything itself. Integration and cooperation are fundamental to our success. The RCMP must work with its federal, provincial and municipal partners in an integrated fashion which supports our national security mandate and makes the most effective use of our combined strengths.

[English]

Some have suggested that because some measures of the Anti-terrorism Act have not been used, they are unnecessary. This notion does not reflect our experience. The Anti-terrorism Act now guides all law enforcement terrorism-related criminal investigations and therefore provides an important framework for investigators. These investigations are often complex and may take many years to develop.

It is true that some provisions have been used more often than others. From our experience this is normal, just three years after the legislation came into force. It is also true that we in law enforcement have attempted to be balanced in our use of the provisions of the act.

With respect to the so-called preventive arrest provision, some of you may recall that when I addressed the Standing Committee on Justice and Human Rights on October 23, 2001, I provided certain assurances that this legislation would be used rarely. I indicated that this legislation would be applied in very rare circumstances by highly skilled officers in full consultation not only with their senior officers but with members of the legal system. Three years later, I hope you will recognize and acknowledge that we have delivered on that assurance. We have been restrained in the use of these powers and will continue to do so in the future.

Nevertheless, we already have had important successes. Although there is a court order publication ban that prevents me from discussing the details of the Khawaja case, it is important to understand that cases such as this are illustrations of the usefulness of the act and should not be overlooked. The bottom line is that we are using the Anti-terrorism Act to investigate, prosecute, and prevent terrorist activity, including terrorist financing and facilitation.

• (1540)

[*Translation*]

I want to talk to you about our respect for the rights and freedoms of Canadians.

One of law enforcement's great strengths in this country has been its commitment to build relationships with the people and communities that we serve. We recognize in law enforcement that the diversity of Canada's population is evolving, and in an effort to keep pace, our community policing approach is also evolving.

The RCMP remains committed to serving our diverse communities domestically and to sharing our expertise with the global community through peace building and peace support operations around the world. Our role in international policing represents an ongoing commitment to help maintain the principles of human rights worldwide.

[*English*]

This commitment is equally true here at home. We contribute to the safety and security of our neighbours by building better relationships with the people we serve through consultation and cooperation. Every outreach activity must be specific to the community affected, whether it is the outreach activities undertaken with native communities, the South Asian community following the Air India bombing, or the Muslim-Canadian and Arab-Canadian communities following September 11.

In law enforcement, we have taken steps to better understand the needs of the diverse communities that we serve through our hiring practices, training, community outreach activities, and the way in which we conduct ourselves. We will continue to work with all Canadians.

The provisions under the Anti-terrorism Act were accompanied by a significant number of safeguards and other measures to ensure democratic accountability, including the need for approval by the Attorney General before investigative steps are taken, followed by judicial authorization. No other police powers have such safeguards.

Another example is the three-year review and annual reporting of investigative hearings and preventive arrests to ensure accountability to Parliament and the people of Canada.

I would also like to emphasize that as police organizations, all our investigations are subject to compliance with the laws of Canada, including the Canadian Charter of Rights and Freedoms.

[*Translation*]

A little more than three years ago, governments around the world and the United Nations made it clear that new legislation was needed to fight terrorism. Canada worked with the international community and developed legislation that I believe enables us to better protect the safety and security of Canadians, allows us to assist our international partners to ensure the safety and security of their citizens and respects the rights and freedoms of Canadians.

[*English*]

Before I conclude, I'd like to discuss the RCMP's commitment to accountability.

As you know, the RCMP Act requires the RCMP to work closely with the Commission for Public Complaints Against the RCMP. I believe this process is important to us and to all Canadians. I realize that not all Canadians have faith in the RCMP's public complaint systems, but the only way we can deal with inadequate service by our members is to have it brought to our attention. We cannot improve our policing services if we are not told about it either directly or through the CPC.

Much has happened since this legislation was passed over three years ago. Events in other parts of the world, as well as events here in Canada, have given us plenty to consider with respect to Canada's Anti-terrorism Act. The safety and security of all Canadians is paramount. As we are reminded by the families of the victims in past attacks, Canada and Canadians are not immune from terrorist activity. Twenty-four Canadians died in the September 11 attacks, two Canadians were victims of the Bali bombings, and most of the 329 victims of the Air India bombing were Canadians.

Three years ago, I wished I could say that we would not have an issue here. Everything tells us this will be a long protracted struggle or conflict that democracies will face. Unfortunately, we have seen that these challenges still face us. The threat of terrorism is more complex, extreme, sophisticated, and transnational than ever before. Cooperation on the domestic and international level is crucial to combat the threat effectively.

I want to make sure that we as a country and as police organizations have the legislative tools to protect the safety and security of all Canadians, to prevent and deter terrorist activity in Canada, and to assist our international partners to do the same in their countries.

Thank you for your kind attention. I welcome the opportunity to discuss this legislation further with you.

Merci.

• (1545)

**The Vice-Chair (Mr. Kevin Sorenson):** Thank you, Mr. Commissioner.

We will begin our seven-minute round with Mr. MacKay.

**Mr. Peter MacKay (Central Nova, CPC):** Mr. Sorenson, Mr. Scrivens and Mr. Commissioner, I thank you for your attendance and your testimony.

Earlier this week the foreign affairs minister, Mr. Graham, testified at the Arar inquiry that he was very frustrated in his efforts to obtain information on the Arar case. In so doing, he talked about a sense of almost embarrassment that he wasn't advised by the RCMP or CSIS. In fact, he was questioned by the American Secretary of State, and he didn't know what was going on in that case.

Part of the problem is that there is a government practice of keeping operational details of police investigations from elected officials to prevent allegations of political interference. You alluded to that and to the necessity of keeping those operational details pristine. The difficulty, though, is that it leaves gaps in accountability from time to time, and that's the subject of Mr. Justice O'Connor's commission.

I guess my first question is this: do you believe there are cases in which allegations of international terrorism are brought to the attention of CSIS and the RCMP, and for which this practice of insulating politicians and elected officials from these operational details is necessary? As a corollary to that, you're aware there is talk of a parliamentary oversight committee that might allow us to put another step in place so that on occasion those types of details might be disclosed in a confidential setting.

Can you comment?

**Commr Giuliano Zaccardelli:** If I can just pick up on the last point, whether there will be a parliamentary oversight committee and so on in the future is obviously an issue for the elected officials. I certainly will abide by and cooperate fully with any new structure that might be put in place by the elected officials.

With respect to the first point—and it is a very good point you raise—as you're aware, in our Canadian system as a rule, details of criminal investigations are not reported to elected officials for reasons of our common law and so on, to separate that. So there is that fundamental principle, and that is a principle that we respect and abide by.

There are situations at times in which exceptional circumstances allow for certain elected officials to be advised about certain things at certain times. But each case is dealt with obviously on an individual basis. From my perspective as commissioner, depending on the situation, I have to apply certain judgment on each particular case to decide when I advise my minister and so on. But as a rule, in a criminal investigation I do not advise and I do not report on that. I report through the courts.

**Mr. Peter MacKay:** On an issue of national security, are there occasions when you would share details or consult with the national security advisor? How does that line of communication work, between the RCMP, potentially coordinating with CSIS, and the office of the national security advisor.

**Commr Giuliano Zaccardelli:** With respect to CSIS, as you're aware CSIS is not a police force. So they have a different mandate. They report differently.

Again, each case is looked at on its own merit. For example, we have guidelines from the minister. We have ministerial directives that guide us in terms of what we do and how we report certain things dealing with national security issues. We have our policies relative to that. The principle still applies, that we don't report in general on criminal investigations whether they are your normal type of investigation or matters of national security. In each case, we decide what the appropriate thing to do is in terms of advising the government or our minister, who is my boss and to whom I am accountable.

So it is done on a case-by-case basis, but again the principle is the same. I do not as a rule automatically notify the minister. It would have to be an exceptional case, something that I would consider important for the minister to know and for the government to know.

• (1550)

**Mr. Peter MacKay:** What is the oversight, then, that currently exists? I understand that with the implementation of Bill C-36, the anti-terrorism legislation, no one would argue that the RCMP powers have been expanded—preventive arrests, investigative hearings, and in some cases searches can be conducted without warrants.

I'm coming back to this issue of an independent body of supervision. Even Shirley Heafey, the head of the RCMP Public Complaints Commission, has said she doesn't have powers to determine whether the RCMP is properly exercising its powers under the Anti-terrorism Act.

You yourself mentioned the issue of accountability. Who is providing oversight when these extraordinary powers are used? I know you also referred to the fact that they've been used rarely, if at all. In fact, I don't believe preventive arrests or investigative hearings have been used by the RCMP. I stand to be corrected. Is it correct that they have not been used?

**Commr Giuliano Zaccardelli:** That's correct.

**Mr. Peter MacKay:** I come back again. Do you have an opinion or will you share an opinion on whether there should be an independent body that allows for checks and balances in the exercise of this extraordinary power?

**Commr Giuliano Zaccardelli:** My answer is twofold. As I said before, where there's parliamentary oversight, whatever is legislated by the elected officials of this country we will certainly abide 100% by.

**Mr. Peter MacKay:** I'm asking for an opinion, Commissioner, in your capacity.

**Commr Giuliano Zaccardelli:** I'm going to answer that. We will abide by whatever directive I get from the minister, whatever policy or laws are passed.

On the issue of extraordinary powers, I do not agree that law enforcement or the RCMP received extraordinary powers under Bill C-36. I believe it is one of the greatest misperceptions that's out there, and that's been badly communicated.

The two main points that have been the source of this misinformation are the investigative hearings and the detention procedures. What we have in those two cases, in my view, with all due respect, are not extraordinary powers. To have an investigative hearing, we have to get the permission and authority of the Attorney General. We then go to a judge, and the judge decides whether or not he will allow this hearing to take place. It is not the police.

In my view, this is a proper balance. We have no authority to do anything, whether it's in terms of investigative hearings or the conditions that would be put on anybody. These are determined solely by the judge, not by the police.

**Mr. Peter MacKay:** Do you believe those powers are still necessary?

**Commr Giuliano Zaccardelli:** I believe they are. I'm glad we haven't had to use them frequently, but it's like a lot of things. We have hijacking laws, and we haven't had too many hijackings. So if needed they have to be there, given the potential serious consequences of these types of acts. That's why I believe they should be there.

**The Vice-Chair (Mr. Kevin Sorenson):** Thank you, Mr. Commissioner.

Monsieur Ménard.

[*Translation*]

**Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ):** Thank you for your cooperation, Mr. Zaccardelli. I note that your text is very well written and I think it gives us a good outline of the choices we must make.

I understand that you may find lawyers or civil liberty advocacy groups very pessimistic in terms of the powers used by law enforcement. It is true that they always consider possible abuses of these powers. They do not necessarily want to criticize law enforcement as it is being carried out now, but rather the way in which it could be carried out. Believe me I am aware of this.

On the other hand, you must acknowledge that police services are asking for authority they will not often need to use nor want to. So, we are being asked to blindly trust law enforcement. I think that in that regard we should also seek to strike a balance between enforcement and the dangers that threaten us, which we all recognize.

In the second-last paragraph of the first page, which I consider very well written, we read as follows:

Some have suggested that, because some measures of the Antiterrorism Act have not been used [...]

And you state:

The Antiterrorism Act now guides all law enforcement, terrorism-related criminal investigations and, therefore, provides an important framework for investigators. These investigations are often complex and may take many years to develop.

I appreciate that investigations are complex and may take many years to develop, but I struggle to understand why the Antiterrorism Act should now guide all investigations. In fact, even if there were no Antiterrorism Act, terrorist activity would be a criminal offence. It is a specific and sustained conspiracy to commit active violence. So, in my opinion, there was no need for a specific act that states most terrorist activity is illegal. Simply put, a conspiracy is an agreement among people to commit a criminal offence. So, once people create groups to commit criminal offences, they commit the crime of conspiracy. So, you are essentially investigating conspiracies.

Moreover, it has been noted, namely in the field of organized crime, that it is possible to have evidence that people are leading an organized crime group without having a hand in specific criminal conspiracies. That is why antigang legislation was created.

Do you not acknowledge that the existence of this legislation in Canadian law essentially guides the type of investigation you are going to carry out to fight terrorism?

•(1555)

**Commr Giuliano Zaccardelli:** Mr. Ménard, I agree with you up to a point. Of course, terrorism is indeed a criminal offence. I wholly agree with you on that point. The challenge that we have in terms of terrorism is due to the fact that criminal law, more or less, gives us the power to act after the fact, to react. The majority of legislation is reactive.

I alluded to two elements earlier on in speaking with Mr. MacKay, one of which is the fact that this legislation gives us the power to be proactive. That is where the difference lies. That is why we need changes to the legislation.

If under an act we have the power to arrest people without bringing charges against them, we can question them, we can be proactive and try to forestall the commission of an offence. Otherwise, a person is brought before a judge, and the judge decides on the conditions that person will be subjected to. The legislation really gives us the power to react before terrorism takes place, before the crime is committed. That is the difference.

I agree with you that criminal law exists. We can use it in the case of conspiracies etc., but these two elements are important to us, because they give us the right to take measures to ensure a crime will not be committed. That is the difference.

•(1600)

**Mr. Serge Ménard:** I must acknowledge that you are making sense. However, let's get back to the questions asked by the member for Central Nova. I believe you have not made great use of provisions allowing you to arrest someone in order to question them.

**Commr Giuliano Zaccardelli:** Yes, but...

**Mr. Serge Ménard:** Those are the provisions you have not made much use of.

**Commr Giuliano Zaccardelli:** Yes.

**Mr. Serge Ménard:** In theory, you are perfectly right: you must be proactive in your fight against terrorism, I understand that. However, the same situation applies in the case of organized crime.

**Commr Giuliano Zaccardelli:** Yes.

**Mr. Serge Ménard:** What difference does it make in your investigations?

You know that criminal gangs get together to engage a drug trafficking, to eliminate competitors. They may resort to murder. In the circumstances, you will also seek to be proactive. You will obtain warrants to intercept their conversations, you will try to infiltrate an organisation. In the end, these methods, which are exactly the same as those used to fight terrorism, are used in other areas and within a legal framework outside that of antiterrorism legislation.

**Commr Giuliano Zaccardelli:** I cannot take a biker to a judge and ask the judge to impose conditions on him without laying charges against the biker.

**Mr. Serge Ménard:** Okay.

**Commr Giuliano Zaccardelli:** However, I can do that with a terrorist. That is where the difference lies.

**Mr. Serge Ménard:** Very well.

Thank you.

[English]

**The Vice-Chair (Mr. Kevin Sorenson):** Thank you, Mr. Commissioner.

Mr. Comartin.

**Mr. Joe Comartin (Windsor—Tecumseh, NDP):** Thank you, Mr. Chair.

Thank you, Commissioner, for being here.

This has almost become a personal thing for me. I'm going to raise this problem because I've raised it with the minister to no avail up to this point.

On the second page of your brief, you have indicated your desires and activities in terms of reaching out to some of the multi-ethnic communities that we have.

I have a very large Muslim population in my riding. I would have to say that if they saw this statement, they would not be positive in their responses. The single major problem they have is with the investigations that are conducted for security clearances that they must have for final status to obtain citizenship in Canada.

I'm have a letter sitting on my desk right now, where one man has waited for 12 years and has repeatedly come close. The frustration they have is obviously with these lengthy delays. I'm not laying it entirely at your feet, because I know that CSIS is heavily involved in these security clearances, but your agency is certainly involved.

They are frustrated when they come to their members of Parliament and can't even get an answer. Is the file sitting someplace on somebody's desk? Has it fallen off the desk? Is there one piece of paper that they could respond to and resolve the issue?

I'm told by the Immigration people, members of your agency, and the minister that I can't even find out whether the RCMP have the file or whether CSIS has it. I'm not asking for any national security clearances. I simply want to know whether the file has been misplaced.

This individual has been sitting in this country for 12 years and can't get his security clearance to become a Canadian citizen. In that period of time, his wife has become a Canadian citizen. He has had three children born here who are Canadian citizens. He is still sitting waiting for his citizenship. I can't give him any solution because I can't even get an answer on the status of his file. I don't understand why.

I have to say that the bulk of the problem came from 9/11. He was very close to getting clearance, from what I can see in terms of his response. Since 9/11, this has become a major problem in this country because a huge number of additional clearances have been done.

Coming back to the Muslim community, I have individuals who also come from Central and South America and from countries where there has been a history of terrorist acts, civil war, and turmoil. We know that the security clearances that are required for members, whether they come from Indonesia, Pakistan, the Middle East, or North Africa—that's where the problem is. They wait much longer

for those clearances. So they're not satisfied that they aren't in fact being targeted, that there isn't some profiling going on here. They would have a much greater sense of confidence if members of Parliament could at least have access to find out whether the files are being cleared in some kind of expeditious way.

I don't understand why the policy is there.

• (1605)

**Commr Giuliano Zaccardelli:** Sir, you have raised a number of good points. I share your concern. If somebody is waiting 12 years, I can understand and sympathize.

As a rule, the RCMP is not responsible for security clearances. We do certain checks, criminal record checks and so on. We are doing those as quickly as we can. We've received a lot of money from the government. We've just received over \$100 million to speed up the fingerprint checks, which are now taking us six to nine months. Once we buy the technology with the money we've been given, we'll be able to do it in 72 hours. That is true.

You're also right that the number of checks has increased exponentially, so that has added to the backlog. We sometimes have to verify things in certain parts of the world where there are no records. It is a combination of a lot of things.

In respect of the communities, we can never do enough outreach. But we are doing a lot. We are talking to the communities and trying to reach out to them.

So we are trying to do things. I'm always open to ideas and ways of trying to improve the system. We don't want to keep the backlogs going. We want to move this ahead and be as effective and efficient as we can be.

**Mr. Joe Comartin:** I say this as an elected official in this country. I have been chosen by my constituents to be their elected official. I deeply resent that we cannot have access to those files. I am not looking to cross the line into national security issues. Why can we not be told what the status of the file is? We can't even find out if you've got the file, if CSIS has it, or if it got lost somewhere in between your two offices.

**Commr Giuliano Zaccardelli:** We have to abide by the laws and rules as they apply. We can share information with certain people. We can give certain information; certain information we can't give out.

**Mr. Joe Comartin:** This isn't a law, Mr. Commissioner. This is a policy determined by your office, the CSIS office, or at the Deputy Prime Minister's level. It is not a lie. I can't find any law that says you cannot share that information, as long as it doesn't breach national security.

**Commr Giuliano Zaccardelli:** No, but I cannot share private information with anybody. I'm bound by policies and procedure. We have laws in this country that prevent me from sharing certain information with certain people based on certain things. I sympathize with you. I agree with you. I think we had better find a way to square this circle. You're an elected official and you'd like to help your constituent. So would I.

**Mr. Joe Comartin:** But I can help that person under the Immigration Act. I can't help because of the policy determined by your office, CSIS, or the Deputy Prime Minister.

**Commr Giuliano Zaccardelli:** I'm willing to work with you and whoever to try to deal with that. I'd like to do it. It doesn't serve me to delay people in getting the information they need.

**Mr. Joe Comartin:** How much time do I have left?

**The Vice-Chair (Mr. Kevin Sorenson):** I am going to give you a few more seconds.

Mr. Comartin is asking whether it could be a security risk if an elected official knew that the hold-up was at CSIS or the RCMP. Could that have been a concern, or is it procedural?

**Commr Giuliano Zaccardelli:** No. Correct me if I'm wrong, but I think it is simply who is entitled to have the information and who isn't. I think that's the issue.

**The Vice-Chair (Mr. Kevin Sorenson):** I am going to give you a few more seconds.

**Mr. Joe Comartin:** We can't even find out if you've got the file or if CSIS has it.

**Commr Giuliano Zaccardelli:** One agency will have the file. We have the information. We're in the process, but we're not responsible for the security clearances per se.

**Mr. Joe Comartin:** I understand that, but there are times when the file is in your office because of internal work.

**Commr Giuliano Zaccardelli:** We have to contribute to the processing of the file.

**The Vice-Chair (Mr. Kevin Sorenson):** Thank you, Mr. Comartin.

Mr. Wappel.

**Mr. Tom Wappel (Scarborough Southwest, Lib.):** Thank you.

Commissioner, thank you for coming. My experience has been a little different from Mr. Comartin's. My experience has been that Immigration usually blames the delay on CSIS. I then write to CSIS and I get a response. The response is not detailed in respect of the file. The response is detailed with respect to when they received it and when they reported to Immigration. That is sufficient for me to know who is passing the buck at any particular time. I have had no reason to complain about the RCMP. That doesn't mean that it may not occur tomorrow, but so far so good. That is just a parenthetical comment.

Let me ask you a question, Commissioner, about Bill C-36. We are reviewing the bill. From the perspective of the RCMP, is there any portion of the bill that you feel should be changed, either removed or improved?

•(1610)

**Commr Giuliano Zaccardelli:** I think the bill overall is a good bill. It strikes the right balance between always protecting and respecting the rights of the individuals and also protecting the state and giving the authorities the ability to do what they have to do to protect the citizens and the state.

There are some issues that, from my perspective, should be realigned. For example, in terms of some of the wiretap legislation,

when we get extensions, we can delay the advising of people on wiretaps, but if you carry out a search warrant, you have to notify certain people. I think we have to harmonize some of the timing so we don't in one area release information we're keeping in another area.

Maybe the big issue for me is dealing with the ability to exchange information between different agencies and having a structure that enables us to protect that information for the effective working of the various agencies. That is an area I find at times frustrating. It's an area we should be considering. For example, in the relationship between law enforcement security agencies there is a need to exchange information, but there's also a need to protect information. I'm not sure we have a framework that allows for the effective and efficient movement of information, for sharing and protecting that information. There is some work that has to be done.

I don't have all the answers, but I think it's coming out, and I think all countries are struggling with that. I know the Americans, the Brits, and the Australians are struggling with that, because information is out there, but then there is a need at times to protect that. How do you protect that and at the same time make it available to the right authorities, courts and judges, who have to deal with some of these issues and make decisions on them?

Down the road we're going to have to handle it. One of the things that cause a lot of frustration and a lot of problems is when there is information out there but, if you can't protect it, you can't share it, and that might hinder your ability to work effectively in this area.

I think we're evolving through this, we're working our way through this, but at some point, if the committee members could look at that, it would be very helpful to those of us who are on the front lines dealing with this.

**Mr. Tom Wappel:** That is of some help, except for this. You've raised two issues. One is the sharing of information. Would that be a legislated thing, or would that be MOUs between the various departments?

**Commr Giuliano Zaccardelli:** I think you have to go beyond MOUs, because we do have MOUs. The MOUs allow for the exchange of information, but then how do you treat that information?

Again, I don't have all the answers, but at some point we may have to look at some type of legislative framework that assures people that the information is protected but is also available to those who have to make decisions about that, namely judges, courts, and some other people in the process. That's what I'm talking about—and I'm not a lawyer.

MOUs are there. We have MOUs with CSIS and other departments that respect all the privacy laws and so on, but I think at some point there may be the need to look at some type of framework, and it has to be, for lack of better words, framed in a legislative manner.



•(1615)

**Mr. Tom Wappel:** The other thing you mentioned was wiretap. I gather that what you're referring to is your experience and your force's experience in the real world. Is there any particular clause in Bill C-36 or in the Criminal Code you want us to look at, amending or harmonizing or whatever words you used, and if there is, have you, your department, your senior counsel, or anybody else developed some suggested amended wording we could consider?

**Commr Giuliano Zaccardelli:** We've looked at that. I talked about wiretaps and search warrants, for example, and the legislation allows us to delay the notification of somebody who might be subject to a wiretap. On the other hand, if we execute a search warrant in somebody's place or in another location, the law does not guarantee us that we can withhold disclosing that we did a search for the same amount of time as we are able to withhold the disclosure of the wiretap. For the search warrant, if a judge decides after we execute the search warrant to make it public, the person finds out, whereas with the wiretap we have the ability to withhold it. If the information comes out on the search warrant, we've defeated the withholding of the information under the wiretap legislation.

That's where I talked about harmonization. That is one example.

**Mr. Tom Wappel:** Okay, but do you have any specific draft legislation or draft suggestions you'd like us to have a look at?

**Commr Giuliano Zaccardelli:** I do not have draft legislation. We've got some ideas, which we could send to you, about things we think we should harmonize.

**Mr. Tom Wappel:** Would you be kind enough to do that for the committee?

**Commr Giuliano Zaccardelli:** Yes.

**Mr. Tom Wappel:** How's my time?

**The Vice-Chair (Mr. Kevin Sorenson):** I'll give you another 30 seconds. You're already at seven minutes.

**Mr. Tom Wappel:** Then I'll pass on the 30 seconds, and I'd like a round again on the issue of racial profiling.

**The Vice-Chair (Mr. Kevin Sorenson):** You'll get it.

Mr. MacKay.

**Mr. Peter MacKay:** Thank you, Mr. Chair.

Mr. Commissioner, despite denials—and I actually accept the denials, for the most part—that the RCMP does not engage in racial profiling, there have been some very widespread concerns expressed by certain communities about this activity, particularly from the Arab and Muslim communities.

What I would like to ask you first is, how does the RCMP engage in profiling when alleged terrorist activities relate very often to, and may be undertaken by, certain extremist factions that do commonly come from certain racial, religious, or ethnic minority communities? How do you walk that line? I guess part of that question is, can you tell us what efforts have been made, post-9/11, for example, to hire visible minorities or persons from those communities, and do you have any numbers or statistics regarding part of that anti-terrorism strategy?

**Commr Giuliano Zaccardelli:** I don't have specific numbers, but I could get you some numbers.

In terms of hiring, one of our strategic priorities is hiring visible minorities to represent the diversity of Canada. We've made a very specific effort in this area.

I also have a national advisory committee that's made up of visible minorities. I have a representative from each province and each territory who provides me with advice. I have Sikhs, I have Muslims, I have blacks, and so on who advise me about what's going on, what they should do, and also how to better integrate people into the organization.

As for the issue of profiling—and again that's a very controversial issue—in terms of national security, we do criminal profiling. What I mean by that is that we target people who are committing crimes. We don't care where they come from, what they look like, what their gender is and so on. We look at criminals.

Often criminal profiling is talked about in the sense that the police officer or police organization decides they are going to go after this group or these people. You can do that in an area like traffic enforcement. You can set up and say you're only going to stop black people on the highway. We can't do that in the area of national security enforcement, because every investigation we do in the area of national security we do because we've received specific information from a multitude of sources about an individual or a group. I have no alternative if I get information from somewhere that says this group or this person might be involved in some national security issues. Once I've received that information, I must investigate or act.

So I don't profile to investigate a certain person or a certain group. It's all based on information or intelligence that we receive. I have to be specific, because if somebody says to me this person is involved in terrorist activities, I can't say, well, he's from a certain group so I'm not going to look at him; I have to look at each one. That is different from doing highway traffic work or some other type of criminal activity work.

•(1620)

**Mr. Peter MacKay:** Can I ask you a specific question then? It has been suggested that some of these concerns might be allayed by amending the Anti-terrorism Act and inserting some sort of a anti-discrimination clause. That's something similar to what was done with the Emergencies Act, as I understand it. There's a paragraph 4 (b) that prohibits detention, imprisonment, or internment based on religion or ethnicity.

If we went in that direction and basically removed these requirements, as they're currently pronounced in the Anti-terrorism Act, that talk about religious, ideological, and political motivation as part of the proof of being involved in, or part of, a terrorist defence, do you think this is something we should be exploring? It's back to Mr. Wappel's comment about whether this is an area that this committee should be looking at as a possible amendment, to answer those very real concerns from communities.

**Commr Giuliano Zaccardelli:** I understand what you're saying. But you see, my understanding and my interpretation of the act is that the reference to those points in the act, to the religions and so on, is there to actually limit our ability to go after certain people, because unless you make the link, if you don't have that, I could drag anybody into the legislation. I could drag a biker, I could drag other people. That reference actually limits my ability to go after groups, so it is actually a safeguard that's built into the legislation.

**Mr. Peter MacKay:** It's part of the *mens rea*. It's part of the—

**Commr Giuliano Zaccardelli:** Yes, that's right. So it actually puts limits on my ability to go into certain areas.

**Mr. Peter MacKay:** All right. Have you personally undertaken any meetings with some of these groups to have these very discussions? As I said, our task at this committee is to try to improve this legislation, to search for ways in which the bill itself can operate and answer some of these concerns specifically from Arab and Muslim communities.

**Commr Giuliano Zaccardelli:** I have met with the committee that's been set up by the government as part of the national security plan. I spoke to the conference of Muslims, 9,000 Muslims, in Toronto. I had another meeting in Toronto with 450, again, visible minorities. I met with people in Calgary. So I have been meeting, and some of my officials are meeting, but there's still a lot more to do. I understand that there's this fear and perception. There's still a lot more work we have to do in this area.

**Mr. Peter MacKay:** Commissioner, I just want to go back to the first part of the question, when I asked if you had an opinion on the parliamentary oversight committee, and you said you would give an opinion. But I don't believe—

**Commr Giuliano Zaccardelli:** No, what I said was, whatever decision is taken, I will certainly abide by it and respect it, although I must say, I firmly believe that we have a lot of oversight, from the courts and from the minister's directive, and so on. We are subjected to a heavy dose of oversight and scrutiny, including the Commission for Public Complaints. And I must say, Mr. Chair, you mentioned that Shirley Heafey stated that she doesn't have the authority. With all due respect, I beg to differ. The Arar case went to her. She chose not to investigate the Arar case. She turned it over to Justice O'Connor. She had every authority and every power to totally investigate that matter, just as Justice O'Connor is doing.

**The Vice-Chair (Mr. Kevin Sorenson):** Thank you, Mr. Commissioner.

But there have been times when the Commission for Public Complaints has made recommendations and you haven't accepted those recommendations. Is that correct?

**Commr Giuliano Zaccardelli:** The law states that the public complaints commissioner makes recommendations to me on the cases. The vast majority of them get resolved. Out of 2,000 investigations of public complaints last year, fewer than 100 actually made it to the public complaints office. I accept 85% of their recommendations. And even the commissioner has said it would be ridiculous if I accepted or rejected 100% of the recommendations. I actually accept 85% of all the recommendations that come. On some I disagree, it's true. But the law allows me to do that.

• (1625)

**The Vice-Chair (Mr. Kevin Sorenson):** I realize I'm out of order here from the Chair, but if we're dealing with the anti-terrorism legislation and very volatile issues here, and if the only accountability that the RCMP has is through the Commission for Public Complaints, how are we to know? I go back to the issue of Corporal Read. He came out and said there were problems with triads operating in China and he lost his job over the deal. It went to the Commission for Public Complaints. It suggested that Corporal Read should be reinstated into the RCMP and you overturned that. Corporal Read wasn't reinstated to his job.

Now, if that were to happen with terrorism and there was an issue of an individual that the Commission for Public Complaints ruled on and you were to overturn it, we might never even know.

**Commr Giuliano Zaccardelli:** It's all public, Mr. Sorenson. You have access to the Federal Court. You have access to so many other venues.

**The Vice-Chair (Mr. Kevin Sorenson):** So should there be more? If you have the ability to override what that one commission could do, should there be more to make sure the RCMP is held in check?

**Commr Giuliano Zaccardelli:** I accept over 85% of the recommendations, as I said. What is my personal opinion? We don't need more. I will live with whatever happens, but we are very accountable through the minister. Read is in Federal Court. The Commission for Public Complaints has public hearings on a number of cases. It calls witnesses. It gets all the documents it wants. We totally cooperate and collaborate, so it's a very open, very public process. Every complaint, every issue, is public and is known about.

**The Vice-Chair (Mr. Kevin Sorenson):** Could we have Mr. Cullen, and then Mr. Ménard.

**Hon. Roy Cullen (Etobicoke North, Lib.):** Thank you, Mr. Chair, and thank you, Commissioner and Mr. Scrivens, for being here today.

I have two questions. One is dealing with counterfeit passports, which I'll come back to.

I would like your views, Commissioner. In the fight against terrorism and in the security apparatus of Canada, it is clearly quite important that the various agencies, particularly CSIS and the RCMP, work closely together and coordinate their efforts. You alluded to some of that in your remarks about the sharing and protecting of information. I would imagine that is a large part of the cooperation in the dialogue that goes on.

I wonder if you could talk about the evolution of the relationship, let us say, between CSIS particularly and the RCMP, but also with other agencies, how that has evolved over the years, and particularly in the context of 9/11, and what sort of challenges you see remaining. I think you alluded to one in relation to the protection of information. But could you comment on how that's evolved over the years and what some of the challenges are, moving forward?

**Commr Giuliano Zaccardelli:** I think if you look at things historically, each organization carried out their mandate in their own way, and it worked fine.

But I think especially in the last decade or so it was very clear, given the nature of the threats—and this was long before 9/11 came along—and the nature of crimes, especially organized crime that was global in nature and that used technology and so on, that organizations were now being transcended by these threats. So it became very clear that we had to start thinking about cooperating and integrating. I go back to the issue of MOUs, the memoranda of understanding: clearly those evolved and changed so there was more and more collaboration and working together, and that worked very well.

What happened on 9/11 was the big impetus for moving to the next level, to the next plateau, to the creation of the new ministry and so on, and for moving to the point today where collaborating, cooperating, being integrated, and believing in the philosophy of integration are not just things we talk about or that we do on an ad hoc basis. They flow through our veins. This is how we do business today. Everything is integrated, but the need for privacy laws and so on, the need to protect information and to not share information inappropriately are respected.

It is quite ironic that we recently heard the Auditor General say there is a need to share more information, but in certain cases the policies or the laws do not allow for maximum sharing of information even though certain information should be shared. The key is to find that balance, to make sure that the information that needs to be shared is in fact shared.

We are operating today in a world where we are fully integrated to the maximum. It doesn't mean everything gets shared. I do not think anybody is advocating that we share absolutely everything.

But in terms of the philosophy, the sharing of information, the sharing of resources, as you know, in the RCMP today we talk about multi-disciplinary teams because we have members of the RCMP, the OPP, the border agency and CSIS everywhere throughout the country working on the same teams. They are physically working together, sharing, and working as one team. It is Team Canada in a lot of ways. That's what we are doing. Whether it is municipal, provincial or national, we are really working as one country: law enforcement, security agency, and other agencies.

So it is in our blood now. This integration has taken hold, sir.

• (1630)

**Hon. Roy Cullen:** Do you have a sense, Commissioner, or have you had a chance to benchmark the degree of integration and cooperation in Canada in terms of national security and the fight against terrorism compared with the FBI, the CIA, and other agencies in the United States? I know there was the 9/11 commission

that came out and identified clearly some areas for improvement. How are they doing, and how do we stack up against them, for example?

**Commr Giuliano Zaccardelli:** I say this with the greatest respect: I'm glad I'm the Commissioner of the RCMP in Canada, because I think we have it down. We're a model for the world. I will pay respect to the Australians, who are very close to us and share our views, and we interact with them all the time. The British are fairly close. But really for the Americans, because there are so many agencies, it becomes very difficult. Yet we're working with them. They bought into the notion of the integrated border enforcement team, the philosophy that we put together in Canada, for which we strategically located key teams throughout Canada. They matched us after they saw the benefits of that, and we're integrated with them.

So we are literally leading the world in the notion of integration, not just in the North American context but actually moving on a worldwide basis. We are doing extremely well.

It doesn't mean there isn't room for improvement. We are working on a number of improvements through the department, through other agencies, and I think the review of this legislation will help.

**Hon. Roy Cullen:** Thank you.

Finally, Commissioner, there has been a lot of discussion about counterfeit passports and the Canadian passport being a desirable one, so if I were a terrorist I'd say that I'd like to get my hands on a Canadian passport. I'm wondering to what extent that is a problem in Canada. What level of cooperation exists among law enforcement agencies around the world? Is there a lot of sharing of information so that people at the border operations are able to pick up on counterfeit passports?

**Commr Giuliano Zaccardelli:** You're absolutely right. Unfortunately, the beauty of the Canadian passport makes it very attractive, but we have excellent cooperation with Citizenship and Immigration and the Canada Border Services Agency, and as you know, we also work very closely with Foreign Affairs, which obviously manages all our embassies and high commissions around the world, where a lot of these documents are. We have teams in Canada investigating any abuse of any of the documents overseas, so we work very closely.

In the cat and mouse game of changes and security features brought into the passport, we now share those instantly through the use of technology.

We have an excellent system where the Border Services Agency and Citizenship and Immigration have direct access to our databases, so that they can access anything in them relative to criminals and so on. We have direct access through Interpol now, which is working 24 hours a day, seven days a week, which they weren't doing a few years ago; until 9/11, people thought that Interpol used to shut down at four o'clock. Canada invested money to help Interpol go 24/7.

We've made huge advances, but I don't underestimate the challenge we have, because there's still a lot of work to do there.

**The Vice-Chair (Mr. Kevin Sorenson):** Thank you.

Monsieur Ménard, for five minutes.

[Translation]

**Mr. Serge Ménard:** We did not consult each other, but I would have asked you the same questions as the member for Central Nova.

I will simply add to what he was saying that when you consult groups representing ethnic minorities, you notice two things. The first—you will agree—is that they are sorry to see members of their own ranks thinking about terrorist activities, and they condemn them entirely. They tend to collaborate with the police. However, the fact that these laws are perceived as being directed against them undermine the collaboration that they would have otherwise offered police. Therefore, a balance must be established between the efficiency of these laws and the fact that they may deprive you of some information.

I would prefer to question you about something more specific, the integrated national security teams. I would like you to talk about that. Perhaps you could say more about that in camera, but at least tell us what you can say in public. Can you tell us approximately how many there are, if there are any abroad, if they include people who are not police officers, if they include members of other countries' police forces, if some are directed by officers who are not members of the RCMP, and so on.

•(1635)

**Commr Giuliano Zaccardelli:** Thank you, Mr. Ménard.

We have those teams on Ottawa, Montreal, Toronto, and Vancouver, in the large cities. I do not have the exact figures, but I can tell you that there are between 275 and 300 people doing that work. These people work full-time maintaining national security.

The teams are multidisciplinary. They are integrated teams that include representatives from other organizations, such as the Sûreté du Québec, in Montreal. The City of Montreal is also part of the team in Montreal. In Toronto, it is more or less the same, as it is in Vancouver. As I said previously, these teams work full-time. Of course, they cooperate with other agencies in Canada and abroad.

To reiterate, the objective remains targeting crime linked to terrorism. We are not there to gather intelligence as is done in other countries. Our role is to target criminal investigations. These people are not outside the country.

I think I have given you an overview of what we are doing.

**Mr. Serge Ménard:** Do you mean that these integrated teams do not deal with terrorism?

**Commr Giuliano Zaccardelli:** They deal with issues related to national security, which includes terrorism.

**Mr. Serge Ménard:** I understand that all of this was created after 1995.

**Commr Giuliano Zaccardelli:** No, not at all.

**Mr. Serge Ménard:** Was it created prior to 1995?

**Commr Giuliano Zaccardelli:** Yes, it was created in 1984. When the separation occurred, these squads were created. There were not 275 people at the time; we increased staff as a result of the events of September 11. But these squads have always existed.

**Mr. Serge Ménard:** In terms of hierarchy, are they commanded by RCMP officers?

**Commr Giuliano Zaccardelli:** Absolutely, 100 per cent.

**Mr. Serge Ménard:** All of them?

**Commr Giuliano Zaccardelli:** Yes.

**Mr. Serge Ménard:** Do you have similar teams with countries Canada considered friendly, like the United States, England or France?

**Commr Giuliano Zaccardelli:** Are you asking if there are Americans on these teams, for example?

**Mr. Serge Ménard:** Yes.

**Commr Giuliano Zaccardelli:** No, there are not. Obviously, we work with U.S. and British investigators, as we would do on other files. If a situation arises which results in our having to work with U.S. investigators, we do so, in the same way that we would on other files.

[English]

**The Vice-Chair (Mr. Kevin Sorenson):** Thank you, Mr. Ménard.

Mr. Wappel.

**Mr. Tom Wappel:** I would like to take it back, Commissioner, to racial profiling, religious profiling, or ethnic profiling—or to any kind of profiling. Allow me to say this. Please don't assume that I'm coming from any particular place or going to any particular place when I ask you these questions. I'm just interested in some of the philosophy behind it.

I don't know if you know, but I wasn't here when the act was passed, in the sense that I was not on the committee that discussed it. One of the definitions of “terrorist activity”, as you know, is in paragraph 83.01(1)(b) under “terrorist activity”, and it contains a two-step process. It includes an act that in whole or in part has the intention of intimidating the public, or a segment of the public, etc. As part of that, it also must be, in whole or in part, for a political, religious, or ideological purpose.

Do you know why there has to be a two-part test? Why is it not sufficient that the act, in whole or in part, has the intention of intimidating the public, etc., along with the other criteria? Why must it also have a political, religious, or ideological purpose?

•(1640)

**Commr Giuliano Zaccardelli:** As I hope I tried to explain before, the legislation, by being worded that way or structured that way, limits how far we can cast a net. It limits us in terms of what we can do here, because otherwise without the reference to the religious or political purpose, we could actually use that and go much broader and bring in a whole lot of other activity into the legislation that we could go after. By making it a two-step process, it actually limits us very narrowly to the use of that and to the people who we can focus on.

**Mr. Tom Wappel:** Okay, so assuming we accept that for the moment, does the RCMP—and I'll put it this way—keep statistics based on place of origin, religion, colour of skin, and that sort of thing—any kind of statistics? Convictions, for example.

You mentioned, for example, that you don't care where a person comes from. Is it not true that if you were to keep statistics and you found that the larger portion of convictions were from non-Canadians, you might direct some law enforcement techniques to finding out why that's the case?

**Commr Giuliano Zaccardelli:** No, we don't do that. Obviously we know every time a person is convicted, there is a record of that, so I can tell you how many people get convicted. When you arrest someone you take details about that person. You say it's a male, it's a Caucasian male with brown eyes, and so on. So those are the particulars that we take of that person. That's in there. We then do not take that information and manipulate it or use it to look at identifying groups of people and so on. Absolutely not.

We do not profile on anything other than criminal activity. That's the sole thing we're interested in. Who is committing a crime? Who may be committing a crime? It doesn't matter to us. It never has. We believe we practise the philosophy of bias-free policing. Does that mean one of our members or some of our people may have biases and prejudices and may act out on those at some point in time in dealing with a citizen of this country? I can't deny that this happens from time to time.

**Mr. Tom Wappel:** No, I'm not talking about that. I'm talking about the philosophy.

Let's take an example. For example, you must have statistics that there have been more illegal drugs seized from flights from Jamaica than from flights from San Francisco. There would likely then be a more targeted effort to have sniffer dogs on flights that come from Jamaica.

Some might say that is based on racial profiling. In fact, it's not. It's based on the statistics.

• (1645)

**Commr Giuliano Zaccardelli:** That's criminal profiling.

**Mr. Tom Wappel:** Exactly. That is done, isn't it?

**Commr Giuliano Zaccardelli:** Yes.

**Mr. Tom Wappel:** For example, there is profiling by other agencies, including Corrections Canada, where they say there's a disproportionate number of aboriginals in prison compared to the number of aboriginals in Canadian society. Surely that's racial profiling in the broadest sense, because you're keeping statistics based on race, but sometimes you need that information in order to address why that is. Is that right?

**Commr Giuliano Zaccardelli:** That's right.

**The Vice-Chair (Mr. Kevin Sorenson):** Mr. Wappel.

**Mr. Tom Wappel:** Am I out of time?

**The Vice-Chair (Mr. Kevin Sorenson):** Yes, you are. We'll try to come back to you.

Mr. Comartin.

**Mr. Joe Comartin:** Commissioner, in your opening statement, at the bottom of the first page, you used this phrase in response to a question from Mr. MacKay: "It is true that some provisions have been used more often than others". As far as I know, the provisions of the Anti-terrorism Act for charges have only been used once, in a case here in Ottawa.

What are you referring to when you say some provisions have been used more often than others? In what context are you using that?

**Commr Giuliano Zaccardelli:** As I said, it has been very rarely used. As I said, one charge has been laid. We have had certain investigative hearings that have gone to the Supreme Court, and the Supreme Court has stated that they are constitutional. That has happened.

**Mr. Joe Comartin:** There is one case of that in the Air India case.

**Commr Giuliano Zaccardelli:** That's right, yes.

**Mr. Joe Comartin:** Okay. Are there any others?

**Commr Giuliano Zaccardelli:** That's it, basically.

As I also said in the statement, the spirit of the act really does guide us. All the 275 or 300 people really work with this. This is very much an element that they work with all the time.

I'm talking about in terms of balancing and respecting the act, and struggling with this balance of the rights of individuals and the need to protect society.

**Mr. Joe Comartin:** That's what I'm trying to get at in terms of your sharing with us what that means. I have to say that I don't understand it.

I regularly hear the term "intelligence-led policing". Did that precede the Anti-terrorism Act or did it flow from it?

**Commr Giuliano Zaccardelli:** No. I'm glad you asked that question, because that is one of the most misinterpreted things I've heard.

We've always been intelligence-led. That came about in 1997. I told my senior people that I was sick and tired of reacting to everything and we needed to be more proactive. This was long before 9/11. I simply said that we were going to be intelligence-led, meaning we would make sure that we got the best information, not only criminal intelligence but the best information and all of the intelligence to understand the environment we're working in, and we would analyze it and then be proactive.

You can't deal with the Outlaw motorcycle gangs by reacting. You need to have the intelligence. That's what I meant by being intelligence-led. Some people interpret that to mean that we are getting back into the security business. That's not it at all.

**Mr. Joe Comartin:** We can go back to where I started. I still don't understand.

Under the legislation, not your practices, is there anything that the RCMP are now doing since the Anti-terrorism Act came into effect that they could not have been doing in terms of changing policy, changing the means by which they gather intelligence, and changing the way they conduct business? Has the legislation permitted you to do anything that you could not have done simply under the existence of the existing Criminal Code and other criminal statutes?

**Commr Giuliano Zaccardelli:** There are provisions under the Canada Evidence Act that enabled us to protect information in certain cases.

**Mr. Joe Comartin:** Has that been used?

**Commr Giuliano Zaccardelli:** I am not sure. It's not very often, but that has been used.

**Mr. Joe Comartin:** That is not public. The cases in which it was used—that's not public.

**Commr Giuliano Zaccardelli:** I'm not sure how public that is.

**Mr. Mark Scrivens (Senior Counsel, Royal Canadian Mounted Police):** The fact that it has arisen in the context of some cases has been reported.

**Mr. Joe Comartin:** In the public media.

**Mr. Mark Scrivens:** Yes.

**Commr Giuliano Zaccardelli:** Yes.

**Mr. Joe Comartin:** Commissioner, can you tell us how often it has been used?

**Commr Giuliano Zaccardelli:** I don't have those statistics.

**Mr. Joe Comartin:** Does the department have it? Are they there?

**Mr. Mark Scrivens:** We don't track those numbers. We may be able to find out.

**Commr Giuliano Zaccardelli:** There are two other points where we used the legislation. I want to be clear. In dealing with charities, that's a new piece of legislation we've done investigations on. The financing of terrorist activity is an active area we're looking at. So we are using the act in that way.

• (1650)

**Mr. Joe Comartin:** Is it possible for you to tell this committee where you've used the legislation for investigative purposes, even though prosecutions haven't arisen? Whatever it is possible for you to give us would be helpful. Quite frankly, like most members of this committee, I believe that with the exception of that one charge, this legislation hasn't been used. We question whether we really need it. If you can give us that information, it would be helpful to us.

**Commr Giuliano Zaccardelli:** I will do whatever I can to give you whatever I'm allowed to.

**Mr. Joe Comartin:** I understand. Obviously, when I say "me", I mean you'll be giving it to the committee.

**The Vice-Chair (Mr. Kevin Sorenson):** Mr. Cullen.

**Hon. Roy Cullen:** Thank you, Mr. Chairman.

On this issue of racial profiling, I want to enter into the fray a bit and probably be somewhat politically incorrect and get myself into trouble. So, Commissioner, if you don't want to answer, you don't have to.

**Commr Giuliano Zaccardelli:** Is this all being recorded?

**Hon. Roy Cullen:** It could well be.

This study on racial profiling just came out of Kingston. I don't know if you've had a chance to read it or look at it. It's not an area that you'd necessarily be involved in. I haven't had the opportunity to read the study, but I think some racial profiling exists. If there are more people, let's say, of colour, just to use that expression for the moment, who are actually pulled over by the police, then it seems to me there'd be a much stronger case if they could follow that up and talk about how many of those actually led to arrests or convictions.

In other words, the fact that some people of colour are pulled over more frequently is not as compelling an argument as it could be. It would be better if someone could show a corresponding number of convictions or arrests. I've never seen the other part of that. There have been a lot of studies done, and maybe I just haven't had the opportunity to read them all, but I'm wondering if you've seen any of these studies. Do they deal with that at all?

I think it's a fair question. As I say, I think some racial profiling exists. You'd have to be naive to think it doesn't. But I think you need to look at the other part of the equation. I wonder if that's ever been done.

**Commr Giuliano Zaccardelli:** You raised some good points there. That's the issue with statistics, especially in this area. You have to go beyond the initial reporting to get to what's really is going on, and that hasn't been done.

The other challenge with the Kingston study is that the Canadian Centre for Justice Statistics won't even accept it, because they say it wasn't done according to the proper statistical collecting methodology, which I'm not familiar with.

The Canadian Association of Chiefs of Police is also looking at this closely. We want to get behind this. We've acknowledged that there are certain cases that are clearly unjustifiable. But we have to get beyond this. My biggest concern is that there is a perception in society that this exists and we're doing it. Therefore we have to deal with this and come together, analyze it, and move beyond it. We have to do it in an intelligent way and get all the information.

This is difficult. Once you start getting behind those numbers, the fact that a greater percentage of people may be stopped doesn't give you all the answers. You really have to look beyond that. It's a complicated issue. I'm worried that we're jumping to conclusions before we actually look at all the information. We need a good discussion on this.

**Hon. Roy Cullen:** Thank you.

**The Vice-Chair (Mr. Kevin Sorenson):** Before we go to Mr. MacKay, I'd like to make a comment. We're still on Mr. Cullen's time here.

When the terrorist attacks took place—I'll try to one-up Mr. Cullen on political incorrectness—these were real airplanes flying into real buildings, killing real people, and every one of the terrorists were militant fundamentalist Muslims. They have basically hurt the whole Muslim community by doing that. It's not the RCMP or the law enforcement agencies. It's that group, that militant group of fundamentalists, who have hurt a much bigger picture.

I can't see how law enforcement can... I hope when you're investigating terrorism, you aren't out investigating the Lutherans, or the Hutterites, or any other group. You have to recognize that this is a very identifiable group because of the records you've had.

To carry on here, in June 2003, it's my understanding that the United States justice department gave certain guidelines to the federal law enforcement agencies that said they may consider race and ethnicity in investigating acts of terrorism and also thwarting new acts of terrorism. Is this something, those type of guidelines, that you think we should have?

• (1655)

**Commr Giuliano Zaccardelli:** It's not for me to say, but I wouldn't go down that road. I think there's ample legislation and there's ample information whereby we can target and identify the people we need to. Remember, we may be talking about one group today, but terrorism can quickly change. It's not as homogeneous as we like to think. There are other groups, other people. We're starting to see the phenomenon of some homegrown problems.

So it's not that easy. That's why to zero in on a colour or a group is very dangerous. What you could zero in on is getting good intelligence and good information, zeroing in on what that intelligence tells you, so that you can defend taking action against those people or groups based on solid information.

**The Vice-Chair (Mr. Kevin Sorenson):** But if your job is to make sure Canada is kept safe and secure, it is also a big risk if you aren't going to recognize—

**Commr Giuliano Zaccardelli:** We do. We recognize certain obvious things, obviously. But again, we don't start with the assumption that any group or whatever is... We don't say because our jails are 60% to 70% aboriginals, let's target aboriginals out there because they're criminals. Because we know, getting back behind the statistics, there are all kinds of sociological and other reasons, so we have to be careful about that. You make a serious mistake if you deviate from using anything but solid information, or the best information possible, to direct your actions.

I don't think you want your police force or your security agencies targeting based on things other than good information and good intelligence.

**Mr. Peter MacKay:** Mr. Commissioner, we started with questions about accountability and issues of political direction from time to time, and public perception, because, of course, it's very important in all of this. There have been a number of inquiries including the ongoing Arar inquiry. There has been an APEC inquiry, which you'll recall, and throughout all of this, the government and the Prime Minister have always denied any sort of political interference.

In the Airbus case, which went on for many years, there was ultimately an out-of-court settlement that resulted in the Government of Canada paying \$2 million in compensation. Much of that came from a slanderous letter about a former Prime Minister, and there were circumstances involving allegations of political direction from the Department of Justice and why that letter was sent to Swiss authorities.

There were also concerns around the APEC circumstances with the RCMP and political direction. In fact, Justice Hughes, in my

reading of his report, basically said—although he didn't go far in naming names—that there was political interference in some of the police actions. And he made recommendations, as I recall, that basically—

**Hon. Roy Cullen:** Mr. Chair, I have a point of order. I'm wondering about the relevance of this to Bill C-36.

**Mr. Peter MacKay:** We're dealing with political accountability.

**The Vice-Chair (Mr. Kevin Sorenson):** Give him a little time.

**Mr. Peter MacKay:** Those recommendations, as I understand it, were never accepted, were never acted upon by you or by the Solicitor General of the day, now the public security minister.

Perception, as you know, is very important in all of this. We also have the Arar inquiry, where Mr. Justice O'Connor has now, as I understand it, ordered two senior officials from the RCMP, including the former deputy commissioner, Garry Loeppky, and the officer in charge of Project AO Canada, which as I understand it is the project involving the investigation of Mr. Arar... I also understand that it was announced the day after they were summonsed to appear that Deputy Commissioner Loeppky would be retiring. That timing is very suspect. It's reminiscent of the case of Fraser Fiengenwald, who similarly left the RCMP during the Mulrone investigation, which never came to fruition and resulted in an apology.

My concern is in the context of some of the current allegations that are now being bandied about, as recently as today in the House of Commons, with calls for investigations around activities involving the Prime Minister's chief of staff and others and allegations of vote buying. This is very serious, very destabilizing, I would suggest, in the overall picture of Canada's democracy. So I would like to know—

• (1700)

**Hon. Roy Cullen:** Mr. Chair, on a point of order, I still don't see the relevance to Bill C-36. We do have rules in this Parliament.

**Mr. Peter MacKay:** The Arar commission is very much involved.

**The Vice-Chair (Mr. Kevin Sorenson):** Yes, and that's my point. We have talked about the accountability of the RCMP and what we're going to do with Bill C-36. He's brought in Arar. I think it's in order.

Continue, Mr. MacKay.

**Mr. Peter MacKay:** Thank you, Mr. Chair.

I'm concerned, Commissioner, about highly charged political investigations, of which Arar is certainly one, when you have two members of the RCMP seemingly taking retirement just before being called before this commission. I'm concerned as to what degree of accountability can then result. The sanctions for an officer on duty versus those for someone who has taken retirement are quite different, as I understand it. All of this is to say, what steps are you personally taking, as Commissioner of the RCMP, to ensure complete impartiality and the depoliticization of some of these investigations?

I also reference the Shawinigate investigation that did not happen, in the face of what I thought was incredible evidence of activity that seemed to be linked directly to a Prime Minister, yet all of this is seldom talked about, and seldom are there any answers given about what on its very face appears to be a highly politicized process.

**The Vice-Chair (Mr. Kevin Sorenson):** Let's let the commissioner answer.

**Hon. Roy Cullen:** With respect, Mr. Chairman, I think the commissioner should only have to respond in the context of the review of Bill C-36.

**Mr. Peter MacKay:** He can respond however he likes.

**Commr Giuliano Zaccardelli:** Mr. Chair, I will respond.

A number of issues have been raised. I want to talk first of all about the Airbus investigation.

You said that the letter was sent by a former Prime Minister. That letter was sent by a lawyer from Justice Canada. That file, that investigation, at no time was ever, in any way, directed by any political person in government or the bureaucracy. That investigation took a long time because it simply was a complex investigation. I realize that the investigation had started before I became commissioner, but when I became commissioner, I personally reviewed it. There was absolutely no political interference or direction. When I became commissioner, and I was the one who ended that file, there certainly was never any interference or direction. When that particular file was terminated, I made the determination of when and how to end it.

You referenced APEC. Again, Justice Hughes made 17 recommendations. I accepted all of those recommendations except the one that said the RCMP should have legislative authority when dealing with these major events. There was no political interference in that case, and I'm very much aware of that case. There were allegations. There were discussions. Clearly, when you put together a major event, an APEC or a G-7, there are bureaucrats around the politicians who have a role where, if the government of the day, or the Prime Minister, wants to have a meeting in a certain location—on a campus, say—they have every right to talk to us, because we need to know. Sometimes that is interpreted as somehow political interference, but there was absolutely no political interference whatsoever in that case.

I state the same position relative to what you call the situation in Shawinigan. I am not aware of any political direction at any time, or any attempt to interfere with an investigation the RCMP has undertaken, as long as I've been a senior officer and as long as I've been commissioner. I know sometimes people say certain things that may lead other people to believe otherwise, but that is not the case at all; I've never seen it and I've never felt it.

I also want to pick up on your point about the Arar inquiry. I can tell you right here that Deputy Loepky had advised me, more than one year before, that he was intending to retire. It was announced at that time for no other reason than that's when he wanted to retire. He had told me more than a year ago. He said to me, "Commissioner, I'm getting ready to leave, and I'm leaving in June 2005". And that's exactly what happened. His future appearance, with the other officer, in front of Justice O'Connor has nothing to do with any political

interference or influence; it's simply that Justice O'Connor wishes them to testify a number of times. As you've seen in a number of these inquiries, witnesses have testified several times.

Now, I can understand somebody saying, well, Justice O'Connor said yesterday he wants Deputy Loepky back, and it's announced publicly...but that was purely coincidental, sir. A year ago, Deputy Loepky told me he was going to retire in June 2005.

I'm trying to give you the best information I have, sir.

• (1705)

**Mr. Peter MacKay:** So the usual rigour will be applied to any ongoing investigations.

**Commr Giuliano Zaccardelli:** Absolutely.

**The Vice-Chair (Mr. Kevin Sorenson):** Mr. Wappel.

**Mr. Tom Wappel:** Thank you.

Commissioner, I just want to probe you a little bit on your answer to my last question. Now we're getting back to Bill C-36, in particular paragraph (b) of the definition of terrorist activity. If I understood correctly, you indicated that the dual criteria of paragraphs (a) and (b) limit your investigative powers.

I'm wondering why you, as a law enforcement officer, think that's a good thing.

**Commr Giuliano Zaccardelli:** Because you have to make the connection between the act and the religious or whatever affiliation.

**Mr. Tom Wappel:** Why? From your perspective, why should it not be a terrorist activity to commit:

(b) an act or omission, in or outside Canada,

(i) that is committed

...

(B) in whole or in part with the intention of intimidating the public, or a segment of the public, with regard to its security, including its economic security, or compelling a person, a government or a domestic or an international organization to do or to refrain from doing any act, whether the public or the person, government or organization is inside or outside Canada,

Why should that not be a terrorism offence, quite apart from whether or not it has a political, religious, or ideological motivation?

**Commr Giuliano Zaccardelli:** Again, I'm not a lawyer, so I'm giving you a layperson's interpretation. It's because without that you would be able to hook in criminals who are doing criminal acts that are not terrorist per se. That's the issue here. Does that...?

**Mr. Tom Wappel:** Yes, but surely that's a matter of semantics.

**Commr Giuliano Zaccardelli:** I'm just telling you what the lawyers and the—

**Mr. Tom Wappel:** Let me give you example, Commissioner.

We've seen these movies with Steven Segal, where he's on a ship and they hijack it because they want to—

**Commr Giuliano Zaccardelli:** I haven't seen that movie.

**Some hon. members:** Oh, oh!

**Mr. Tom Wappel:** Well, you should take a look.



There is no political, there is no religious, and there is no ideological purpose driving this agenda. But it is clearly, by any normal person's definition, a terrorist activity, because it is an attempt to intimidate a government to pay money, shall we say.

Why isn't that a terrorist activity?

**Commr Giuliano Zaccardelli:** I go back to the point Mr. Ménard made: that's a criminal offence, so just charge them with a criminal offence and put them away, but don't call them terrorists. If somebody blows up a building but doesn't do it for a religious or ideological thing, he's committed an offence; he may not be a terrorist. That's my interpretation.

**Mr. Tom Wappel:** All right. Then you can only be a terrorist if you're doing your activities for political, religious, or ideological purposes. Otherwise, you're not a terrorist.

**Commr Giuliano Zaccardelli:** But do you see why it limits us? It goes to the issue of.... That's what I'm saying; that's what it does.

If you're asking me what I think of that, I accept the elected officials' laws as they draft them and proclaim them, and I work with them as best I can.

**Mr. Tom Wappel:** All right, okay. It's just...“curious” is the way I would put it.

**Commr Giuliano Zaccardelli:** In fairness, even the UN has had trouble defining terrorism. This is the problem; it's been a real problem around the world. There is no universal consensus here, and that's been part of the struggle.

**Mr. Tom Wappel:** Let's change topics here. I very rarely quote anything from any newspaper, but I'm interested in this.

In the *Ottawa Citizen* on May 26, a writer by the name of James Gordon was talking about three more additions to Canada's listing. One of them was a person, and two of them were entities. He goes on to say the following: “The listing process, ushered in after the Sept. 11, 2001, terrorist attacks, allows the government to seize the assets of members of listed groups, and makes it a crime to knowingly participate in or contribute to a group's activities.”

Do you know—can you help us there, because you happen to be our witness today—whether that's an accurate statement, that the listing process permits the government to seize the assets of members of listed groups?

• (1710)

**Commr Giuliano Zaccardelli:** It does, but you still have to make out the offence.

What that does is this. They are designated as terrorists, and then.... Take, for example, fundraising. If the group is classified as terrorist, you are able to prosecute them a lot more easily because they are classified as terrorist. You don't have to prove they're a terrorist organization. Given that they've been designated as a terrorist organization, when they do fundraising you can say that fundraising is for terrorist activity. Without that designation, you would have to prove that they do the fundraising and then have to prove that they are a terrorist organization, which makes it a lot more difficult for certain groups. So the designation is very important.

**Mr. Tom Wappel:** Maybe Mr. Scrivens can help me.

What section of the act states that members of a listed entity can have their property confiscated?

**Mr. Mark Scrivens:** There are a number of sections that deal with the seizure and forfeiture of the property of terrorist groups, whether they're listed or unlisted. They are in sections 83.14 to 83.17 of the Criminal Code. I don't have my code in front of me, but they are within those subsections. You have to read those along with the listing provisions and the definition of a terrorist group to make sense of the provisions.

**Mr. Tom Wappel:** Thank you.

Do I have any time left?

**The Vice-Chair (Mr. Kevin Sorenson):** No, you're a minute over. But thanks for reminding me to look down at the clock.

Mr. Ménard.

[Translation]

**Mr. Serge Ménard:** I imagine that the information which you gather is stored on computer. Is that correct?

**Commr Giuliano Zaccardelli:** Yes.

**Mr. Serge Ménard:** Does anybody other than members of the RCMP have access to this information?

**Commr Giuliano Zaccardelli:** If somebody is working as part of one of our multidisciplinary integrated teams, then, yes, he or she will have access to this information.

**Mr. Serge Ménard:** Who are these people? Are they exclusively members of other Canadian police forces, or can this computerized information be shared with our allies, such as, for example, the United States, the United Kingdom or any other country?

**Commr Giuliano Zaccardelli:** If it is necessary to share this information with our partners, then we do so; but, we do so in compliance with Canadian policies and legislation.

**Mr. Serge Ménard:** Are there restrictions as to what information can be sent electronically? Would it be possible for someone to download a sizeable database containing the names of people under surveillance, in order to be able to add supplementary information, or evaluate the risk that this constitutes for his or her own country?

• (1715)

**Commr Giuliano Zaccardelli:** That depends. Investigators can have access to the information that they require. In that sense, the answer to your question is yes.

**Mr. Serge Ménard:** Am I right in thinking that the Americans can download entire databases onto their own system, as they seem to be able to do with criminal records?

**Commr Giuliano Zaccardelli:** No. The Americans, like people from any other country, would have to file a specific request for specific information. The nature of the request determines whether we shall work with them. If it proves necessary to work with them, there are means of obtaining the requisite information; there is legislation which governs information sharing.

**Mr. Serge Ménard:** Exactly, so if they wish to investigate somebody who matches a certain criminal profile, but they do not know exactly who the person in question is, would they be able to carry out such research? Can they have access to our data on their computer screens?

**Commr Giuliano Zaccardelli:** No, that would not be possible.

**Mr. Serge Ménard:** I would like you to clarify for me how they access the computerized information which you have stored on your databases.

**Commr Giuliano Zaccardelli:** There are several possible options. There is, for example, the Interpol system. When the Americans inform us that they are carrying out an inquiry on somebody and that they require information, there are rules and policies to be followed which guide us as to how we should go about sharing the required information. Sometimes, the Department of Justice can file a request under what is termed legal assistance.

The Americans cannot simply make a general request. The United States, like any other country, such as Great Britain, France, etc., must file a request pertaining to a specific inquiry, person or group. They have to explain why they want the information, and if the law allows such information to be shared, we provide it to them. We examine each request that we receive on a case-by-case basis.

**Mr. Serge Ménard:** You said that you are able to get information from Interpol. Interpol is not a police force, but, rather, an organization comprised of numerous police forces. As I understand it, Interpol has a database containing not only people's criminal records, but also information concerning people of whom the police are suspicious, or in whom they have an interest. I gather that you provide Interpol with information on people of interest to them, and Interpol stores this information in its database.

**Commr Giuliano Zaccardelli:** We do not provide information on people. Interpol has several databases.

**Mr. Serge Ménard:** Excuse me?

**Commr Giuliano Zaccardelli:** Interpol has several databases. For example, Interpol has databases on stolen passports, stolen vehicles, and on terrorists. We have access to this information.

[English]

**The Acting Chair (Mr. Tom Wappel):** Merci, Monsieur Ménard.

Mr. Cullen, please.

**Hon. Roy Cullen:** Thank you, Mr. Chairman.

I would like to come back briefly to this issue of defining terrorism. I know that when it came before the finance committee a couple of years ago, in terms of the charitable organization status, the committee wrestled with the definition. In fact, it wasn't in the original law, and the recommendation was just to use the common law, the courts, to help guide what a terrorist act was.

I'm wondering in particular about eco-terrorism—not to trivialize the issue, but for example, someone spiking Douglas firs or Greenpeace heading out on a little boat to intercept a ship. That can cause harm.

The other issue is the business of...let's say there is a big IMF or World Bank conference. I think that's excluded. An example would be if there was a rally and you had information, just information—in other words, you didn't have enough to do a warrant or make an arrest—that someone was planning to cause a lot of havoc and potentially cause bodily harm.

Could you comment on those two aspects? The way you would apply the law, would you see those as acts of terrorism or not?

• (1720)

**Commr Giuliano Zaccardelli:** The eco-terrorism is captured by the political element, so there you can get it. It's not necessarily falling within the definition of "terrorism", but if there's a political motive behind it, then it does get captured by terrorism. The other one doesn't.

**Hon. Roy Cullen:** Like the rally, the IMF, World Bank—

**Commr Giuliano Zaccardelli:** You have to get the facts. What are they really doing? You have to investigate and you have to see what they're really doing, and then you determine. I mean, you need the facts before you assess the situation. You can't just automatically say up front what that is. You have to be very careful and do your investigation, and that's why I think the law obliges you to go further and really dig beneath the surface to see what exactly is going on, because until you know the motive, you may not be able to make your case.

**Hon. Roy Cullen:** But there is a definitional challenge, too, I would think, because if you have Greenpeace or the Sierra Club running around in boats or spiking Douglas firs in B.C.... How do you define "political"? They have a political agenda, I suppose—maybe not a partisan political agenda, but...

Maybe Mr. Scrivens would comment on that.

**Mr. Mark Scrivens:** It's important to keep in mind that there are three elements to that particular definition, and you need all three elements to be fulfilled before that definition is met. But political is intended to be used in the broad sense...a political or ideological or religious agenda, if there is that element. But you need the other two elements as well, the bodily harm element, harm to a person. You need the intention to cause the government or person to do something or not do something. You need all of those three elements—and they're summarized here—before the definition is met.

Again, there is a carve-out for dissent or protest. So it's always a fact-based assessment that has to be done. Is what's occurring a type of protest, or does it cross the line?

**Hon. Roy Cullen:** So let's say in the case of eco-tourism, if you had intelligence—but you didn't have enough to make an arrest or get a warrant or something—that Greenpeace, for example, was going into a certain valley and they were going to be spiking trees, do you think you could apply the act in that way, to deal with that, let's say, with a preventative arrest?

**Commr Giuliano Zaccardelli:** You have to be careful about getting into very specific groups here, but you would have to make a judgment call each time on this. I think the intent of the legislation—with all due respect to trees—is to prevent serious harm to people and buildings and institutions.

I didn't mean that statement about trees; I love trees.

**Mr. Peter MacKay:** What do you have against Douglas firs?

**Hon. Roy Cullen:** It's when they come with the chainsaws that they can cause bodily harm.

**Commr Giuliano Zaccardelli:** We can also come back to the Criminal Code, because it does have provisions that enable us to go in there and prevent the damage. But this legislation obviously was aimed in a narrow way at very serious potential threats to people and buildings and institutions.

**Hon. Roy Cullen:** Okay, thank you.

**The Vice-Chair (Mr. Kevin Sorenson):** Mr. Comartin.

**Mr. Joe Comartin:** I'm going to pick up on Mr. Wappel's point on the seizure of assets, as I'm not sure he's going to get another chance. We've heard something from FINTRAC and the other agency on that.

Are you responsible for tracking what has been seized, or is that left to FINTRAC and...?

**Commr Giuliano Zaccardelli:** Well, FINTRAC doesn't do any of the seizing.

**Mr. Joe Comartin:** They do the analysis

**Commr Giuliano Zaccardelli:** The information is passed on, and then we act on it. We have to make the case.

**Mr. Joe Comartin:** If there have been seizures, do you track them?

**Commr Giuliano Zaccardelli:** Yes, absolutely.

**Mr. Joe Comartin:** Do you have records of how much in fact has been seized since 2001?

**Commr Giuliano Zaccardelli:** I'm not sure we have seized any property under this new legislation since it came in. We could check on that, but I'm not aware that we have seized such property.

• (1725)

**Mr. Mark Scrivens:** There are different provisions allowing different things to be done and that may freeze assets, but in terms of the particular provisions you're talking about and how they relate to the RCMP's function, there haven't been any seizures using the Criminal Code provisions.

**Mr. Joe Comartin:** You had mentioned earlier, Commissioner, the investigation of the charities. So any investigations you've done under that have not resulted in any seizures based on...?

**Commr Giuliano Zaccardelli:** [*Inaudible*]

**Mr. Joe Comartin:** Coming back to information you can give the committee on the investigations you've conducted, how much of your resources have been used in investigations that you would not have been able to conduct but for this legislation? Is it possible to do that assessment?

**Commr Giuliano Zaccardelli:** It's going to be hard. I will look into that and try to do it for you, sir.

**Mr. Joe Comartin:** Okay.

That's all I have, Mr. Chair.

**The Vice-Chair (Mr. Kevin Sorenson):** Thank you, Mr. Comartin.

Mr. MacKay.

**Mr. Peter MacKay:** Thank you, Mr. Chair.

Commissioner, you'll recall some of the controversy around the decision to close nine detachments in Quebec and to discontinue

border patrol by the RCMP in that province. You'll also be aware that border officials are currently unarmed and yet are required to check watch lists of terrorists, which is information made available to them.

I'm wondering, first, if you are aware of any calls from border agents requesting backup or assistance? And given the closure of these detachments, how has that impacted the ability to provide backup in terms of response time? That's my first question.

I guess the second one deals the information we received from the officials from FINTRAC, who were before this committee, and from the Office of the Superintendent of Financial Institutions, which told us that the money seized as a consequence of a terrorist listing will sit frozen in an account for a period of time and ultimately be turned over or transferred to the Bank of Canada. I'm wondering if you have an opinion, or if you would share with us your insights, on the suggestion that assets seized from terrorist listings could be used to help police funding, the way we currently see it done with organized crime? Do you feel this is something we might examine as part of this committee's deliberations?

**Commr Giuliano Zaccardelli:** On your first point about the closures of detachments, I know that we and other police forces regularly respond to any calls from the border. That's the policy, and we work very well with the Canada Border Services Agency.

I know that we're talking about nine detachments, and it's important to remember that a number of those detachments were nowhere near the border, so the notion they were there supporting the border is not correct. Even for those close to the border, their primary duty has never been simply to respond to the border, but to do federal work and so on.

I won't go into a long history, but as I said before, what we are doing and have done through the reorganization is to make ourselves more effective and more efficient in terms of what we're doing as an organization in collaboration with the other agencies.

**Mr. Peter MacKay:** Sorry for interrupting, but does part of that collaboration include an ongoing line of communication in terms of helping to identify terrorists at the border? To be more direct, let me put it this way: do you have concerns for those unarmed agents when we have situations of terrorists who might be identified in crossing to or from Canada?

**Commr Giuliano Zaccardelli:** Clearly, the border agency has access to the lists of dangerous people. I am concerned about that, but if you're asking this question, my position has not changed about arming border guards.

As for the last point you made about using seized moneys, I understand there's a temptation to take some of that money, possibly, and use it for police purposes—and they're doing it in the United States. It's the only jurisdiction, basically—or one of the very few—that does it.

I would be against that, because from what I've seen in the United States again, there are too many examples of what happens, by intent or not so much by intent, where units and police forces start to rely on this uneven or undependable source of funds to do police work, and it's very hard to be strategic and intelligence-led when you don't know where the money's coming from.

I believe our Canadian system works best. We get base funding from the government, and whatever we seize goes back into the government coffers. When we need extra resources, we go to the government, which has been very good to us in the last number of years.

So I believe in the system we have now. I would not go to that because the temptation will then be for the government to say, well, we're not going to give you an increase in your A-base funding because you might seize some money down the road. I would be scared of that.

• (1730)

**Mr. Peter MacKay:** Thank you.

**The Vice-Chair (Mr. Kevin Sorenson):** Our time is getting close.

Mr. Comartin, Mr. Ménard, do you have any questions?

In closing, I'd like to mention one thing. Tonight, a little later on after the votes, this committee will come together again, and the Privacy Commissioner will be here. Of course, the Privacy Commissioner has pointed out that the police powers have increased greatly since 9/11, and since Bill C-36 came out. She's also pointed out that she has some fairly major concerns about some of the accountability measures or ways in which the RCMP can be held accountable.

I know you like mentioning that you live within the legislation or the guidelines, but in your opinion, should there be a parliamentary committee or other such body with a mandate to review and assess the use of the powers granted to the RCMP under the provisions of Bill C-36? You've even suggested today that you accept 85% of what the Commission for Public Complaints Against the RCMP says. There's still that other 15%. Do you think there should be a parliamentary committee?

**Commr Giuliano Zaccardelli:** To answer your two points—and I've said it before—I do not in any way support the notion that we've

had a huge increase in power. I think the increase has been minimal. The two sections that everybody refers to are the most controlled and are looked at the most. We cannot do anything without getting the Attorney General and the judges to direct it, so I don't know how anybody can construe that as an increase in powers.

The other thing I've said before is that with the way we answer to the courts, to the law, to the minister, to the ministerial directives, to the various groups, I believe there is more than ample oversight and supervision of policing in this country.

**The Vice-Chair (Mr. Kevin Sorenson):** But when you say you don't understand how anyone could say there's been an increase of power, after a 20-year hiatus and the McDonald commission, now you're back investigating...so there's no question that you have increased power.

**Commr Giuliano Zaccardelli:** No, I'm sorry, sir, we do not have it.

**The Vice-Chair (Mr. Kevin Sorenson):** Responsibility, perhaps, is a better word for it.

**Commr Giuliano Zaccardelli:** We always had the responsibility to investigate the criminal aspect of security. We had it before McDonald. And McDonald made it very clear. In creating CSIS, he said that it was critical that the RCMP maintained its ability and the resources to do the criminal investigation. We've always had that.

What happened after 9/11 just brought this more into focus, but our mandate did not change whatsoever. The two sections that give us what people say is a huge increase in powers simply give us the ability to bring somebody before a judge and have the judge question this person. I don't think, on balance, this is to be considered a huge increase of invasive powers on the part of the police.

The public complaints commission can look at everything; nothing has changed. It started to do Arar and then turned it over to Justice O'Connor. The chair makes recommendations; I agree with most of them. So I think the system is pretty well-balanced, the way it is right now.

**The Vice-Chair (Mr. Kevin Sorenson):** Thank you, Mr. Commissioner, for coming. It's always a pleasure to have you here.

We will adjourn until after the votes.







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