



House of Commons
CANADA

**Subcommittee on Public Safety and National
Security of the Standing Committee on Justice,
Human Rights, Public Safety and Emergency
Preparedness**

SNSN • NUMBER 016 • 1st SESSION • 38th PARLIAMENT

EVIDENCE

Wednesday, June 8, 2005

—
Chair

Mr. Paul Zed

All parliamentary publications are available on the
"Parliamentary Internet Parlementaire" at the following address:

<http://www.parl.gc.ca>

Subcommittee on Public Safety and National Security of the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness

Wednesday, June 8, 2005

•(1825)

[English]

The Chair (Mr. Paul Zed (Saint John, Lib.)): I call this meeting to order.

Colleagues, the order of the day is to hear witnesses from the Commission for Public Complaints Against the Royal Canadian Mounted Police.

We're pleased to welcome Shirley Heafey and Steven McDonell. Welcome. I understand you have some opening remarks.

Mrs. Shirley Heafey (Chair, Commission for Public Complaints Against the Royal Canadian Mounted Police): Yes, I do.

The Chair: Please proceed.

[Translation]

Mrs. Shirley Heafey: Mr. Chairman, members of the committee, I want to thank you for inviting me here today. I'm delighted to be here and to help you however I can.

[English]

I'll start off by telling you the experience I have that's relevant to the topic we're discussing today.

I've been chair of the commission—which I'll refer to as the CPC for brevity—for almost eight years. Before that I was a part-time member of this agency. From 1984 to 1988 I was head of complaints and a principal investigator at the Security Intelligence Review Committee, the body that oversees CSIS. I'm a lawyer as well.

[Translation]

It has been a difficult time for police and security services since 9/11. It has also been a difficult time for oversight agencies responsible for reviewing the conduct of the people who carry out these activities. Oversight agencies are often in the position of having to be critical of the activities of the very people who are working hard to keep us safe.

However, given the extraordinary powers traditionally given to our police services and our national security services, it is vital to have effective oversight of their work in order to ensure that the civil liberties and human rights of all Canadians are preserved.

[English]

As you know, the aim of the anti-terrorism legislation is preventive, and that makes sense. There's no point in having legislation whose aim is to clean up after the damage is done.

However, that's a two-edged sword. For one thing, in order to prevent catastrophes, the police must cast their net very widely. One of the consequences of that is that a greater number of individuals are likely to be caught in the crosshairs of a preventive police investigation. Moreover, the targets of a preventive investigation may never have their day in court to vindicate themselves if no charges are laid.

I have some examples. Police can obtain a search warrant to search a home. They can rummage through it, looking through everything they want to look at in the house, in the name of prevention. If charges are never laid, and if the person whose home was searched objects for whatever reason, that person has no recourse except to come to our commission to complain.

However, we can't get the information from the RCMP because it has to do with national security. No information of a national security nature will be turned over to us. So the thing is that any of the activities of a national security nature that the RCMP conducts have no process for civilian review. If we do get a complaint, we can't respond. We do have a few at the moment, but we can't complete the review.

•(1830)

[Translation]

We have a serious difference of opinion with the RCMP on this point. We believe we have the mandate to review the RCMP's national security activities but not the tools to enforce that mandate. In effect, unlike CSIS, our national police service has no effective civilian oversight.

I won't venture into the debate as to whether the RCMP was given extraordinary new powers as a result of Bill C-36, but I think there's little doubt that since 9/11, the RCMP has been engaging more intensively in national security activities. These activities are inherently more intrusive and more secret than traditional law enforcement. Therefore, the deficiencies in the CPC's ability to review RCMP conduct are more pronounced in the area of national security activities.

[English]

In the case of CSIS—and I know that because that was my job from 1984 to 1988—SIRC and the inspector general do the review of certainly a sampling of search warrants. They can audit files. I used to do it without any difficulty. That's not the case with the RCMP. None of that happens. So CSIS is certainly having a lot of civilian review, looking at what they do, but that's not the case with the RCMP. We don't have the power to audit files such as SIRC has, so unless we have a complaint, unless somebody comes up and says "I object, and I'd like to complain about this", nothing happens. We won't find out about it unless there's a media announcement, if some media has found out about something.

Actually, we've relied on that quite a bit. I can make some complaints of my own as chair. So if I see something in the newspapers that looks like it might be a problem, I can make a complaint and look into it. But I have to find out about it.

In the case of the Muslim population since 9/11, they do not come forward. They have spoken to me at meetings during my travels across the country. They will tell me stories about what has happened to them, but they will not complain. They are too afraid to bring unwanted attention to themselves and have their neighbours see police coming to their homes or to their offices. A lot of people who haven't been born here are not used to looking at the police as their friends, so these people do not complain.

When the commission was formed in 1988, the RCMP was no longer involved in national security matters. That's when the split took place, the RCMP and CSIS. This act that formed this agency that I'm head of did not contemplate necessarily that we would have to be looking at national security issues, so it's outdated.

I've had a chance to review RCMP Commissioner Zaccardelli's testimony before this committee last week. I'd like to clarify some information that was provided to you by the commissioner.

In response to a question from Mr. MacKay, the commissioner stated on Wednesday, June 1, that I chose not to investigate the Arar case but that I "had every authority and every power to totally investigate that matter just like Justice O'Connor is doing." That's not accurate.

First of all, I put my review of the Arar matter in abeyance, which made sense, pending the resolution of Justice O'Connor's report. I wasn't going to continue my investigation and duplicate the work and waste government resources. So I put it in abeyance until Justice O'Connor did his job.

Secondly, the powers that I possess as chair of the CPC in no way measure up to the powers afforded to Justice O'Connor. He has full subpoena powers. He can compel people to appear before him. He has access to all national security information, even if he can't disclose it publicly. We have no such powers.

I'm not certain how that comment of the commissioner came about, but that's clarification for you.

Further to that, our jurisdiction is limited to the RCMP, so we could not have looked at anything else. We could have looked at what the RCMP did in the Arar affair, but nothing else.

● (1835)

There was another comment as well that I wanted to correct. Commissioner Zaccardelli said that the CPC gets all the documents it wants. That's not the case. Access to information for us is problematic. Documentation has been withheld from us for all kinds of reasons. I won't list them all now. A few of them are: "It's with our lawyers"; "There's a sealing order"; or "We won't give you the information because it identifies a young offender."

Well, we're subject to the same constraints as any other government agency. We don't disclose young offenders' names; that's a given. We do not get all the documents we want.

Civilian review is a problem. If I call a hearing, I have a lot more power to access relevant information; however, the scheme of the RCMP Act envisions hearings as only one of the options open to me. A hearing is an option, but it has to be exercised judiciously. It's a very large and expensive process; there are huge costs and a lot of time involved. Normally we do a documentary review. Or I can conduct an investigation, but once again in the investigation stage I have no subpoena powers; I cannot compel. I have to sit there and wait and hope that the RCMP will give me the information.

An example is the APEC hearing, which a lot of you will probably remember. I started it off as an investigation. I wanted to do just the investigation and get the thing dealt with, but five months after I launched it, I couldn't pry a sheet of paper loose from the RCMP and ended up having to, rather than sit there and wait, hope, and pray... My prayers weren't answered, so I decided to call a hearing, and that's how the hearing came about. It certainly wasn't my first choice. It certainly was not what was desirable, given the amount of money that was spent to complete that hearing.

The last point I'd like to make—and this I've heard a lot, but I know Commissioner Zaccardelli noted it in his last appearance here—is that they're subjected to a heavy dose of oversight and scrutiny. Well, they're not subjected to any more than every other agency, or than we are. Most levels of oversight to which the RCMP are subjected are common to all federal government agencies.

The additional review of RCMP activities is more than warranted, given the exceptional powers they have. They can arrest, they can search, they can search and seize, and they carry weapons to facilitate those powers. So I don't think that civilian review is too much.

Finally, In our continuing efforts to obtain all the information we need, we took one case to court. The RCMP had refused to give us access to information they said was protected by police informer privilege. While acknowledging the limits this would impose on civilian review of the RCMP, both the Federal Court and the Federal Court of Appeal have now confirmed that it is up to you—it's up to parliamentarians—to ensure that something is done in this area. The courts cannot fix the gaps in this legislation, and they don't want to. There are just too many things to change.

So if we are to continue to exist and are expected to keep doing our work, we need the powers, and parliamentarians have to do their job.

I'm open to questions. I'm done.

• (1840)

The Chair: Thank you.

Mr. MacKay, we'll start with you.

Mr. Peter MacKay (Central Nova, CPC): Thank you, Mr. Chair.

Ms. Heafey, we very much appreciate your candour and your presence here today, as well as yours, Mr. McDonell.

I want to begin with this issue you picked up on with regard to the testimony of Commissioner Zaccardelli. You've said in a very pointed fashion that access has been a problem for you. The words I wrote down, which I found quite compelling in the context of your work at the APEC commission, were that after five months you couldn't pry a piece of paper from the RCMP.

One of the issues we have to deal with in this review is obviously public accountability, and public confidence also is very much related to that effort. I find it very troubling that the Commissioner of the RCMP would make false and misleading statements about your mandate. We've had previous statements made by the commissioner with respect to the backlog in the DNA forensic laboratory and previous statements about closures of RCMP detachments in Quebec that were not accurate and later proven to be inaccurate.

Does that concern you? Should your mandate include some greater degree of compellability when it comes to documents? Have you ever taken this, for example, to the Information Commissioner when access was refused?

If we are to have public complaints commissions that are truly going to do the job of oversight and are truly going to hold agencies to a higher level of accountability that will bring about this public trust and confidence, surely you have to be given the tools, the resources, and the access you need to carry out that important task.

Mrs. Shirley Heafey: I certainly agree.

I've been there for almost eight years, and it's a never-ending struggle to try to get the information in some cases. It's not 100%. There are some cases that are benign enough. The information comes in; it's not a big issue. But as soon as there is something controversial—and even when there isn't something controversial—we have to be relentless. We have to keep going back.

For me it's remarkable because of my experience with SIRC. I did the first investigations at SIRC. I was there when it was just set up. I simply went there and asked for the material and I got it. They didn't always like it but they gave it to me. They gave it all to me, and if I asked for more, I got more. I didn't have to make the kinds of efforts I'm making now, writing letters and calling people over and over, waiting sometimes a year, two years, three years to get information.

Mr. Peter MacKay: Just so we're clear, the frustration you're feeling as a public complaints committee was not experienced.... You didn't experience that same degree of reluctance on the part of CSIS

to provide information to a similar, compatible oversight body when you were with SIRC. Is that correct?

• (1845)

Mrs. Shirley Heafey: That's correct.

Mr. Peter MacKay: With regard specifically to documentation, are you saying that routinely you are refused information by the RCMP when you make these requests, and have you taken this directly to the commissioner on occasion?

Mrs. Shirley Heafey: I'm not sure I could do that to the Information Commissioner. I think the Information Commissioner has problems in that—

Mr. Peter MacKay: No. Have you made these concerns known directly to the Commissioner of the RCMP?

Mrs. Shirley Heafey: Oh, absolutely. He and I deal with each other regularly.

Mr. Peter MacKay: And you find him unwilling to cooperate in many cases.

Mrs. Shirley Heafey: Well, we have a very cordial relationship. We're both professionals, and we—

Mr. Peter MacKay: Oh, he's very cordial, but I'm asking—

Some hon. members: Oh, oh!

Mr. Peter MacKay: That's public relations. I'm concerned about the accuracy and the fulsome nature of the disclosures.

Mrs. Shirley Heafey: Well, I'm told we'll get cooperation, and all too often we don't.

To be fair, I have to say it's not right across the board. There are some elements in the RCMP where things work well, where I can call on a CO or a deputy and get the information I need.

But it is a problem. I'm told it's going to get fixed. I always try to negotiate rather than go public and make a scene or cause embarrassment. I always try to speak with the commissioner and try to straighten things out in the public interest. It has not worked as well as I would have hoped.

Mr. Peter MacKay: With respect to your ability to do this, obviously, if you're being hindered by lack of disclosure from the RCMP, are you similarly concerned about the proper resources that you have available to you as a committee to do the important work? I ask that in the context of large public commissions and public exercises like APEC. And another one comes to mind, and that is with respect to allegations of horrendous sexual abuse at Kingsclear and tie-ins and allegations within the RCMP themselves. You're familiar with the Kingsclear case?

Mrs. Shirley Heafey: Yes.

Mr. Peter MacKay: Would you go so far as to say that investigation's progress has been stalled because of a lack of cooperation and resources?

Mrs. Shirley Heafey: No, there has been no difficulty with cooperation. The commissioner certainly came through on this. He assured me he would cooperate, and as soon as I launched the investigation I started getting material. So that one has not been a problem.

Resources, this was—

Mr. Peter MacKay: I'm sorry to interrupt you, but what is the status of that investigation?

Mrs. Shirley Heafey: It's ongoing. We have about 30,000 pieces of documents and there are more coming in—

Mr. Peter MacKay: It's overwhelming.

Mrs. Shirley Heafey: We have hundreds of interviews to conduct, so it's progressing.

Mr. Peter MacKay: I want to go back to an earlier question. Do you feel that the public complaints commission must have the ability to compel documents—

Mrs. Shirley Heafey: Yes.

Mr. Peter MacKay: —and go where the evidence leads?

Mrs. Shirley Heafey: Yes.

Mr. Peter MacKay: And what would be the mechanism, in your view, to bring that about? Are we talking legislative change, or are you talking about an ability to appeal to a higher power?

Mrs. Shirley Heafey: I think it could be done in the legislation if the legislation were clear enough. We shouldn't have to run to court every time we need something. So if the legislation is clear enough, that should be sufficient.

Mr. Peter MacKay: Are there specific examples you can give of documents the commissioner refused to turn over to you?

Mrs. Shirley Heafey: Certainly no documents that have anything to do with national security. We do not get those. Information up until yesterday, I suppose, anything that was sealed by the court, we couldn't have access to in spite of the fact that all the material was in their files.

•(1850)

Mr. Peter MacKay: You're bound by privacy as well.

Mrs. Shirley Heafey: Exactly.

Mr. Peter MacKay: I have one last question. Now that the RCMP mandate has been expanded and includes national security as a result of Bill C-36—and I think there's a clear recognition that the RCMP have in some cases gone into the bailiwick of CSIS—has your work increased as a result? Have you seen any change in the volume of work or the complaints that make their way to you?

Mrs. Shirley Heafey: There has been a slight increase, but that's difficult to answer, because there are a lot of people who call up, a lot of people of Muslim and Arab descent who will call up and say they've had this happen, or they've had that happen, but they're too afraid to complain. If we had an audit power, I think our load would increase quite a bit, because we could look at these things without putting these people under fire in an investigation the way—

Mr. Peter MacKay: When you say “audit power”, are you talking about the ability to protect the secrecy of the complainant?

Mrs. Shirley Heafey: With an audit power we could go in and look without a complaint.

Mr. Peter MacKay: I see.

Mrs. Shirley Heafey: And even if we had a complaint, what happens is people call up and give a complaint, but they won't make it official. When they find out that there's going to be an investigation and they could be interviewed by the RCMP themselves all over again, they back out and they disappear.

So an audit power would allow us to go and look and see if there are any problems in this area and the person wouldn't be subject to being interviewed. They wouldn't get the same result, but at least this gets looked at, because the courts don't have that kind of ability and that kind of time to look at, let's say, a search warrant. They look at the affidavit, but they can't go back there. It's something I used to do with CSIS—look at the affidavit and then look at all the material it was based on—and it certainly tightened up their operations, I can tell you.

Mr. Peter MacKay: Thank you.

The Chair: Thank you, Mr. MacKay.

Can I just ask you one clarification question? How many people do you have working at the commission?

Mrs. Shirley Heafey: Thirty-eight.

The Chair: Thank you very much.

Mr. Ménard, please.

[*Translation*]

Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ): Ms. Heafey, you impress me a great deal. I note that you're perfectly bilingual.

I totally agree with Mr. MacKay. As the saying goes, “what is bred in the bone will come out of the flesh”. In the case of the RCMP, this expression can be taken both literally and figuratively. Law enforcement officers always have a tendency to keep things close to their vests.

I have a question for you. You've been Chair for eight years. That means you were in office prior to 9/11.

Mrs. Shirley Heafey: That's right.

Mr. Serge Ménard: Has the number of complaints against the RCMP received by your office increased since 9/11?

Mrs. Shirley Heafey: Just slightly, but the complaints that we have received are much more complex in nature. They often involve Charter issues. However, the numbers are not up very much.

Mr. Serge Ménard: Obviously, I'm looking at this issue from the standpoint of your comments on people of Arab origin who are afraid to lodge a formal complaint, even though they have reason to do so.

Mrs. Shirley Heafey: That's right.

Mr. Serge Ménard: They are afraid. Understandably, they are doubly afraid: afraid of making themselves known to the police and afraid of subsequently being harassed. Some who have filed a complaint with your office have been questioned again by the RCMP.

You appear to be nodding in agreement.

Mrs. Shirley Heafey: Yes.

Mr. Serge Ménard: Thank you.

However, that's only since 9/11.

Mrs. Shirley Heafey: Yes.

Mr. Serge Ménard: To your knowledge, have other ethnic or non-Caucasian groups had similar complaints?

Mrs. Shirley Heafey: The number of complaints received from aboriginals has increased substantially.

Mr. Serge Ménard: There is not much of a link there to the events of 9/11.

•(1855)

Mrs. Shirley Heafey: No.

Most of the calls we get are from members of the Arab community. I've given conferences in mosques and had many people recount all kinds of experiences to me. But, that's about it.

Mr. Serge Ménard: I can understand having a problem getting the RCMP to cooperate and I'm very pleased to hear you say this.

Let's consider some solutions. I get the impression on listening to you speak — and I may be mistaken — that CSIS officials, who are not law enforcement officers, but more likely former police officers, have an easier time co-operating with the enforcement agency.

Mrs. Shirley Heafey: Correct.

Mr. Serge Ménard: To what do you attribute this different attitude? Am I wrong to assume that CSIS personnel are basically former police officers, or even ex-RCMP officers?

Mrs. Shirley Heafey: One reason I can think of is that CSIS and SIRC were both born at the same time. One could say that they have grown up together.

Mr. Serge Ménard: That's right.

Mrs. Shirley Heafey: The CSIS Act is very clear. CSIS must turn over all necessary intelligence to the Security Intelligence Review Committee.

Mr. Serge Ménard: I see.

So then, the first thing we need to do, in my view, if we are going to amend the legislation governing your agency, is to arrange for provisions similar to the ones in place for SIRC.

Mrs. Shirley Heafey: Yes, that would be my suggestion.

Mr. Serge Ménard: Let me make another suggestion that goes one step further and that is in line with what is often done in Quebec. I think the federal model was followed. A judge is chosen to preside over a commission to give it more authority. Perhaps this would be a good opportunity for you to get a promotion, given your experience. You appear to come up against barriers that are more psychological in nature than they are related to the culture of the institution. I think we can all agree that these barriers must be eliminated one way or another.

In your opinion, if you wielded the authority of a Superior Court Justice, would you have an easier time obtaining the documents needed to process complaints quickly and effectively?

Mrs. Shirley Heafey: Perhaps. Another option would be for the chair to be a member of the Privy Council, as is the case with SIRC, since the RCMP is a hierarchical organization. It wouldn't be a bad idea if the chair of the Commission was at least a Privy Council member, or a judge.

Personally, I think it would often be hard for a judge to see...I've already had a judge come before the commission. It made no difference.

Mr. Serge Ménard: There was something else I wanted to say, but I've forgotten what it was. In any event, there will be another round of questions later.

[English]

The Chair: Do you remember it? Go ahead. No?

Mr. Comartin.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Thank you for being here, Ms. Heafey.

A number of us spent a lot of time last summer and fall doing an analysis of the need for parliamentary oversight. So my first question is, have you done any analysis, either while you were at SIRC or now that you are at the RCMP complaints commission, on whether that would be of assistance in breaking this corporate culture of non-cooperation?

•(1900)

Mrs. Shirley Heafey: Absolutely. I've made some very complete submissions to the Arar commission on proposals for better oversight generally, and better oversight of the RCMP.

One of my suggestions was that parliamentarians should be involved in this. It's something I've struggled with since I've been at the commission. I've written to members of Parliament. I've tried to speak to them. I've tried to get them involved. I've spoken about my difficulties in my annual reports, and I dearly think it's a good idea to have parliamentarians involved. They should know what's going on, and they should be involved.

Mr. Joe Comartin: We've heard from a couple of witnesses about consideration being given to blending the current oversight, which is ad hoc, piecemeal, and insufficient in a lot of areas, into one overall or perhaps several overall agencies.

With your background in having worked at both SIRC and the commission, has any analysis been done by you on having the SIRC type of oversight—just as it is now and not with parliamentary oversight—expanded so the same agency would do both SIRC and the RCMP?

Mrs. Shirley Heafey: Doing both SIRC and the RCMP...

Mr. Tom Wappel (Scarborough Southwest, Lib.): CSIS.

Mr. Joe Comartin: I'm sorry, yes.

Mrs. Shirley Heafey: To begin with, you can't split what the RCMP is doing. You can't split the police and the national security. You can't have SIRC looking at the national security activities of CSIS and the RCMP, and somehow cut a line down that.

On having an agency that would do both—certainly. The agency would do all of it, though, without splitting up what the RCMP is doing, because they're doing policing and national security. So an agency that would do all of it...sure, CSIS and the RCMP.

Mr. Joe Comartin: Would you see expanding that to take in the other intelligence agencies in the country?

Mrs. Shirley Heafey: What I proposed in our submissions to Justice O'Connor was—

Mr. Joe Comartin: Let me interrupt you. You've made that reference now twice. Is what you gave to Justice O'Connor public now?

Mrs. Shirley Heafey: Oh, absolutely. I believe we sent some.... We sent copies to all the members of the committee last week. You probably have it somewhere.

Mr. Joe Comartin: Have we received it, or is it still coming?

The Chair: You got it, in theory.

Mr. Tom Wappel: I didn't see it.

A voice: It's in your office.

Mr. Tom Wappel: I was in the office earlier today.

We'll make sure we have it.

Mr. Joe Comartin: So there are multiple documents, not just material from Ms. Heafey, in this binder?

The Chair: Does this document look familiar?

Mr. Joe Comartin: No, and I just went through my file earlier today.

The Chair: It was distributed electronically. For convenience, we sent it electronically.

Mr. Joe Comartin: Some of us haven't seen it.

I'm sorry, I interrupted you.

Mrs. Shirley Heafey: What we proposed, if the government wanted to go with whatever is simplest, is to give us the power to do the job right, the job that is expected of us. But we went further; we looked at it in a very broad way because of what Mr. Justice O'Connor is doing. We proposed that there be a kind of body that could look at all of the agencies involved in national security activities, because, for instance, right now we have a complaint that involves the RCMP, CSIS, and Citizenship and Immigration. We can only look at RCMP. It's an important complaint; it's a big one; there are quite a large number of people involved.

We can only look at RCMP activities, so we proposed a body like a permanent Arar commission, in a way, and my suggestion was to have it a small body, relying on our expertise, relying on SIRC's expertise, on the CSE commissioner's expertise, but at least to have a body that would have a basis, an expertise.

Right now, Mr. Justice O'Connor came in from the cold, knowing nothing, and had to put together this organization. National security is not an easy area to fathom, and to have to learn all that overnight.... He is going to leave, and all that is going to leave with him. So the proposal was to have a small agency that would oversee all of the agencies, but relying on us. If there is an RCMP case, we are knowledgeable; we have been doing it for almost 17 years.

•(1905)

Mr. Joe Comartin: But in your case—and I think this is true in a number of the other agencies—your mandate is not broad enough to deal with the national security issues within the RCMP.

Mrs. Shirley Heafey: No, it isn't.

Mr. Joe Comartin: So you need a legislative mandate change.

Mrs. Shirley Heafey: Yes.

Mr. Joe Comartin: I just have one more question.

Has the legislation itself, Bill C-36, in any way contributed further to this corporate culture of non-cooperation, an unwillingness to allow for oversight?

Mrs. Shirley Heafey: I would say so, yes.

Mr. Joe Comartin: Are there any specific sections that should be amended or removed that would heighten your ability to do your job?

Mrs. Shirley Heafey: No. The the part of the RCMP Act that governs our activities is what needs to be strengthened. Because our legislation doesn't talk about national security, the RCMP has said "You can't see it."

Mr. Joe Comartin: Thank you.

The Chair: Thank you very much.

Mr. Cullen, and then Mr. Wappel.

Hon. Roy Cullen (Etobicoke North, Lib.): Thank you, Mr. Chair.

Thank you, Ms. Heafey and Mr. McDonell, for being here.

I have a number of questions, but before I ask them I want to correct the record. Mr. MacKay made some comments about Commissioner Zaccardelli. He's not here to defend himself, but the commissioner has been very forthcoming with respect to the closure of RCMP detachments.

Mr. Peter MacKay: For the record, I asked him when he was here.

Hon. Roy Cullen: He was very clear in terms of the detachments, that it was a work in progress. In fact today, in the province of Quebec, in Denis Paradis' riding, there was a big drug bust and 35 people were arrested as a result of Canada-U.S. border cooperation.

With respect to the DNA backlog—

Mr. Peter MacKay: What's this all about, Mr. Chair? Is this debate?

Hon. Roy Cullen: Mr. Chairman, Mr. MacKay has made some allegations about the commissioner that need to be corrected.

Mr. Peter MacKay: They are not allegations; it's on the record. You can't correct the record; it's not up to you to correct the record.

Hon. Roy Cullen: I will correct the record—

Mr. Peter MacKay: You're not the overall authority.

Hon. Roy Cullen: I will make my statements and defend someone who is not here to defend himself.

Mr. Peter MacKay: What's got your shorts in a knot today, Roy?

The Chair: All right, colleagues.

Hon. Roy Cullen: With respect, Mr. Chairman, to the DNA backlog, there's obviously been some definitional problem with respect to the backlog versus work in progress—

Mr. Peter MacKay: Are they going to cut the musical ride and have Sable Island ponies, Roy?

Hon. Roy Cullen: —but the commissioner has been very clear on that point. In fact the Auditor General—

Mr. Peter MacKay: You're defending the deputy minister, are you?

Hon. Roy Cullen: —has been asked to look into it.

So I think those comments are not appropriate. I wanted to correct that.

Mr. Peter MacKay: Really, that's too bad.

Hon. Roy Cullen: I had some questions for you, Ms. Heafey.

What percentage of your recommendations are adopted by the RCMP? Are you satisfied with that kind of response?

Mrs. Shirley Heafey: Yes, I'm satisfied. There's about 85% acceptance of adverse findings, and about 78% acceptance of the recommendations.

Hon. Roy Cullen: By any standard around Parliament Hill, that would be seen.... I chaired the Standing Committee on Finance for years, and we prided ourselves that some 80% of the recommendations would find their way in some shape or form into the budget. But that was considered and is considered quite high. So I think you're in the realm of a very high percentage of recommendations that are adopted by the RCMP. Surely that's a good thing.

• (1910)

Mrs. Shirley Heafey: Absolutely. That's a good thing, a very good thing. I agree.

My difficulty is how we get to that, the kind of effort that has to be put into getting the information, and to get to that. That's where I have difficulty.

Certainly I would say that in the last three years there's been an increase in acceptance of adverse findings and recommendations, and that's good. I have to say, and I know it may sound self-serving, that it has a lot to do with a lot of effort on our part to iron out and to communicate with the RCMP. It's a large organization, and it's not as easy for the commissioner as it is for me to be on top of everything that's going on. There are 38 or 40 people, and I know them all and I know what's going on. In substance, I know everything that's going on. He can't have that kind of knowledge with 25,000 people.

Hon. Roy Cullen: The commission was first established in 1988, was it?

Mrs. Shirley Heafey: That's right.

Hon. Roy Cullen: I suspect that originally the focus was primarily on complaints by citizens in respect to the RCMP, and that the world has become more complicated and some of the complaints, as you've indicated, have become more complex. Since we're reviewing Bill C-36, you did say that there's no appreciable increase in the number of complaints, although you have pointed out that you do get calls. I know I have a large Muslim community in my riding,

and I can understand why they might be reticent and unwilling to come forward in a more fulsome way.

Nonetheless, I think my question has to do with your commission in terms of your physical infrastructure and the regimes that are necessary to receive top-secret and sensitive information. That has to do with the security of your systems, it has to do with the security of documents, and it has to do with the clearance of your employees. Given that your mandate might have grown more into this more complex world, are you able to handle those documents and that information if it is given to you?

Mrs. Shirley Heafey: We would need more resources. All my officials have top-secret clearances and our premises have been certified by the RCMP as secure. They have looked at our whole filing system. So for the document handling and the people involved, there is no problem.

Hon. Roy Cullen: There are different levels of clearance and the kind of infrastructure that would be needed and the regimes to support the kind of top-secret information that you seem to be wanting to get. Maybe it's a chicken and an egg, in the sense that if you were able to get the information you'd have the regimes and the infrastructure in place to accommodate.

Mrs. Shirley Heafey: Yes. If we had the additional responsibility—I think we have the additional responsibility, but in any event—we would need additional resources; there's no question about it. But we have the knowledge and the people in place. We would need probably more, but—

Hon. Roy Cullen: You've said resources. There are people resources, and you've mentioned that you have a complement of 35, which is not insignificant. But resources could also mean technology, secure infrastructure, etc. It might mean your building has to be revamped; I don't know.

Mrs. Shirley Heafey: Yes, I agree; it would. If we were doing this, we would have to have the kind of set-up SIRC has. We would have to be secure in a different way. Right now we're on two floors, and there's one floor in between. They're secure—they've been approved by RCMP as being secure—but it's not an ideal situation. We should all be either on the same floor or at least together. There are things like that, for sure.

Hon. Roy Cullen: What about releasing information? I'm told that sometimes information is not released because there may be a trial underway, or there might be some legal reasons why documents can't be released at that time. Is there some validity to that or not?

Mrs. Shirley Heafey: Can you help me with that? You've dealt with it.

• (1915)

Mr. Steven McDonell (Senior General Counsel, Commission for Public Complaints Against the Royal Canadian Mounted Police): When you're advised that there are legal reasons for declining to provide information, there is debate as to whether there is validity to that suggestion. From the perspective of the commission, we say there are no legal encumbrances except the one that was identified by the Federal Court of Appeal recently, namely police informer privilege. But, for example, we have had cases of documents that might disclose investigative techniques, and we're told there's a legal reason why they can't be given to us. There is no legal reason, in my view, as to why those documents should not be disclosed.

Hon. Roy Cullen: What about in a case where there are sealed warrants? Does that happen from time to time?

Mrs. Shirley Heafey: That's a good one.

Mr. Steven McDonell: The Federal Court of Appeal just spoke to that and said a sealing order is directed at the courthouse staff, not the RCMP. If you're a member of the public, you can walk into a courthouse and ask to see the court file unless there's a sealing order. What we have encountered, and I can think of one major complaint at the moment, is that there are two filing cabinets full of material that the RCMP have said relates to a matter where there's a sealing order. That's of no legal consequence, and the Federal Court of Appeal has just confirmed that.

Again it's an example where there's a suggestion that there's a legal reason and where the RCMP and the commission differ, but to this point the only legal reason that has been confirmed is that where there is a police informer privilege operating, there has to be some care taken not to identify the informer.

Hon. Roy Cullen: Thank you.

The Chair: Thank you.

Mr. Sorenson.

Mr. Kevin Sorenson (Crowfoot, CPC): Thanks again for coming here.

You mentioned there were 38, I believe, who worked in your office, or in your office staff.

Mrs. Shirley Heafey: Yes.

Mr. Kevin Sorenson: What was the number in the year 2000?

Mrs. Shirley Heafey: In the year 2000, there were more or less the same number, 38 or 40. It was about the same number.

Mr. Kevin Sorenson: In 2002.... There's been no increase in staff. Would that seem to draw out the fact that maybe no one was really expecting any increase in complaints against the RCMP? We've certainly heard at committee lots of different groups come in here who are very concerned about the extra powers that have been given to the RCMP. I think we all recognize that. In the anti-terrorism legislation, the police received preventative arrest and a number of other powers they never had before, but we haven't seen an increase in complaints and we haven't seen an increase in your numbers preparing for complaints. Does that seem odd? Would you have expected, when we gave those extra powers to the RCMP, that with them there would have been increased complaints?

Mrs. Shirley Heafey: Given the powers that we have, if we had an audit power we'd have a lot more work to do, but because of the kinds of people affected since September 11....

Two years ago I spoke at a mosque in London. There were about 600 people in the mosque, and I had an investigator with me, just in case somebody wanted information. I was swarmed at the end. Half the people were trying to get to me and telling me stories, and not one complaint came out of it. But they all had a problem; they all had something to complain about. Whether it was legitimate or not, I don't know, but they wouldn't complain. And I had my investigator there especially for that, so that I wouldn't be involved. I can't be involved, since I'm making decisions in this case.

One of the leaders in the community, a lawyer—this was in London, Ontario—said he constantly hears stories like that from his people, who he tries to help. They won't complain, but there certainly is a lot of potential for it.

We have had a little bit of an increase, but where there's been an increase is in the calls and the talking and the questioning. People ask, "If we complain, what are you going to do? How are you going to do it?" The legislation says if they complain I have to send it to the RCMP to investigate. They're not very happy about that. They have to be investigated by the exact people they're complaining against.

• (1920)

Mr. Kevin Sorenson: We heard the same comments from SIRC. Just before you came here today we had some folks from SIRC here. They said the same thing, that they basically went and they heard some of these complaints publicly, and they ended up having to go.... It was almost like they were encouraging these people to come forward with complaints because they knew they were out there but the complaints weren't coming forward.

On one hand, I say that if there are people with complaints they have to know. If they don't know there's a public complaints commission or they don't know SIRC is there, which can review some of the things, then that's a different problem altogether. We'll leave that for a second.

There are a couple of other things. I appreciate your coming forward with some of your concerns about the RCMP. There's a very troubling statement in your presentation where you say, "In my view, the existing level of review or oversight of RCMP activities is insufficient."

We have a commissioner, Judge Hughes, who during the APEC inquiry—and you mentioned that this evening as well—came out with a lengthy report wherein there were a number of different recommendations brought forward, but he refused to accept the recommendation of depoliticization of the police. I'm wondering if you have any comments in regard to that.

Also, when the commissioner was here last week he said that your commission is investigating all these different things and bringing forward recommendations, ideas, reports, and all that, and that he accepts about 85% of most of it. Out of the 15% that's left, I'm wondering, is there anything that would have any amount of similarity in that 15%? Is it dealing with any particular problem within the RCMP, or is it just a few little things on this and a few little things on that? Is there anything that has any similarity in the 15% of your recommendations that he doesn't accept?

He doesn't accept Judge Hughes, doesn't accept 15% of what your commission brings forward.

Mrs. Shirley Heafey: To be fair, he did accept most of Judge Hughes' recommendations, but there was that one that he wouldn't accept.

Mr. Kevin Sorenson: He's a deputy minister. I think Judge Hughes was very clear that you have a commissioner who sits as a deputy minister in this government. What do you think about that? Do you think that's problematic?

Mrs. Shirley Heafey: I'm not sure I'm clear on your question.

Mr. Kevin Sorenson: I'll try to make it clearer.

APEC was and could have been a very politically motivated event. There were certain things that took place there that could have been very politically motivated. The Commissioner of the RCMP is a deputy minister in this government.

Mrs. Shirley Heafey: Yes.

Mr. Kevin Sorenson: In a democracy, do you think it's really...? I'd see here a case where, in a democracy, we want to have a separation, almost, of government and state police. Is that a concern you would see?

The Chair: Thank you.

Mrs. Shirley Heafey: I think there's potential for a problem, but I'm not certain how you'd change it. To be fair, it's a long time ago, and I haven't spent—

• (1925)

The Chair: The witness has answered that she...

All right, go ahead.

Mr. Kevin Sorenson: Okay. Well, then, on the 15%—for example, Corporal Reid—I think it was your commission, or was it the external—

Mrs. Shirley Heafey: The external review committee.

Mr. Kevin Sorenson: All right, thank you.

The Chair: I'm jumping in here.

Mr. Wappel has the floor.

Mr. Tom Wappel: Thank you.

On May 18, the Honourable Paule Gauthier, chair of the Security Intelligence Review Committee, gave some remarks to an international symposium on review and oversight. I quote:

I believe Canadians want assurances that the RCMP—like CSIS—is subject to a review mechanism that ensures it respects the delicate balance between individual rights and national security. With two decades of experience in this area, SIRC has the credibility and the expertise to do the job.

Now, you already testified with respect to the RCMP that you didn't think national security could be hived off from the other questions surrounding the RCMP. So my question is this. SIRC appears—at least the former chair was giving the impression that SIRC would be—ready, willing, and able to jump in to do this oversight mechanism and the things you were talking about: auditing, looking at all of the aspects of national security. If that's true, why can't your organization be folded into SIRC so that there's one organization, and within that organization people who look at civilian complaints, people who look at national security, people who look at national security insofar as it pertains to RCMP; and everything gets done, but the people who look after the RCMP, of course, take from the SIRC side and get to audit?

What do you think of that idea?

Mrs. Shirley Heafey: That's good. That's good—

Mr. Tom Wappel: Mark that down, Mr. Chairman.

Mrs. Shirley Heafey: —if there's adequate oversight.

Because of my experience in both these agencies, the only thing I would add is that SIRC, as it is, is new. It needs permanent people. These are part-time members; they're there once a month.

Mr. Tom Wappel: There are always the people who are there on a daily basis. I hear what you're saying, but what I'm thinking is, rather than have two commissions or two investigatory bodies, especially because of the common connection of national security let's bring them together; have one, and give them whatever powers they need. This way you get to audit the RCMP—

Mrs. Shirley Heafey: Yes.

Mr. Tom Wappel: —maybe, and that's certainly one of the things you wanted to say.

Mrs. Shirley Heafey: Yes.

Mr. Tom Wappel: Thank you for that.

Let me jump around a little bit, quickly. Our briefing notes say this, and I just want your comments on it. Subsection 45.41(2) of the act says in paragraph (b) that the RCMP Commissioner “shall furnish the Commission Chairman with the notice under subsection 45.36(6) or the report under section 45.4 in respect of the complaint, as the case may be, and”—and I underscore the following words —“such other materials under the control of the Force as are relevant to the complaint”.

Our researcher says: “This effectively makes the RCMP Commissioner, rather than the CPC Chair, the person charged with determining what documentation is relevant to the CPC investigation.” Do you agree with that statement?

Mrs. Shirley Heafey: Yes.

Mr. Tom Wappel: Thank you.

I need a little bit of clarification on paragraph 6 of your remarks, where you say the RCMP Act “requires the RCMP to furnish us with all information relevant to a complaint”.

Isn't that what we just read, that it's entirely up to the commissioner to decide what's relevant, not you?

Mrs. Shirley Heafey: That's how it reads. I just have a problem with the....

Mr. Tom Wappel: Yes, and I can see why. But your complaint would require a change to the legislation.

Mrs. Shirley Heafey: Yes.

Mr. Tom Wappel: All right.

Next, in paragraph 9, you're talking about search warrants, and I'm slightly confused about your point here. Does paragraph 9 refer to all search warrants or search warrants just under Bill C-36, or under what?

• (1930)

Mrs. Shirley Heafey: It can be any search warrant.

Mr. Tom Wappel: So it has nothing to do with Bill C-36 then.

Mrs. Shirley Heafey: It can, yes.

Mr. Tom Wappel: But Bill C-36 has neither exacerbated nor started the problem. This is a problem where you cannot get information on any search warrant, let's say under the Criminal Code, even prior to Bill C-36, because they don't want to give you that information. Isn't that right?

We're here to review Bill C-36. I'm trying to focus on Bill C-36 to see if the bill caused or contributed to the problem that you're outlining in paragraph 9, or if it applies to, and always has applied to, all search warrants, even prior to Bill C-36.

Mrs. Shirley Heafey: No, you're right, it was a problem before.

Mr. Tom Wappel: Thank you. And that's not to say it's not a legitimate problem. I'm just trying to focus it on our mandate, which is Bill C-36.

Mrs. Shirley Heafey: Sure.

Mr. Tom Wappel: How's the time?

The Chair: One more short snapper. We've very little time left.

Mr. Tom Wappel: Okay, then, let me regroup. I'll come up with one or two more next time.

Thank you.

The Chair: All right.

Mr. Ménard, you're next on the list.

Mr. Serge Ménard: This will be very short.

[*Translation*]

On reading your correspondence and your report to Justice O'Connor, I got the impression that you would like to have the authority to go out and investigate cases, rather than wait for people to come to your with their complaints. Perhaps that's what you meant when you said you would like to conduct an audit.

Mrs. Shirley Heafey: That's right.

Mr. Serge Ménard: For instance, you'd like to be able to conduct an audit without having to disclose names when complaints originate from within Arab communities.

Mrs. Shirley Heafey: My work with SIRC involved doing these kinds of audit. We could investigate matters for a certain period of time and examine search warrants to see if everything was in order.

Mr. Serge Ménard: In the past, you've described in far more...I felt that your report to Justice O'Connor was well written.

Mrs. Shirley Heafey: Yes.

Mr. Serge Ménard: We were sent a copy of the report to file with our other papers. Fine then. Thank you.

[*English*]

The Chair: Thank you.

Mr. MacKay, you're next on my list.

Mr. Peter MacKay: Thank you, Mr. Chair, but I don't want to bypass Mr. Comartin.

The Chair: Oh, sorry.

Mr. Joe Comartin: I do have something, Mr. Chair.

Let me preface my question by saying that Commissioner Zaccardelli was here a couple of weeks ago, and we're waiting to get this information from him. He said that Bill C-36 has triggered a number of investigations, only one of which has resulted in charges being laid pursuant to the new provisions.

If those investigations had not been conducted properly, if there had been breaches of civil liberties in the way they were conducted, is there anybody who could tell us that other than the RCMP themselves?

Mrs. Shirley Heafey: No, there's nobody else.

Mr. Joe Comartin: Thank you, Mr. Chair. That's really all I wanted to ask.

The Chair: Mr. MacKay.

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

As somewhat of a supplementary to that, we had witnesses here previously from SIRC, and I asked a similar line of questions about complaints coming from within the Arab and Muslim community. There have been complaints, as I understand it, about CSIS, RCMP, and even the Canada Border Services Agency.

With respect to this overall perception, or allegation, if you will, on racial profiling, first, have you received complaints that have that tone? And if so, can you indicate the number, and where those complaints currently sit?

Mrs. Shirley Heafey: We presently have five what I call "racial-based" complaints. I don't want to go into the term "racial profiling", because it's too confusing, with too many interpretations.

So the complaints are racial-based, and they emerged after 9/11. The background of these people is Muslim.

• (1935)

Mr. Peter MacKay: Were these complaints to be substantiated, what sorts of recommendations could result? What options are available to you?

Mrs. Shirley Heafey: Well, we can't get the information, so I won't be able to make any recommendations.

Mr. Peter MacKay: No, but what recommendations are available to you? Presumably, progressive discipline would follow if these were substantiated. I'm not asking you for specifics.

Mrs. Shirley Heafey: It depends. If it's a search warrant, for instance—and I do have one like that, where a person says a search warrant wasn't valid, and their house shouldn't have been searched—we would look at all the information and see if it indeed matched up with the affidavit. Sometimes it doesn't. I have seen that happen.

Mr. Peter MacKay: Where affidavits don't match the information?

Mrs. Shirley Heafey: I did see that when SIRC was first established. And there have been examples of that in the media already, that some of the search warrants the RCMP obtained were based on erroneous or misleading information.

Mr. Peter MacKay: Ms. Heafey, of the 38 staff you have, how many, if any, of those involved in investigations around complaints of this nature, complaints that involve persons from the Arab or Muslim community, come from those communities? Among the 38, do you have staff from the Arab and Muslim community who would have the cultural and language skills necessary to conduct a proper investigation?

Mrs. Shirley Heafey: We don't have any right now—

Mr. Peter MacKay: You don't have any?

Mr. Steven McDonell: We have two staff from an Arab cultural background. Frankly, I don't know their language skills.

Mr. Peter MacKay: So you're not aware of anyone with language skills?

Mrs. Shirley Heafey: Oh, yes, sorry—

Mr. Steven McDonell: I just don't know the answer to the question, Mr. MacKay.

The Chair: Perhaps you could endeavour to get back to Mr. MacKay on that subject.

Mrs. Shirley Heafey: Yes.

Mr. Peter MacKay: That's all I have, Mr. Chair.

Thanks to both of you.

The Chair: Just for clarification, I thought you'd earlier testified that you had no complaints that were of racial orientation, and then you just said to Mr. MacKay that you had five. Maybe I misunderstood.

Mrs. Shirley Heafey: No, we have five that are racial-based. The allegation is that there are racial reasons for their search.

The Chair: Thank you.

Mr. Wappel.

Mr. Tom Wappel: Thank you, Mr. Chair.

I have three snappers, maybe, if I can put it that way.

Ms. Heafey, if the idea didn't fly of amalgamating SIRC and CPC, what would you think of adding CPC to schedule 2 of Bill C-36?

Mrs. Shirley Heafey: That sounds like a good idea.

Mr. Tom Wappel: That's number two.

Now, you can initiate a complaint, as the chair?

Mrs. Shirley Heafey: Yes.

Mr. Tom Wappel: For some of these people who have called you and who don't want to initiate a complaint, there's nothing stopping you, if you think there's something there, from doing that yourself. Isn't that right?

Mrs. Shirley Heafey: I can do it, but you know, if I do that, they're going to be subject to being interviewed and—

Mr. Tom Wappel: I understand the checks and balances, the pluses and minuses. But you could do it.

Mrs. Shirley Heafey: I could, except that if somebody has already been traumatized by some incident, I'm not inclined to traumatize them all over again by forcing them into an investigation. Some of them have said, I don't care, if you make the complaint, I'm not going to cooperate; I don't want any part of it, so don't do this to me.

Mr. Tom Wappel: Then why did they call you in the first place?

Mrs. Shirley Heafey: Because they wanted to find out what could be done: do they have to be interviewed by the RCMP, do they have to go through the whole formal process? That's what scares them.

Mr. Tom Wappel: Suppose they were interviewed by an amalgam of SIRC and CPC. It wouldn't be the same concern, would it?

Mrs. Shirley Heafey: It wouldn't be the same, no.

Mr. Tom Wappel: Because it's not police.

Mrs. Shirley Heafey: That's right.

Mr. Tom Wappel: Okay.

Now, in your submissions—that some have and some don't have—you made a suggestion that we have a national security review commission. If we took the amalgamation of SIRC and CPC as an example, and let's say that happened, would you still recommend a national security review commission? If you would, what would it do that the amalgamated organization wouldn't be doing?

● (1940)

Mrs. Shirley Heafey: It would look at the other agencies involved in national security activities, at the Canada Border Services Agency, for instance. A number of other agencies and departments, including Immigration Canada, are involved in looking at what's going on there.

Mr. Tom Wappel: All right. Good.

That's it. Thank you.

The Chair: Mr. Cullen, you have a short question?

Hon. Roy Cullen: Yes, thank you.

I just wanted to come back to this issue of not being able to deal with an issue unless you have a complaint. I didn't follow the rationale that if it was SIRC and CPC together, this would not create a problem for people being interviewed. If they ever had a reluctance to be interviewed by someone....

Maybe you could expand on that.

Mrs. Shirley Heafey: As I understood Mr. Wappel's suggestion, if SIRC and CPC were amalgamated, and then this body would have the powers that SIRC has now to audit, or to investigate, the people would be investigated by that agency. Right now, if there's an investigation, it's the RCMP who investigate the complaint against them. People don't like that.

Hon. Roy Cullen: Presumably, though, someone would still have to meet with the individual who made the complaint and have an interview, would they?

Mrs. Shirley Heafey: But it wouldn't be the police, it would be the amalgamation of SIRC and CPC. It would be that body and those investigators. That's less intimidating than having the police themselves, against whom you're complaining.

I do a lot of those investigations, and just as a proactive measure.... Depending on the case, if there's a lot of trauma, if there's a lot of fear involved, then I don't send it to the RCMP, we do it ourselves. But we don't have the resources to do a whole lot of that.

Hon. Roy Cullen: So these people would be more concerned with the objectivity, or lack thereof, if it was the RCMP, or would they just be concerned about being harassed and going through this whole thing again?

Mrs. Shirley Heafey: All of those.

Hon. Roy Cullen: So all of the above.

If it were combined—and I think it's an intriguing idea, but I'm just trying to nail it here—would they not be still somewhat reluctant to have to go through the process of...?

Someone's going to have to interview them, right? It may not be quite as intimidating to be interviewed by the RCMP, but....

I just don't know the nature of their reluctance in that sort of fashion.

Mrs. Shirley Heafey: I think you're right, there would still be some reluctance—some people are always reluctant to get involved in those kinds of things—but in my experience with SIRC, where I did investigations, I never had a problem. They wouldn't talk to CSIS but they'd talk to me, any time I wanted.

The Chair: Thank you.

Just as a follow-up on something Mr. Cullen said, why then, if you have a lot of anecdotal evidence, wouldn't you do some sort of in-house preliminary screening? Wouldn't that eliminate a lot of the potential for whether or not there's a real complaint, or a perceived complaint, or something further that you want to pursue?

Mrs. Shirley Heafey: I'm not....

The Chair: Why wouldn't you folks do some in-house preliminary screening? You said you were at a mosque; you used that example. You had an investigator with you. You didn't say this, but it was kind of like you don't want the fox to be in charge of the chicken coop, so you don't send the complaint to the RCMP.

So why don't you do some preliminary screening in-house? For what reason wouldn't you do that now? There's nothing that would prohibit that. It would determine the veracity of a complaint, or a potential complaint, and eliminate what seems to be a little bit of a

cloud here. This just seems to be the question to be asked in the post-9/11 environment.

Mrs. Shirley Heafey: I can't get the information to do it, so....

I mean, these people have said some of these things, but I would have to go to the RCMP to get the information, and they won't give it to me.

The Chair: All right.

Hon. Roy Cullen: Mr. Chair, can I just add something?

The Chair: Sorry, did I open up a...?

Hon. Roy Cullen: No, this is just a quick one.

If your mandate or your modus operandi was changed such that you could go to the RCMP.... Let's say someone wrote up a page and said, "This is what happened to me, I think I was mishandled by the RCMP, but I don't want to get involved any more beyond this". If you were given the power to go to the RCMP and say, "I want the police report, and I want your report on what happened", it may not be as good as having an interview and all that, but at least it makes some....

I think that's what you're sort of driving at, to just say, "Is there any plausibility to this? Because there's something here, clearly." And there would be maybe some generic response or recommendation.

I'm just probing, that's all. Is that workable?

● (1945)

Mr. Steven McDonell: That's what we refer to as the audit power, which we say is absolutely essential, because a complaint-driven system is not adequate in the national security context.

Just following up on a question Mr. Sorenson asked, you know, the most famous case of all did not make a complaint to the commission. Mr. Arar did not complain to the commission.

Mrs. Shirley Heafey: He wouldn't, no.

Mr. Steven McDonell: In the particular circumstances, the chair initiated a complaint. But it just gives you an idea of the difficulties a complaint-based system encounters in the civilian review of national security activities.

Hon. Roy Cullen: So when you talk about the audit capability, you're referring exclusively to a system not based on complaints, or is it broader than that, what you're talking about?

Mrs. Shirley Heafey: A system not based on complaints.

Hon. Roy Cullen: That's what you're talking about when you say "the ability to audit"?

Mrs. Shirley Heafey: Yes.

The Chair: Okay, I'm going to jump in. Thank you.

I want to remind colleagues that tomorrow there's an informal meeting with the South African delegation, for those of you who are able to attend.

I want to thank you both for appearing this evening. Who knows, we may have you back.

Thank you very much.

We're adjourned.

Published under the authority of the Speaker of the House of Commons

Publié en conformité de l'autorité du Président de la Chambre des communes

**Also available on the Parliamentary Internet Parlementaire at the following address:
Aussi disponible sur le réseau électronique « Parliamentary Internet Parlementaire » à l'adresse suivante :
<http://www.parl.gc.ca>**

The Speaker of the House hereby grants permission to reproduce this document, in whole or in part, for use in schools and for other purposes such as private study, research, criticism, review or newspaper summary. Any commercial or other use or reproduction of this publication requires the express prior written authorization of the Speaker of the House of Commons.

Le Président de la Chambre des communes accorde, par la présente, l'autorisation de reproduire la totalité ou une partie de ce document à des fins éducatives et à des fins d'étude privée, de recherche, de critique, de compte rendu ou en vue d'en préparer un résumé de journal. Toute reproduction de ce document à des fins commerciales ou autres nécessite l'obtention au préalable d'une autorisation écrite du Président.