



House of Commons
CANADA

Standing Committee on Public Safety and National Security

SECU • NUMBER 038 • 1st SESSION • 39th PARLIAMENT

EVIDENCE

Thursday, April 19, 2007

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Chair

Mr. Garry Breitkreuz

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• (1105)

[English]

The Chair (Mr. Garry Breitkreuz (Yorkton—Melville, CPC)): I'd like to call this meeting to order. This is the Standing Committee on Public Safety and National Security, meeting number 38. Today we are going to hear witnesses in review of the witness protection program.

We would like to welcome three members of the RCMP, and also, from the Department of Justice, Mr. William Bartlett, to give us any comments or analysis as the meeting progresses.

Assistant Commissioner Souccar, I believe you are prepared to make an opening statement. You can introduce your colleagues and go ahead and make whatever remarks you wish to make.

Welcome to this committee. We appreciate your coming on this very important issue. Please go ahead.

Assistant Commissioner Raf Souccar (Assistant Commissioner, Federal and International Operations, Royal Canadian Mounted Police): Thank you, Mr. Chair.

Good morning, everyone.

[Translation]

Thank you for inviting me here today.

I am pleased to be here before you today, along with my colleague C/Supt. Derek Ogden, who is the Director General, Drugs & Organized Crime and directly responsible for, among other things, the Witness Protection Program. Derek reports directly to me.

[English]

With me also is Mr. David Bird, of RCMP legal services, and Mr. Bill Bartlett, who is with the Department of Justice's criminal law policy section.

My title is assistant commissioner, federal and international operations, and in this capacity I'm responsible for drugs and organized crime, border integrity, financial crime, and international operations. I am also the officer to whom the Commissioner of the RCMP has delegated the authority to admit or terminate individuals from the witness protection program.

[Translation]

If I may, I'd like to start by setting out for you some general principles relative to the Witness Protection Program.

[English]

The witness protection program is an extremely important tool for law enforcement and for the judicial system. It is used primarily in the most serious criminal investigations and is recognized in many countries around the world as an essential component of an effective justice system.

The witness protection program in Canada has afforded witnesses the confidence to provide testimony in a variety of very serious criminal offences. While information provided to police by informants is afforded a certain degree of protection by the courts, information from persons acting on behalf of the police, referred to as agents, is not protected and is revealed in its entirety to the accused party.

There is a very important distinction between informants and agents, which I'll be more than happy to discuss or explain, if you so wish, at some point during my testimony.

Because of their willingness to testify against the accused, these witnesses end up facing the real threat of revenge against them and their families. When this real threat of harm exists, persons will in many cases only consider assisting law enforcement if they have complete confidence in the ability of the police to protect them. They must be assured that they will be able to provide testimony without fear of harm, and they must have confidence that the witness protection program will protect their new identity and their new location.

Loss of confidence in the witness protection program could have a very detrimental ripple effect. Witnesses would be reluctant to come forward, and police agents would refuse to provide assistance in our country's most complex organized crime and/or national security investigations.

[Translation]

The Witness Protection Program Act came into effect on June 20, 1996. Although the Act states that the Commissioner of the RCMP is responsible for the administration of the Program, as I indicated at the outset of my comments, the Commissioner has delegated the responsibility of admissions and terminations to me.

[English]

Under the act, protection measures may include relocation, change of identity, and counselling and/or financial support to ensure witnesses' security or to facilitate witnesses' re-establishment or ability to become self-sufficient. It is common practice to provide all protectees who enter the witness protection program access to a psychologist to assist them in adjusting to their new life. Witnesses entering the witness protection program are deemed to be in the program for life. They are encouraged to become self-sufficient and to integrate themselves into society as soon as possible.

Entry into the witness protection program is guided by some very clear criteria, as set out in sections 6 and 7 of the witness protection act. Once it is established that a witness is suitable for admission to the witness protection program, the witness must enter into a protection agreement. All protection agreements contain the reciprocal obligations of both parties.

For example, under the act, the RCMP has the obligation to take all reasonable steps to provide the protection referred to in the agreement. The witness, on the other hand, has the obligation to do such things as provide testimony, meet all financial obligations prior to the change of identity, meet all legal obligations such as custody or maintenance of children, and refrain from any illegal activities.

Once they are admitted into the witness protection program, section 11 of the act provides for the continued protection of the identity of the protectee. Specifically, this section states that it is an offence to knowingly disclose, directly or indirectly, information about the location or the change of identity of a protectee. It should be noted that it is also an offence to disclose such information about a former witness who is no longer under protection.

The commissioner may disclose the location, or the change of identity, of a protectee or former protectee in the witness protection program under certain circumstances with the consent of the protectee or former protectee—if, for instance, the protectee or former protectee has previously disclosed the information or acted in a way that results in the disclosure, or disclosure is essential to the public interest, such as in criminal proceedings where the disclosure is essential to establish the innocence of a person.

• (1110)

[Translation]

The Witness Protection Program is managed by RCMP Witness Protection Coordinators located across Canada.

These Witness Protection coordinators and handlers form an integral part of all major investigations dealing with human sources and are specifically trained in this area of operations.

[English]

Witness protection considerations are usually addressed prior to the use of a human source as an agent. In a drug investigation, for example, when the use of a human source in an agent capacity is first proposed, the source handler will provide a proposal to the divisional witness protection coordinator for approval. The coordinator assesses whether the proposed source would be suitable for the witness protection program and whether or not we would be able to provide the appropriate protection to ensure his or her safety.

Admission to the witness protection program is a life-altering process. The protectees and their families are typically relocated to a new location and must sever ties with family and friends. This process is explained very clearly by the witness protection coordinators to the potential protectees prior to their beginning to assist the RCMP. Upon relocation, the protectee and family must start a new life in every sense of the word.

For many protectees, this is an opportunity to start a new life free of criminal activity. In order to assist them with this transition, protectees and family are provided access to psychological counselling to assist them with the transition to the new life. They're also provided with access to a witness protection coordinator on a 24/7 basis, to assist them with any difficulties they may encounter during their transition stage. The goal of the program, however, is to promote self-sufficiency as soon as possible. Protectees are well informed, verbally and in a written protective agreement, that any breach of protective conditions could lead to termination from the program.

I should note at this point that protectees are verbally informed, and it is documented in their protection agreement, that their admission to the program does not provide them immunity from prosecution. All individuals who enter the witness protection program continue to be subject to all Canadian laws. They are not treated differently from anyone else.

Being in the witness protection program does not confer immunity from responsibility for criminal actions, either before or after they enter the program. They remain subject to all acts of Parliament, like any other Canadian citizen. Furthermore, they are clearly advised that their existing criminal history remains with them, even if they have undergone an identity change. In other words, their criminal history will follow them to their new identity.

This is an important point here. The only protection the witness protection program provides a protectee is protection from individuals who may be trying to cause the protectee in question grievous bodily harm or death to prevent him or her from testifying against them in a criminal proceeding.

There are two types of terminations from the witness protection program: a voluntary termination and non-voluntary termination. A voluntary termination occurs when the protectee decides on his or her own to leave the program. This often occurs when the protectee decides that he or she can no longer abide by the conditions of the protection agreement, and in most instances protectees decide to return to the area of risk, where they are known, for varying reasons.

A non-voluntary termination is usually the result of a protectee contravening a condition of the agreement. In many cases, this is a result of the protectee being involved in criminal activity or in some way violating a condition of the protective agreement, such as returning to the threat area or disclosing his new identity or location.

Prior to an individual's termination from the witness protection program, reasonable steps are taken to notify the protectee of the decision and to allow him or her an opportunity to make representation concerning the matter.

These are my comments.

•(1115)

[Translation]

Thank you for allowing me to make these opening comments.

[English]

My colleagues and I would be more than pleased to answer any questions you may have.

The Chair: Thank you very much for those remarks outlining the program. As is our usual custom, we will now go to questions and comments, beginning with the official opposition, the Liberal party. Interventions in the opening round are seven minutes in length.

Ms. Barnes.

Hon. Sue Barnes (London West, Lib.): Thank you very much for coming today. This is the preliminary part, so I'll ask some basic questions here.

Has there ever been a conviction under subsection 11(1) of the act? This is your disclosure offence.

The Chair: I would remind committee that the witnesses cannot refer to individual cases. They'll have to be very careful.

Hon. Sue Barnes: I'm very aware of that.

The Chair: You're very aware of that? Good.

Hon. Sue Barnes: That's why I'm starting this section, Mr. Chair.

A/Commr Raf Souccar: The answer is no.

Hon. Sue Barnes: Okay. How many instances have there been, when there were no convictions, when any information was released? Have there been any incidents of releasing information?

A/Commr Raf Souccar: Are we talking about disclosures?

Hon. Sue Barnes: Yes, inadvertent or otherwise.

Chief Superintendent Derek R. Ogden (Director General, Drugs and Organized Crime, Federal and International Operations, Royal Canadian Mounted Police): We've had a number of cases in which the witnesses themselves did things to divulge that they were in the program. When that happens, what we'll often do is serve them a notice of breach, saying that they've breached the protective agreement. But we may keep them in the program, and what we'll do is go through the steps again to provide them with a new secure identity and move them again.

We have the number of voluntary breaches and involuntary breaches for the last three years, but as to specific numbers on how many times we've had incidents when there may have been an indication that a person was in the program, I can't give you an accurate number.

Hon. Sue Barnes: Can anybody else refresh their memories?

A/Commr Raf Souccar: I don't have any of the statistics with me, and I don't know that we would keep statistics of an inadvertent breach, especially if it's by a human source, by a protectee, when we would not possibly have—

Hon. Sue Barnes: I'm not talking about protectees. I'm talking about any other information that leaks out.

A/Commr Raf Souccar: Are you referring to inadvertent disclosure by police?

Hon. Sue Barnes: Yes. Is there any instance of that?

A/Commr Raf Souccar: I have no knowledge of that.

Hon. Sue Barnes: Excuse me, maybe somebody could refresh his memory. Mr. Bird.

Mr. David Bird (Counsel, RCMP Legal Services, Royal Canadian Mounted Police): Yes, I could say that there have been cases in which people have had their identities disclosed as a result of court proceedings.

Hon. Sue Barnes: I think that's correct. I would have thought that everybody should have been properly briefed here. Anyway, I won't go further into that. I'm glad it's on the record now. Thank you.

Now, let's talk a little bit about some of the reasons why people would not want to go into the witness protection program, because maybe a lot of the public wouldn't understand that. So let's get that on the record, too.

A/Commr Raf Souccar: The witness protection program is a very structured program, tightly framed, that requires individuals to, for example, relocate to areas that are possibly far away from where they've lived for most of their lives, far away from their friends and far away from their families, with a very clear understanding that they cannot go back to the initial location, because that's the location that's considered the threat area. Given that, there's a reluctance sometimes to enter the program, knowing that they cannot go back to an area where they've grown up or lived most of their lives.

Hon. Sue Barnes: Now again, very briefly, when you put a witness into the witness protection program—say they're married and have kids—are they also covered by the program? That's just for the record, please.

•(1120)

A/Commr Raf Souccar: Yes, absolutely. Anybody associated with the protectee whose life or safety may be in jeopardy as a result of the assistance rendered to us by the agent who ends up being a protectee would certainly be offered the opportunity to get into the witness protection program. Some refuse. Adults will refuse. Minors would go with the parents. Those who refuse, the adults who refuse, have to live with the decision. Those who accept move with the protectee.

Hon. Sue Barnes: You talked in your opening remarks about people who voluntarily leave the program once they're in. Say they have a spouse in the program. Does that spouse continue with the protection once the original person under protection decides to leave?

A/Commr Raf Souccar: That's correct. They would. So if one party decides to leave, the other party would continue with the protection.

Hon. Sue Barnes: I've not read anything about the protocol for how the expenses for this witness protection plan happen. Is there a protocol for funds released in this program?

A/Commr Raf Souccar: The funds that are released are released in various stages, if you will. There are funds as awards, if you will, for assisting in an investigation, and then there are funds associated with the protection itself. Some funds may be paid directly for certain activities. Other funds may be paid to the protectee in installments, over a period of time, for a number of different expenses associated with the relocation.

Hon. Sue Barnes: My question was about a protocol for how you disburse funds, whether it exists. There's no oversight outside the RCMP on this. Does the RCMP itself have a written protocol for how you deal with the funds inside the witness protection program?

A/Commr Raf Souccar: We would have policy in place, yes.

Hon. Sue Barnes: Who creates the policy?

A/Commr Raf Souccar: The RCMP creates the policy.

Hon. Sue Barnes: Is that policy the same everywhere across the country, or does it go case by case?

A/Commr Raf Souccar: No, there's a standard policy that applies to all witness protection coordinators.

Hon. Sue Barnes: Okay.

The annual report of 2005-06 said there were three complaints or instances of civil litigation related to the program, and that's the same as the previous year's, I understand. Are these the same three cases carried over, or are they different cases?

Perhaps Justice could answer.

A/Commr Raf Souccar: I don't think they're different, but I'll leave it to Mr. Bird.

Mr. David Bird: Unfortunately, I don't have specifics on those three cases, so I won't be able to advise this committee where those are at.

Hon. Sue Barnes: If you can't do that today, could you provide the information to the clerk with a written reply, hopefully not too long from now?

The Chair: Yes, you can provide that to the committee if it's possible.

Mr. David Bird: We'll do our best to get the information.

The Chair: We'll have to end it there.

Monsieur Ménard, for seven minutes, please.

[*Translation*]

Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ): Thank you for that excellent presentation, Commissioner Soucar. I see that the RCMP is very serious about this program which, at first glance, seems to be managed in a very professional, albeit very costly, manner.

Am I correct in assuming that this program targets very serious cases, that is when a person's testimony is needed in a case involving drug trafficking, organized crime or violent groups that are capable of retaliatory action? Important steps must be taken in such instances to protect these individuals and their familiars if they decide to cooperate with the court to secure convictions for members of major criminal organizations. The Witness Protection Program does not apply in the case of small street gangs.

A/Commr Raf Souccar: Generally speaking, that's true, because of the high cost of operating the program. It is used for fairly serious cases in which criminal or terrorist organizations are involved. The program may be used in less serious cases, but because of the costs, we try to limit it to serious cases.

•(1125)

Mr. Serge Ménard: However, the program was not designed to protect spouses who are afraid that their violent spouse might assault them or their children.

A/Commr Raf Souccar: Absolutely not.

Mr. Serge Ménard: In essence, that's why we are here. This private member's bill was proposed by a no doubt well-intentioned member who was concerned about problems associated with spousal violence and who would like to see a similar type of program in place for women who are afraid their husbands will assault them or, perhaps for the handful of husbands who are afraid that their wives will assault them, although that's a fairly rare occurrence.

A/Commr Raf Souccar: There is another program called NIVA which helps people in these situations.

[*English*]

It's called NIVA, and it looks after situations of spousal assaults. I don't know very much about it, but it's outside the Witness Protection Program Act.

[*Translation*]

Mr. Serge Ménard: You're saying then that the RCMP has a program in place to offer some measure of protection to women who are afraid of a violent spouse.

A/Commr Raf Souccar: This particular program is not managed by the RCMP or by a law enforcement agency. Unfortunately, I don't have any additional information about it for you.

Mr. Serge Ménard: It seemed fairly obvious to me—

[*English*]

A/Commr Raf Souccar: NIVA—*excusez-moi*—is new identities for victims of abuse.

[*Translation*]

Mr. Serge Ménard: I see.

[*English*]

A/Commr Raf Souccar: I'm advised it's Human Resources Development Canada that looks after it.

[*Translation*]

Mr. Serge Ménard: You said the following:

[...] they are clearly advised that their existing criminal history remains with them even if they have undergone an identity change. In other words, their criminal history will follow them to their new identity.

Obviously, this wouldn't apply to a woman who is afraid of being assaulted by her husband. Has the cost of protecting each witness under this program been evaluated?

A/Commr Raf Souccar: The cost of relocating a witness varies tremendously, depending on the number of family members and the property in their possession. Furthermore, if the witness owns a house, it must be sold. If he owns a company, the assets must be liquidated. The costs vary considerably.

Mr. Serge Ménard: Yes, I can well imagine they do.

Without asking you to disclose any secrets, how much does it cost on an annual basis to manage this program?

[English]

C/Supt Derek R. Ogden: We don't have a separate budget assigned for the relocation and moving of these people. We pay for these expenses as we incur them. We pay for them at the divisional level.

It should be pointed out that the witness protection program is not just for the RCMP, it's also for all law enforcement across Canada. Presently we have a little more than 700 people in the program who are managed by the RCMP and approximately a little more than 300 we received from outside agencies.

On the budget side and how much we spend per witness, we're not part of that decision-making process when it comes to cases referred perhaps from Montreal, from the Vancouver city police, or from the OPP. As for ours, we are involved in that decision-making, but it's hard to give an average cost per case because they vary so much.

In some cases when we bring in a very valuable witness on an organized crime case, it may appear to be very expensive when you look at the actual cost of the award and the relocation. But when we put that in the context of what the police force will actually spend to investigate that particular group, when you think about the number of nights, perhaps, that we're eliminating in surveillance on a group, or of all the background work you have to do, we find, with the right witness, that we can quite often infiltrate that group at a level that allows us to do maximum damage to that organization in the shortest period of time.

The annual report does indicate the expenditures, but we're going to revise that because the annual report does not include the actual cost of the RCMP officers—so their salary dollars. We're going to make some adjustments to the annual report so it's a little clearer as to what expenses are attached to moving these people.

● (1130)

The Chair: That will answer a lot of the questions.

We can come back to you, Monsieur Ménard.

Mr. Comartin, for seven minutes, please.

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

Thank you, gentlemen, for being here.

Mr. Chair, and to you, I think we need to straighten out what in fact can be discussed on individual cases. I'm sitting here with two sets of news stories in front of me: obviously the one that originally provoked the motion that got these hearings going; and the one from two or three years ago—the Hells Angel who subsequently committed, or at least allegedly committed, a murder while under the protection program. My understanding is that those news stories got out. The newspapers weren't charged; the reporters weren't charged.

So Mr. Bird and maybe Mr. Bartlett are the ones who should be answering. Where is the cut-off as to what you can tell us about individual cases without getting charged? And where is the barrier?

Mr. David Bird: Perhaps I can assist. I would direct your attention to section 11 of the Witness Protection Program Act, and the strict prohibition there is the disclosure, directly or indirectly, of

information about the location or a change of identity. Essentially, what can be disclosed is any information about a person charged in a court proceeding in one of those identities, but the problem is when they link the two together.

The other problem would be to identify them in the witness protection program and their current location, and that's prohibited information. Discussions about a person in their present identity or in their old identity is not a problem, it's when the two identities are linked in some fashion that problems arise.

Mr. Joe Comartin: My understanding in both these cases is that there were pictures taken as these two individuals were going into court, and that's how they were identified—the Hells Angels. I'm quite sure that's what happened, and he was so notorious that a number of people recognized him in the picture, so that did tie both his former identity and his protective identity since we knew who the person was who was going through the door of the courtroom at the time the picture was taken.

Is that not a breach, and why was the newspaper not charged?

Mr. David Bird: There's an issue of criminal intent in all these cases. The press would have to know that the person is in the witness protection program and that they are indirectly identifying him. The act is not that specific on the issue of photographs or drawings of a person, and that would have to be looked at as an indirect disclosure in some fashion, if they did so.

We caution the press to be mindful of section 11, and that they should govern themselves accordingly. In these cases, they are all looked at in some way to ensure that we aren't permitting and condoning violations of section 11, but so far we haven't been in a situation where we've clearly seen there's a reasonable prospect of a conviction for the press disclosing information. We have made attempts in court to limit the disclosure by invoking the Canada Evidence Act, and have had success in getting bans and publication orders for those kinds of disclosures.

● (1135)

Mr. Joe Comartin: In the B.C. case that prompted these committee hearings, are charges being contemplated against any of the people who disclosed information about that particular case?

A/Commr Raf Souccar: Are we talking about the newspaper disclosures?

Mr. Joe Comartin: The lawyer, the newspaper reporters, and the newspapers themselves.

A/Commr Raf Souccar: That I'm aware of?

Mr. Joe Comartin: Is there an investigation going on in that regard?

A/Commr Raf Souccar: No.

C/Supt Derek R. Ogden: With respect to that question, we can't give a definite answer because it's still under review. I can't say that it will be a case where people are not charged.

Mr. Joe Comartin: The RCMP took the opportunity, using Mr. Bird's terminology, to warn the lawyer who had acted for the victim of that particular person in the first round before he went into witness protection. I'm concerned about that person coming forward to testify here if he is subject to that investigation.

C/Supt Derek R. Ogden: That particular lawyer would be treated like everybody else, including us. The guidelines from the act are quite clear in that we can't have a situation where an old identity is linked to a new identity of a person who is in the witness protection program, so everybody would have to be mindful of what the act says and the way it's written.

Mr. Joe Comartin: That includes members of this committee and the minister, from what I can see, that the assistant commissioner passed back to the minister.

C/Supt Derek R. Ogden: That's my understanding, yes.

Mr. Joe Comartin: Has the RCMP conducted any review of this legislation, of the way we handle it in Canada versus the way it's handled in the United States?

C/Supt Derek R. Ogden: We haven't conducted a formal review, but we do participate with a number of other countries that have witness protection acts. There have been a number of discussions internally as to other ways we may be able to improve the process.

Mr. Joe Comartin: Do you have any report on that, or recommendations?

C/Supt Derek R. Ogden: We presented a proposal that was really just a draft proposal, but the general theme behind the draft proposal was that there is only one witness protection program under the witness protection act, and that's the one administered through the commissioner and the assistant commissioner. But there are other provinces that have their own witness protection program, such as Quebec and Ontario. The City of Montreal has its own. Vancouver has a partial program, where they're integrated with the British Columbia office that we have, and Manitoba has a program.

One thing you have to recognize with many of these different programs operating is that the standards aren't consistent across the board, so the training for the person who does the—

Mr. Joe Comartin: I need to break in because I'm on limited time here. My question was, is there a report on any changes that should be made in the law, or any recommendations as to whether this law, the federal law, should be changed?

The Chair: That will be your last question. I'm sorry.

C/Supt Derek R. Ogden: The report dealt more with how an integrated national witness protection program could be structured.

The Chair: Thank you.

Now, moving over to the government side, Mr. Norlock.

Mr. Rick Norlock (Northumberland—Quinte West, CPC): To follow up on Mr. Comartin's question, where did the report go? To whom did it go, and what would be the fallout from it? What decision-making processes—?

A/Commr Raf Souccar: This report was completed with options as to how to improve the program, and it was distributed among provincial representatives, because what Derek was saying is that there is really one legislated program in the country, and that's the witness protection act. The other programs that he referred to, which are in various provinces, are not legislated.

The differences in the programs sometimes cause some difficulties, so it was a suggestion about creating a national program, if you will, so that everybody would be able to work in partnership. All the

different provinces, non-RCMP partners, would be able to work in partnership under one program.

• (1140)

Mr. Rick Norlock: Would that program be overseen by the RCMP, or would it be a collective oversight process?

A/Commr Raf Souccar: There would be integrated units, if we were across the country, that would incorporate members of the different agencies taking part in it, including in Ottawa, the headquarters, where the requests for admissions and terminations would come. It would also be an integrated unit, but ultimately it would be overseen by the RCMP in terms of admissions and terminations. All the advice going up would be formulated by integrated units.

Mr. Rick Norlock: Thank you.

I'd like to do some sort of bean counting, if you don't mind my using that terminology. I have been in a similar organization to yours, and bean counting was often referred to as the costs, and that is going toward some of Ms. Barnes' questioning.

One of the requirements of persons in our job, and I would suggest in your job, is to ensure that we get the best value for our dollar. Of course safety comes first. We never want to jeopardize the safety of the program or the individuals, but we need to know how much they cost to be able to make determinations of that, once again, value for dollars.

I see that in the 2005-06 program in the annual report there was a decrease to \$1.9 million from \$2.5 million, but I think it was Mr. Ogden who said that not included in those were the actual costs of the officers' time. Sometimes it is very difficult to put a dollar value, but having knowledge of some of the systems, being able to track those dollars, to be able to look at those costs to see if we are indeed getting value for money would be of great help not only to parliamentarians but to Canadians in general.

Perhaps I missed it, but is there a time when we could expect that to occur?

A/Commr Raf Souccar: I don't think it would be a very difficult thing to do, to tie all costs, including salary dollars, to the extent that we have individuals who are specifically tasked with witness protection duties. That's all they do. If we were to take their yearly salary dollars, we may not be able to tie that to specific cases, but we would certainly be able to tell you, with the number of witness protection coordinators we have across Canada and the number of coordinators in Ottawa, what are the total salary dollars as well as award payments, or relocation payments, subsistence payments, training payments, and so on.

Mr. Rick Norlock: That's where I was going. I don't think it's fair to the individual case, but you know you have x number of cases a year, and this is what the program costs, so this is the average cost. We know in some cases it will be extremely difficult—or extremely expensive, in some people's cases—to do it.

I have a couple of other quick questions.

I know we cooperate—and you've indicated that—with other nations in witness protection. Would we indeed share responsibilities vis-à-vis the person who needs to get out of a country in order to get that change of identity? Do we participate in that in a cooperative way with other nations?

A/Commr Raf Souccar: Absolutely, we do—not very often, but we do. There are reciprocal agreements entered into, minister to minister, and it's on a complete cost recovery basis. If we are assisting another country, all our costs associated with looking after their witness relocations—any expenses incurred, our travel over to the foreign country to evaluate the witness as to whether or not he or she could live within the Witness Protection Program Act, the section 7 criteria—would be paid by the foreign country wishing to relocate a witness to Canada.

Mr. Rick Norlock: Thank you.

Do I have any more time?

The Chair: You have about a minute and a half.

Mr. Rick Norlock: Okay, then I have just a couple of quick questions.

Suppose someone is involved in an investigation. The investigating officer realizes this person is a relatively important part of the case. Is it normal procedure for us to offer the person this protection, or does the person request it? Do we often turn people down because we don't think it's appropriate? What are the mechanics here?

• (1145)

A/Commr Raf Souccar: That's when it's important to understand the difference between informant and agent, which I referred to during my opening comment. An informant is a human source who supplies information to the police. The person simply provides information. We accept that information—thank you very much—and we act on it.

As soon as we begin to direct a human source to do certain things on our behalf, such as to go and buy drugs from a target—to go and do any number of activities that we may direct a human source to do—that human source becomes an agent, because now he or she is acting under our direction.

Agents—we end up owning them, to the extent that they have to testify in court. They become compellable, and as soon as that happens, before we move from that informant to that agent status, we have to do a proper assessment to determine whether we can afford to own that person. When I say “owning that person”, I am referring to what I said when Mr. Ménard asked me what it costs. I told him the costs vary quite a bit, based on the assets that the person may have, the number of people in the person's family, what it would cost to relocate that individual, and how much that individual owes in debts, because those debts have to be paid off before the individual is admitted into the program—things of this nature. We have to do a complete evaluation as to whether we can end up owning up that person to the extent of admitting her or him into the program and looking after her or his expenses. The assessment by the witness protection coordinators determines whether we can do so.

There's a sliding scale, of course, and the sliding scale is the importance of the criminal organization we're going after, so we may be able to extend ourselves a little more. Based on that assessment, a

decision is made that we can admit that person. The witness is met. The witness protection program is very clearly explained to the person. We look at the individual to determine whether or not that individual can live within this very tightly framed witness protection program. It requires, first of all, a certain amount of discipline, because witnesses have to sever ties. They have to sever ties with where they came from.

We look at all these factors, all the section 7 factors. We determine the harm to the community. There are about seven or eight factors, including risk and security of the witness, danger to the community, nature of the inquiry, nature of the investigation, value of the information or evidence, likelihood of the witness being able to adjust to the program, costs of maintaining the witness in the program, alternate methods—meaning whether there's a way to deal with that person without having to put her or him into the witness protection program—and any other factors that become relevant.

Once that is done, a determination is made. It is explained to the witness, who signs a protective agreement that sets out very clearly that the witness is not going to be living in any bubble. He or she will be subject to all the laws of the country. Then a relocation is made.

The Chair: Thank you. Your time is up.

That completes the first round. Before we go to Ms. Barnes, I would like to ask you, for the purposes of research and for the information of this committee in case we write a report, whether you could provide us with copies of court decisions in which bans were obtained under the Canada Evidence Act. Can you supply us with that type of information? It may be helpful as we're doing research here. It was referred to in a previous—

Mr. David Bird: We'll do our best, at the same time as we give you information on the three cases you asked about.

The Chair: We're down to the next round.

Ms. Barnes.

Hon. Sue Barnes: I think we have lots of questions on this side, so we may have to have these witnesses back. I'll tell you that now.

First of all, in my last round of questioning you talked about having a policy regarding how the funds...and quite frankly, I'm not as concerned personally about the expenses of the RCMP involved, that you're talking about in a revamped 2006-07 report. That does not concern me as much as how the funds go to the individuals. You've said you have a policy. Is this a written policy?

A/Commr Raf Souccar: Yes.

Hon. Sue Barnes: Can this policy be forwarded to the clerk of the committee?

A/Commr Raf Souccar: Yes. I've no problem with that.

Hon. Sue Barnes: Thank you very much.

So everybody who is involved in this program throughout the RCMP would be aware of this policy and would have to follow it through?

A/Commr Raf Souccar: That's correct.

Hon. Sue Barnes: I've seen the 2005-06 witness protection program annual report.

Mr. Ogden, you said the next one is coming this spring or is being prepared now.

• (1150)

C/Supt Derek R. Ogden: The next one should be available, I believe, by the fall of this year. I asked about that, and I think that's generally the timetable.

Hon. Sue Barnes: You said you were going to change some more information and separate the financial information about costs, but are there any other anticipated format changes?

C/Supt Derek R. Ogden: We're going to make a few changes, because it's not clear when you read the report, if you don't work in that field every day, what we mean by the persons from the other agencies and which ones we protect. I know that when I started the job, there were a number of different columns, and I had to continue to go back and ask what things meant, so I assume that if I have questions then other people will too. So we're going to try to make it just a little bit clearer.

Hon. Sue Barnes: Thank you very much.

Year by year, the funding has gone up and down for this, and quite substantially in some years. Generally, do you want to give an explanation of why that would occur?

C/Supt Derek R. Ogden: The funding would change depending on what the requirements were around the witnesses we move. We may move witnesses who have had training and certificates in one certain area, and then once we move them and they assume their new identity, all that's lost, so we have to completely retrain them. They're starting from square one. They're starting a brand new life. So in some cases we may make agreements and say, okay, we'll agree to do this much training with you; we'll agree to make sure you're in a household that is similar to the one we took you out of, so that may be the type of house we buy for them, and the type of vehicle they drove before may be similar to the one they drive in the future, that type of thing.

A/Commr Raf Souccar: There is the matter as well, of course, of the number of people who are admitted in and the number of people in their family and friends or family who would need relocation as well.

Hon. Sue Barnes: Are there any arrangements made with international criminal courts? You've talked about other countries. I'd like to have an idea of how many other countries, and whether we have some arrangements with international criminal courts or other organizations of that nature.

A/Commr Raf Souccar: We've had agreements with international criminal courts as well as countries.

Hon. Sue Barnes: In other jurisdictions, there is some disclosure at some point in time by the agency itself with respect to their witness protection. Could you explain that, for example, in the United States in some of their programs, Mr. Bird?

Mr. David Bird: I'm afraid I really don't really quite follow the question. You're asking—

Hon. Sue Barnes: I'm talking about when there's a decision made to disclose information because of some activity of the individual inside the witness protection program.

C/Supt Derek R. Ogden: I understand that's the case, but I don't have first-hand knowledge to say that in some areas this is what their policy is. But I do agree that is the case in some areas.

Hon. Sue Barnes: Okay. Maybe I'll try our Justice policy person, our senior legal counsel. Mr. Bartlett, I know you have much experience and—

Mr. William Bartlett (Senior Counsel, Criminal Law Policy Section, Department of Justice Canada): My understanding is that it occurs, yes, but I don't think there's a clear policy on it.

When I spoke to experts in the United States who were involved in this, they indicated that generally they have a lot of flexibility. In fact, they find that the Canadian program is much more structured in terms of legislation and policy. They've indicated to me that they have a great deal more flexibility in how they operate.

So I believe it does occur, but I can't tell you that there is any particular policy in regard to this or what that policy might be. My indication is that they don't generally operate pursuant to that kind of firm policy; rather, they have a great deal of flexibility.

The Chair: These are five-minute rounds. Your time is up.

Hon. Sue Barnes: Okay, I'll take another five-minute round in a couple of minutes, then.

The Chair: Ms. Mourani.

[*Translation*]

Mrs. Maria Mourani (Ahuntsic, BQ): Thank you for your presentations.

My question concerns the costs. You can't seem to give us an exact number, since costs vary depending on the person entering the program. However, can you tell me what the total program costs were for 2005? Can you disclose the costs for past years?

• (1155)

Comm. adj. Raf Souccar: In 2006-2006, program costs totalled approximately \$1.9 million. That was down slightly from the previous year, that is from 2004-2005, where costs totalled around \$2.5 million.

Mrs. Maria Mourani: If we average out the cost for 2005 and for previous years, we always arrive at a figure of approximately \$2 million or thereabouts. Do you have the figures for the five previous years?

A/Commr Raf Souccar: I have with me today the numbers for 2005-2006 and 2004-2005.

Mrs. Maria Mourani: I'd like to understand how the program works. How do you go about determining that a witness is under RCMP jurisdiction and not under the jurisdiction of another police force? I'm not sure what happens in the case of the Service de police de la ville de Montréal or with the SQ.

In Quebec, for instance, do witnesses tend to come more often under the jurisdiction of the SQ, the Montreal police or other police forces in addition to the RCMP? How do you decide whether or not the witness is under the RCMP's jurisdiction?

A/Commr Raf Souccar: It depends on the investigation. Any law enforcement body can have jurisdiction. Investigations into organized crime are generally assigned to larger law enforcement agencies, such as the Toronto police force, the Ontario Provincial Police, the Vancouver Police, the Montreal Police, the Sûreté du Québec, and so forth. It all depends on the police force in charge of the investigation, on the human resources working on the investigation and on the individuals scheduled to testify.

If the witness is under the jurisdiction of a police force other than the RCMP, the police force must contact us for assistance in getting a person into the Witness Protection Program. A police force requires our help because the RCMP manages the Program. Under our program, witnesses obtain a federal identity, a passport, a social security number, and so forth.

Mrs. Maria Mourani: Financially speaking, do you pay for the witnesses, or are the costs covered by the police force?

A/Commr Raf Souccar: The police force covers the costs. All we do is provide a service.

Mrs. Maria Mourani: You're saying then that all you do is provide the witness with a new federal identity.

A/Commr Raf Souccar: We provide them with a new federal identity. That's all.

Mrs. Maria Mourani: I see.

Earlier, you testified that you would like to see a national program in place, a program managed by the RCMP, where provincial police forces would be branch offices of sorts. That is in fact what you said, is it not?

A/Commr Raf Souccar: We're not exactly asking for a new program. Our current Witness Protection Program works very well for the RCMP.

[*English*]

We have no difficulty with the program as it works for the RCMP. The difficulty exists with some other police forces—not all. Some have absolutely no difficulty with the way the Witness Protection Program Act operates and with having to go through us to obtain documentation.

The legal opinion we've received is that obtaining documentation—a new identity, federal documents—for a witness is in and of itself admission to the program. If a police force other than the RCMP has an individual who has helped them in a case and they would like to relocate that person and therefore would require new identity for that individual, of course, in addition to a provincial driver's licence and so on, they require a passport, social insurance card, and the federal documents. So they have to come through us. For them to come through us and be given the right documentation, we have to accept them into the program. In order to accept them into the program, we have to look at the case itself and determine whether or not that individual is suitable for the witness protection program under the criteria in section 7.

• (1200)

The Chair: I'm sorry, we're going to have to come back to you maybe later.

We have to now go over to the government side. Mr. Brown, you have five minutes, please.

Mr. Gord Brown (Leeds—Grenville, CPC): Thank you very much, Mr. Chairman, and thank you to our witnesses for coming.

The brief said: “Witnesses entering the Witness Protection Program are deemed to be in the Program for life. They are encouraged to become self-sufficient and to integrate themselves into society as soon as possible.”

What happens when they don't become self-sufficient and don't integrate themselves? Can they be in the program for life?

A/Commr Raf Souccar: If they don't integrate themselves into their community, into their society, and if they can't get along in the witness protection program, there is one option; that is leaving the program. They can leave the program either in a voluntary termination or in a termination that I would impose. Of course, they'd have an opportunity to respond to this termination if I'm the one who imposes it.

We help them as much as we can in terms of training for jobs, in terms of psychological counselling, and so on. We have an individual who is available to them 24/7 to allow them to try to integrate themselves into this new life.

Mr. Gord Brown: Do most people actually leave the program because they've become self-sufficient and integrated into their new community? Is that the usual—?

A/Commr Raf Souccar: If they integrate themselves and everything's fine, they remain in the program. They come out of the program if they decide that they miss the place from where they came, miss their friends, and want to go back, and now are going back to the risk area, the threat area. That's a no-go zone.

Mr. Gord Brown: Okay. Well, I'm going to guess that the overwhelming majority of the people in the program were once informants, which to me suggests a whole range of challenges and issues, quite apart from the whole relocation and their new identities. Can you comment on that?

Could I also ask whether any of our witnesses today have personally been the handler of an informant, or the prosecutor in a case involving an informant?

A/Commr Raf Souccar: I'll answer for myself. Yes, I've handled several informants and several agents. As a handler, I've worked with them in an undercover capacity. I have dealt with relocated witnesses.

You're right, they're not individuals of good character. If they were, they would likely not be any good to us. They're individuals who have immersed themselves, over a lifetime sometimes, with a criminal element. That's where they become useful to us, because when we try to infiltrate a criminal organization, sometimes members of that criminal organization will not trust anybody they haven't known since childhood. Telephone intercepts are not always beneficial, because they guard themselves very much on the phone. Surveillance is sometimes not very effective, because they're very surveillance conscious. They don't trust anybody; they only talk to their circle.

Using these people sometimes becomes a necessary evil, and I say "evil" to the extent that we're having to deal with people who have a criminal past.

Mr. Gord Brown: Maybe some of our other witnesses want to comment on that.

C/Supt Derek R. Ogden: In terms of experience, I've worked for about 20 years in British Columbia. I've worked on a number of drug units around the province, in a couple of different major crime sections, and I have used informants extensively.

The information you receive from them is very valuable. When you start to work with an informant, it's sort of a step-by-step process. So you may get a bit of information, you may be able to corroborate that information, and you may get a bit more. You may end up having a seizure. Usually you can weed out the ones who are less reliable than the others.

Mr. Gord Brown: Okay.

Mr. William Bartlett: I've never been involved in police duties or prosecutions.

Mr. David Bird: That goes for me as well.

Mr. Gord Brown: Okay, so it's not likely that the people going into the program include the local pastor. They probably have some unsavoury characteristics. I guess that has to be recognized.

C/Supt Derek R. Ogden: There is one point we should make, so we're clear. Not all of the people who become our agents have a long history of being informants. There may be times when they find themselves in circumstances and come forward to say, now's the right time. Then they come in, especially if they're in criminal organizations where it's usually a fairly stressful lifestyle, because they never know what's going to happen. At some point they reach out and say, this may be my one chance to start a new lifestyle. They'll come in and have a lot of information for us.

•(1205)

Mr. Gord Brown: I really find this quite fascinating. I have a lot more questions, but I think I'm out of time.

The Chair: If you have a brief question, go ahead.

Mr. Gord Brown: No, I have a lot more. All right, thank you.

The Chair: Thank you.

We're going to the third round now.

Ms. Barnes.

Hon. Sue Barnes: Thank you.

I should put on the record that I'm very supportive of having a witness protection plan. I think it's essential for public safety in this country. I want one that's well run, that we're not hearing complaints about, that's doing the right thing for the right people, and that's respected by the general public. These are what the goals here are.

There are a couple of lines of questioning, and I believe we're going to need more time with you and maybe with some others at some point.

I'm going to go to your 2005-06 annual report. There we play out for Mr. Brown that the number of Canadian witnesses who requested termination increased in that time period to 21, from 16 in the

previous year. Was it family groupings, or was this just 21 individuals from different cases? Was it because they all just missed home? I don't think this is sufficient; there must be more reasons than that.

A/Commr Raf Souccar: We don't have the exact nature. I think Derek may have a little more detail.

I'll preface this by saying that sometimes the number of spikes in one year is simply a carry-forward from the previous year. So you have terminations. As I said, we have to give notice of termination and allow the individual who has given the notice to make representation. Sometimes it carries over several weeks or several months. Then one year may end up with a spike as a result of carry-overs.

Derek has some details on the nature of this.

C/Supt Derek R. Ogden: It can be for a number of different reasons. The exact details I don't have here, but I have enough to give you a pretty good idea.

We had 19 voluntary withdrawals from the program in a three-year period, from April 2004 to April 2007. Out of that, we had three who returned to the area of threat. So they made the conscious decision to voluntarily withdraw from the program and go back. We had one who thought it was too strict for family visits. One agreement was breached for association with gang members. One witness didn't want to comply with the terms of the protection agreement any longer. We had one who was charged with theft under \$5,000. We had cases where people were using drugs, and they didn't want to stop, so they withdrew from the program.

Hon. Sue Barnes: Okay, maybe I will go to the involuntary terminations, because again you talked about having to give notice. What is the protocol when the witness protection program basically decides to oust somebody?

You said that it's non-compliance with the conditions of the original agreement. But I'd like to know whether there's a protocol, whether there's a procedure. What type of appeal is there, if any, or is it just to say, here's notice and goodbye?

C/Supt Derek R. Ogden: There is a procedure that is taught. We have a witness protection coordinator course that is two weeks long. Through scenarios, it covers that very type of instance.

But when a person does something outside of that protection agreement, they are served with a written notice that's standardized across the country. It's a breach form, and it outlines the exact reasons why you have breached your protection agreement.

If it's a serious breach, we may at that point refer it to be terminated at that time. It may be that you have breached your protection agreement because you've committed a criminal offence. At that point we do the paper work. There is a form designed for all the workers in this area across the country. It outlines in detail exactly what that serious breach was, why they are being terminated, what our obligations are, and how to contact us if they're not in agreement with the reasons for termination. It gives them a period of time to get legal counsel and come back to the witness protection coordinator to say, "I don't agree with your reasons for termination."

• (1210)

A/Commr Raf Souccar: They're provided with 20 days from the point they're notified of termination. So they are given a notice of breach, and when the decision is made to recommend to me that the person be terminated, if I agree to terminate, the individual is given a notice of termination. It's explained to them why they are being terminated, and they have 20 days to make representation.

Hon. Sue Barnes: How long is it before they're out of the program?

A/Commr Raf Souccar: They have 20 days to make their presentation, and if they don't—

David wants to jump in.

Mr. David Bird: They have 20 days to notify the coordinator that they wish to make a representation and contest the notice. Then they can ask for an extension for a reasonable time to make the representation they wish to make.

Hon. Sue Barnes: Okay.

I'll have more questions. It's really an inefficient way right now of getting to the—

The Chair: Mr. MacKenzie is next, for five minutes.

Mr. Dave MacKenzie (Oxford, CPC): Thank you, Chair.

I'd like to thank the members who are here before us today.

There was some talk from Mr. Ménard a few minutes earlier about domestic violence, and certainly that's a concern for you people, as it is for us. The program under Human Resources Canada that provided new identities for victims wasn't particularly well known in the police community or in the public. But I know that has changed. A private member's bill was brought forward that would have put that under the umbrella of this program. But I believe the new program out there, with some changes, will satisfy most of those concerns.

I'm concerned about two or three things. One is that there seems to be the perception out there in the public, perhaps as a result of some of these press articles, that people under protection are not charged with criminal offences—that it gives them a free pass. Can you explain, so that Canadians understand, what happens when somebody who is under protection commits a criminal offence—the investigation that would lead to charges?

A/Commr Raf Souccar: Absolutely. I think this is a very important point, because this is exactly the perception that seems to have been in the media over the last little while.

As I said, the filtering process starts at the outset, before we even use the person as an agent—I've explained that assessment—and continues into admission into the program. It is very clearly explained in the protective agreement and the letters of acknowledgement between us and the human source as to abstaining from any criminal activity, abstaining from drugs, abstaining from any activity that would make him unsuitable and put him outside of the section 7 criteria of the Witness Protection Program Act.

Once they're in the witness protection program, any criminal history they had prior to getting into the program follows them. If they had convictions of drugs, assaults, robberies, whatever it may be, it follows them to the new identity. The other thing is that any time they come into contact with the police we are notified. As soon as a police officer checks them, our witness protection coordinator's office will ring and we are able to go on the system to see that they've been checked by police. We can then inquire as to why and we'll know if they're under a charge.

This perception that there is a bubble within which a person in the witness protection program lives is completely false. They're not in any kind of bubble that allows them immunity from committing crimes. They are subject to all the laws of the country, as anybody else is. Their criminal record follows them. If they commit a crime, they will leave evidence behind. Their fingerprints don't change. Their DNA doesn't change. They will be investigated, and they will be prosecuted. They will go to jail, just like anybody else does. The fact that they're in the program does not allow them to hide. That's the perception that seems to be out there.

• (1215)

Mr. Dave MacKenzie: I don't think there would be any disagreement around the table about what Ms. Barnes said, that the program itself is one we want to see and that we believe Canadians want to see. Her comment with respect to complaints I think is very valid.

If I understood correctly, you said there are about 700 people in the program right now.

C/Supt Derek R. Ogden: We have a little more than 700 people in the program who we are actively managing. Then we have a little more than 300 people for whom police agencies have asked for secure documents, we've provided those secure documents, and that agency looks after the moving and monitoring of the person.

Mr. Dave MacKenzie: I think we would agree that's a fairly significant number. Last year's report indicated there were three complaints or civil actions. Is that with respect to that body of people?

C/Supt Derek R. Ogden: That's correct.

Mr. Dave MacKenzie: That would not seem, to me, to be an unrealistic number. If it's possible, could you tell us the context of the complaints? Are they minor complaints that can be resolved? Is there a process? If that's a consistent number, then I think there's some comfort for Canadians. That is not a large number of complaints.

A/Commr Raf Souccar: Keep in mind as well that these are not easy individuals to work with. They're not individuals who come from a very disciplined background. They will complain for any number of reasons. They will complain because they think they're owed more money or they want more money, or because they want more concessions. We'll serve them a notice of breach that they won't be happy with. They'll complain because we say they're no longer suitable to be in the program because they're continuing to use drugs. They will retaliate sometimes by complaining. Some of the legal actions I suppose are founded; some are not. But I think it's something to keep in mind. The agreement is very clear at the outset, but they're not easy people to deal with.

Mr. Dave MacKenzie: Another thing is that you indicated that we do reciprocals with other countries. I'm assuming—and tell me if I'm wrong—that it could be Great Britain, the United States, France, whoever, and that it's fair to say that when we do reciprocals with any of those countries, those people who come in here operate under our program, and when our people go to another country they operate under those programs.

A/Commr Raf Souccar: That is correct.

Mr. Dave MacKenzie: And it's not tremendously different from country to country? Is it easy to operate the program? Is it operable between countries in the sense that protection is offered to Canadians if they end up in another country and/or if another country's citizens end up here, we offer them the protection?

A/Commr Raf Souccar: Typically we'll enter into such agreements with countries where there is some similarity in the programs, but everything is explained at the outset to the agency with which we're interacting as well as the witness, the potential individual or family entering the witness protection program.

C/Supt Derek R. Ogden: I just want to say that within Canada it would be very rare that we would look to relocate somebody. We obviously have a large country and we have lots of options.

The Chair: We'll go to our last round now.

Ms. Barnes.

Hon. Sue Barnes: Thank you very much.

You've talked a number of times about the protection agreement. I would imagine there are some boilerplate clauses—

Mr. Comartin?

Mr. Joe Comartin: Mr. Chair, you missed both Mr. Ménard and me on the second round.

The Chair: You can have another turn, but you didn't get missed. She's on because I'm following the schedule here. The NDP don't get another turn until everybody has had a turn, and Ms. Barnes continues to use the turn for her party.

• (1220)

Mr. Joe Comartin: It's not Ms. Barnes we're hearing from; it's the Liberal Party we're hearing from at this point. Actually, she's probably better than the Liberal Party, Mr. Chair.

The Chair: Okay, go ahead.

Hon. Sue Barnes: On that note, I'll cede my colleague some time.

The Chair: Ms. Barnes.

Hon. Sue Barnes: I still have questions.

The Chair: Go ahead. It is your turn.

Hon. Sue Barnes: In regard to the protection agreements, can you send some of those boilerplates to the clerk so they're available to all of us?

A/Commr Raf Souccar: I'll have to look at them. We just want to make sure they're not violating any portions of the act. By all means, if there are no violations of the law, you will have them.

Hon. Sue Barnes: I'll make that very clear. I do not ask you to violate any questions here.

A/Commr Raf Souccar: To that extent, yes.

Hon. Sue Barnes: Okay, thank you.

Mr. Bartlett, this is about the federal-provincial ministers of justice meeting. This act is relatively new. Is it on a future agenda? Are there current, ongoing negotiations? We've heard about some of these municipal-provincial, without statutory—Is there anything in the hopper that you've heard of coming from any of the other jurisdictions where they want this act discussed?

Mr. William Bartlett: I'm not aware of its being on a prospective agenda for a minister's meeting or of any desire from other jurisdictions to have it put on.

Hon. Sue Barnes: What about in our own jurisdiction? What about the federal? Are we planning on it?

Mr. William Bartlett: Not to my knowledge. The concerns that have arisen lately may well lead to that occurring, although usually before it makes it onto a minister's agenda there's discussion at the officials level. Now, there have been some discussions that I've been party to, but not that would lead me to suspect that it's likely to appear on a minister's agenda.

But as for the minister's agenda for this fall—the meeting's in November, it's some time away—I'm not aware of any draft agenda at this point, and there's lots of time for somebody to raise it.

Hon. Sue Barnes: Thank you very much.

In the interest of helping out my colleagues, I'm going to let them continue.

The Chair: Mr. Ménard.

[Translation]

Mr. Serge Ménard: I'd like Mr. Comartin to have my time, because I prepared myself for the wrong bill.

[English]

The Chair: Mr. Comartin, it is your lucky day.

Mr. Joe Comartin: Thank you, Mr. Chair.

[Translation]

I'd like to thank Mr. Ménard for his generosity.

[English]

From media reports, there was an indication that Minister Day had asked for a briefing. Assistant Commissioner Souccar, you indicated in response to that publicly that there was a limited amount that you could provide him. Has the briefing been given to the minister? You don't have to tell me what was in it, just whether it occurred.

A/Commr Raf Souccar: I did not provide a briefing to Minister Day.

Mr. Joe Comartin: Has anybody from the RCMP provided a briefing to Minister Day?

C/Supt Derek R. Ogden: I believe there is a briefing note, but I'm not sure whether it was a briefing note to the commissioner or a briefing note that went over to the minister's office.

A/Commr Raf Souccar: I don't remember it being to the minister. When the matter hits the newspapers, of course, we try to brief up, not necessarily to the minister. They'll brief up to me, or—

Mr. Joe Comartin: We're short on time, Assistant Commissioner. On this particular one, do you know if Minister Day received a briefing?

A/Commr Raf Souccar: I don't believe so. I can undertake to verify and get back to you on that matter.

Mr. Joe Comartin: And would you advise us whether that briefing would be public, made public to this committee?

A/Commr Raf Souccar: I'll certainly do that.

Mr. Joe Comartin: Okay.

You also are quoted in the media, Assistant Commissioner, indicating that there would be some type of internal probe within the RCMP. Is that correct, and has it been conducted?

A/Commr Raf Souccar: Let me first explain that I have never—

Mr. Joe Comartin: Just for the record here, we're both referring, in the last two exchanges, to the B.C. case.

A/Commr Raf Souccar: Yes, I understood that.

I'll first explain that I never ordered a review, which is what was reported in the media. In fact, they called it a probe. I did not. What I asked, when I read what I read in the paper, was that I wanted to be briefed on it.

In order to be briefed on it...the case is a fairly old one, and many of the investigators had retired and some had been transferred. So when I talked to the criminal operations officer, he said, "Let me look into it." He looked into it, and he said he would have it reviewed. So it's a little different from ordering a review. I wanted him to review it in order to be able to brief me.

So that's what's going on, and in fact, knowing your interest in that case, we communicated with the clerk of this committee, I believe it was, asking whether or not you wanted to hear about that particular case. We were told no, it was general.

If you do, we have somebody available who's more than willing to come and speak to you about that particular investigation.

●(1225)

Mr. Joe Comartin: That decision will have to wait, I think, until a bit later into the process, depending on what else has gone on.

Did you receive a briefing note of some type yourself?

A/Commr Raf Souccar: I received bits and pieces. The review, as far as I know, is not complete. Again, there was a difficulty with people having retired, having transferred, and so on, so they're trying to reconstruct the file—it's an old file—to be able to brief me on it.

If the committee decides, we'll have somebody here who is able to do that, and prior to that they will certainly brief me.

Mr. Joe Comartin: Perhaps Mr. Bird may have to answer this one.

In terms of that briefing on the specific case, it will obviously not breach section 11 of the act. The detailed information you give us will be limited so that it will not breach section 11.

Mr. David Bird: I expect that would have to be the case.

Mr. Joe Comartin: And will that be reviewed by legal counsel before that person is available to us?

A/Commr Raf Souccar: We would certainly have that discussion, absolutely.

Mr. Joe Comartin: Is there any other investigation of any kind, other than these committee hearings, going on with regard to the B. C. case or the biker case in Quebec of a few years?

A/Commr Raf Souccar: I'm sorry, I don't follow your question.

Mr. Joe Comartin: Mr. Day has asked for a briefing note. You've asked for a briefing of some type. This committee is conducting some hearings. Is anybody else looking into the B.C. case, of an overview or review type of nature?

A/Commr Raf Souccar: Not to my knowledge. It's an RCMP case, so the only people who would be asking for a briefing would be the RCMP.

A voice: [Inaudible—Editor]

A/Commr Raf Souccar: Good point, public complaints. But to my knowledge, there is no inquiry by the Public Complaints Commission.

Mr. Joe Comartin: In terms of that particular case, the notoriety it generated, would you see any detail of that being reported in your annual report?

C/Supt Derek R. Ogden: Not under the current format. We don't highlight any cases.

The Chair: Thank you.

Mr. Norlock.

Mr. Rick Norlock: I'd like to follow up on some of Mr. Comartin's questions, just to get a few things clear.

Apparently this is a huge case. It's not that national—I don't hear a lot about it where I am—but apparently, out of the 700 cases, we have a case in which a reporter has made some accusations or some innuendo, or not so much innuendo but some accusations. You've responded quite openly, and you were prepared, actually, to come here with some answers, to the extent that you can without contravening the actual law or the actual statute.

If I understood you correctly, if that's the desire of this committee or any individual on this committee, you're prepared to do that.

A/Commr Raf Souccar: Absolutely.

Mr. Rick Norlock: You're prepared to get it all out on the table, make sure there are no hidden, bad RCMP people out there doing bad things to people.

It's so easy these days, it seems, out of 700 cases, to pick one off and fire a couple of shots across the bow, and all of a sudden it becomes a huge issue. If there's something there, we need to hear about it, and you say you're prepared to tell us if that's the case.

A/Commr Raf Souccar: That's correct.

The Chair: Are you sharing your time, Mr. MacKenzie?

Mr. Dave MacKenzie: I'd just like to follow up.

Mr. Comartin has frequently mentioned the issue with the press. I think I heard comments that there are inaccuracies in the press report. I don't know whether this is a fair question, but is it fair to say that there's been some licence taken in the writing of the report, as to what was said or not said? If that is the case and if there are questions about it, I think perhaps what Mr. Norlock is saying is that the right way to deal with it here is to get the basis of where that report came from, the factual side.

•(1230)

A/Commr Raf Souccar: To the extent that the case itself is concerned, the individuals conducting the review of the case right now would be here to answer all your questions.

The inaccuracies in what's appeared in the media are to the extent of trying to paint a picture that the witness protection program provides an environment for individuals to commit crimes and go undetected. The only thing the witness protection program allows a protectee to hide from is individuals looking for them to cause them grievous bodily harm or death. Those are the only individuals the program hides the protectee from. Otherwise, they're wide open. They're members of the community and can be detected, if they commit crimes, like anybody else.

Mr. Dave MacKenzie: They have absolutely no immunity. I think that's what Canadians need to hear. They have absolutely no immunity simply because they're in the witness protection program.

A/Commr Raf Souccar: They have no immunity, and it's not an environment that allows a person to hide from committing crimes. As I said, the only thing it allows them to hide from is the people trying to kill them, or find them and commit grievous bodily harm to them.

C/Supt Derek R. Ogden: One of the other central themes was that the program is shrouded in secrecy. That's not the case. In fact, after the newspaper articles came out, I gave very lengthy interviews to, I think, three or maybe four reporters—interviews an hour to an

hour and a half long—in which I answered virtually every question they posed. The only areas I couldn't talk about, and I was very up front about that in the beginning, are the techniques we use to break the identity chain from the old identity to the new identity chain.

In the case of questions such as why, if a person is not convicted in court as a result of somebody you've taken on as an agent, you would keep that person, the answer is obvious. It's that once we've taken on a decision to work with a person and that person has been exposed to the criminal element, we don't extort that person; we only want them to go into court and provide testimony. Whether we're going to provide protection does not come as a result of the final court decision; it never can.

That's, I think, one of the reasons the Witness Protection Program Act was started in the first place. It provides obligations for the police and provides obligations for the person who comes into the program. That's the whole idea of the protection agreement: that both parties understand what the rules of the game are. And that's what they are.

Mr. David Bird: Let me add some help to make sure the testimony is accurate.

The Witness Protection Program Act does provide for one immunity for protectees. That's in section 13, where a person whose identity has been changed as a consequence of the protection provided under the program shall not be liable or otherwise punished for making a claim that the new identity is and has been the person's only identity, which essentially gives them immunity from perjury.

The Chair: Ms. Barnes, do you have any more questions?

Hon. Sue Barnes: It depends how much time we have for other—

The Chair: That's up to the committee.

Do you wish to ask any more questions?

Hon. Sue Barnes: I'm going to cede my time, because I've had more time.

The Chair: As chair, I'd sure like at least five minutes at the end of the meeting—at a minimum—for us to look at what we're doing next week.

Hon. Sue Barnes: I will pass on this round.

The Chair: Ms. Mourani.

[*Translation*]

Mrs. Maria Mourani: I'd like to ask a few quick questions.

I understood from the questions Mr. MacKenzie asked that occasionally exchanges occur, that is that we send our witnesses abroad, while we take in foreign witnesses. Despite the fact that Canada is a vast country, this doesn't happen very often. I also understood that these individuals do not benefit from immunity if they commit a crime. Are their actions monitored?

Correct me if I'm wrong, but as I understand it, most of these witnesses are criminals. They are living in the community and giving you information about activities they have witnessed. Sometimes, they are biker gang members or members of the Italian mafia, or some such thing. We know very well that it isn't easy for a person to let go of old habits when he is immersed in this environment. Are these individuals under any kind of surveillance?

•(1235)

A/Commr Raf Souccar: We don't hold their hands each day and over time, we spend less and less time with them. However, if they are stopped by the police, even for speeding on the highway, they are identified as criminals because their names are in our CPIC database. Therefore, even if they are stopped by a member of another police force, we will be made aware of the situation immediately.

Mrs. Maria Mourani: You say that these individuals are not under any kind of surveillance. Therefore, they are not like offenders who serve their time in the community and must check in once a week, or once every two weeks at the nearest police station or RCMP detachment. I don't know if you have officers who handle this kind of thing. You're saying it doesn't work that way.

A/Commr Raf Souccar: No, absolutely not.

Mrs. Maria Mourani: You'd find out only if the person breaks the law in some way. However, he can conceivably do many things without getting caught.

A/Commr Raf Souccar: Just like any other citizen can do.

Mrs. Maria Mourani: Just like any other citizen who decides to commit a crime.

A/Commr Raf Souccar: Precisely.

Mrs. Maria Mourani: I'm fascinated by the idea of importing criminals from other countries. That means that conceivably, Canada may be harbouring notorious foreign criminals. They may be recognizable in their own country and their case may have made the headlines. They may be incognito here in Canada. In some respects, we are harbouring or protecting criminals from other countries. They could be terrorists, members of organized crime or war criminals. Is that correct?

A/Commr Raf Souccar: That's correct. But, as I explained clearly, this happens very rarely. Moreover, these individuals are also subject to section 7 of the Witness Protection Program Act. We can also deny them entry into the program.

Mrs. Maria Mourani: On what grounds?

A/Commr Raf Souccar: On the grounds that you've just listed.

Mrs. Maria Mourani: Because they are war criminals, for example.

A/Commr Raf Souccar: No, war criminals are eligible, but each case must be evaluated individually to see whether or not the person should be admitted into the program under the Witness Protection Program Act.

[English]

Mr. David Bird: If it's helpful, you may want to look at subsection 14(2) of the act, which requires that no one be admitted into the country in the witness protection program without the consent of both the Minister of Public Safety and the Minister of Citizenship and Immigration. The person would have to qualify for admission under those standards, which usually limits people who have criminal backgrounds from being accepted for immigration purposes. And if people don't meet those standards, then they would not be admitted into our program.

[Translation]

Mrs. Maria Mourani: I understand perfectly well that there must be rules and criteria.

My next question is very much down to earth. At this point in time, is Canada harbouring any war criminals, be it one, two or three, who might have come to this country from abroad under the program?

[English]

The Chair: That will have to be your final question.

A witness: We can't answer that.

[Translation]

Mrs. Maria Mourani: You can't answer that question. Thank you.

[English]

The Chair: Mr. Comartin, you wanted some additional time.

Mr. Joe Comartin: Just to finish on that, you can't answer that question because you don't know, or you can't answer because you can't disclose information?

Mr. David Bird: In response to both of those questions, normally, as a matter of policy, the RCMP does not confirm or deny who it has from what countries in the witness protection program, but in this case I don't have any personal information to offer.

Mr. Joe Comartin: Assistant Commissioner, concerning the review of the B.C. case, do you have an estimate of when it will be completed?

•(1240)

A/Commr Raf Souccar: I believe it's pretty well done, and we can be ready to go when you say.

Mr. Joe Comartin: Would that be within the next week or two?

A/Commr Raf Souccar: I believe so, yes.

Mr. Joe Comartin: With regards to the admission of a person from informant to agent and into the program, is there a policy? We talked about a policy on cost, and I know there are some general outlines in the legislation, but is there a written policy as to how that decision to admit is to be made?

C/Supt Derek R. Ogden: Yes, there is, and part of that involves an interview and an assessment by the witness protection coordinator. Only the person who is actually trained in that field will undertake the final decision.

We have a number of people who are informants and who want to come forward and volunteer to be a police agent, but a lot of those people are screened out for a number of different reasons. When we do use an agent, that situation normally involves a lot of police personnel, and it's usually one fairly high-level targeted operation. We only have the capacity to run a limited number of these operations at a time. We try to be as careful as we can with the people we bring into that agent status, because we want doing so to be to our greatest benefit.

Mr. Joe Comartin: Is that policy a public policy? Can we have access to it?

C/Supt Derek R. Ogden: Yes, you could have access to it.

Mr. Joe Comartin: Would you provide a copy of that to the clerk of the committee, please?

Following up on Ms. Mourani's question, once a person is admitted, is there a policy as to how the RCMP is to supervise the person, limited though that supervision may be in some—and I suspect in most—cases? Is that in writing and available?

A/Commr Raf Souccar: There is a policy surrounding witness protection. How detailed it is with respect to supervision would certainly be part of the training that the witness protection coordinator receives. In terms of a written policy with respect to supervision, we can verify that, but our witness protection policy can be made available to you.

Mr. Joe Comartin: Assistant Commissioner, would you provide that to the clerk?

So that I'm clear, once a person has been admitted and, I assume, in most cases relocated, is the ongoing contact, either extensive or limited, always by RCMP officers, or is it by any other police forces?

A/Commr Raf Souccar: If it's an RCMP case, it will always be an RCMP witness protection coordinator. If it's a non-RCMP case, it could be either. Typically if the person is admitted to the program under the witness protection act, and assuming the Montreal police want a person relocated out of Quebec and there's a change of identity with that, because the RCMP has police officers across the country, we would help them with it as well as provide a handler, a contact person, in the other province they go to.

Mr. Joe Comartin: It may or may not be RCMP officer.

A/Commr Raf Souccar: Typically it would be RCMP.

Mr. Joe Comartin: Of the approximately 700 cases that are currently in the system, are there any that have a non-RCMP officer assigned to do the supervisory work and the ongoing contact?

C/Supt Derek R. Ogden: We would actually have hundreds. Any time another agency approaches us and they request secure documents only, but they say, no, we want to do the...we'll look after the person, we'll look after all the obligations in the supervision. They are technically in the witness protection program. They're provided secure documents. That would be all of our involvement.

From there, we're dependent on the other police agency to advise if there have been breaches and what the action follow-up has been.

Mr. Joe Comartin: So of the 700 cases, give me a percentage, if you can, of how many are RCMP supervised and how many are supervised by other forces.

• (1245)

C/Supt Derek R. Ogden: Of the 700, I believe very close to 100% would be ours. Of the 300, it would be the other agencies.

We normally take direction from the police agency that we're dealing with. If the Montreal city police didn't request that we take the person in and move him to a different location, we wouldn't.

Mr. Joe Comartin: Of the—

The Chair: Mr. Comartin, are you going to be able to wind this up? You're out of time again.

Mr. Joe Comartin: I can't believe that, Mr. Chair.

No, I'm actually not finished. I have tonnes I want to ask. We're not going to finish today with these witnesses.

The Chair: Okay, well, at the end of the meeting, I'm going to ask the committee whether we'd like to invite them back in a week.

After Mr. Comartin, does anybody from the government side have a question? No?

Ms. Barnes, it's back to you.

Hon. Sue Barnes: Thank you very much.

Who usually negotiates the original protection agreement? Is it the defence lawyers, or do people come in with lawyers?

A/Commr Raf Souccar: Typically they don't, but certainly if they want to involve a lawyer we have no objections to it. We want to always hold onto the protection agreement for security reasons, but certainly we could provide their counsel with a copy of the agreement for his or her review.

Hon. Sue Barnes: Taking into account the fact that you have said in your testimony that you're dealing with difficult people most of the time—or is that a fair comment on what you've said today?

A/Commr Raf Souccar: Yes.

Hon. Sue Barnes: Okay. If some of those protected people are unhappy, how do they communicate with you? Is there a real process, or is it just an ad hoc process where, if somebody is unhappy, they talk to whoever is in charge of them? Or is there some sort of internal mechanism for complaints of the program by the protectee who doesn't want to leave but just wants something fixed? What's happening currently, and how formalized is it?

A/Commr Raf Souccar: As soon as they are entered into the program and relocated, they are introduced to a witness protection coordinator in the area where they have been relocated. That witness protection coordinator will then look after that witness in a decreasing amount as time goes on; we want them to become self-sufficient.

They will be provided with a covert 24/7 telephone number that they can contact at any point in time. They're not contacting police; it's a covert number. They can contact the coordinator to deal with any issues that may come up.

As you can probably predict, there are lots of issues in the first days, weeks, months. The issues decrease as time goes on, as people become self-sufficient.

Hon. Sue Barnes: Mr. Chair, I will hold my questions until later on. In a future business meeting, I think we can have some more witnesses.

The Chair: Sure.

Monsieur Ménard, you indicated that you might have a question yet. Is that the case?

[Translation]

Mr. Serge Ménard: No. To be honest, I would like to keep my speaking time, but I think I would be better off turning it over to the committee as a whole, so that we can move on.

[English]

The Chair: Okay.

Seeing as there are no more questions—

Mr. Joe Comartin: I do have more questions. I want to be very clear on that.

If you want to break at this point—

The Chair: I was going to go in camera.

We'll just give a moment for the witnesses to leave.

Mr. Joe Comartin: Can I ask one question of Mr. Ogden?

The Chair: Go ahead.

Mr. Joe Comartin: On the other forces that do the supervision, does the RCMP provide any direction to them, any training, any supervision, to make sure the security of the protectee is ensured to the maximum possible?

C/Supt Derek R. Ogden: No, we don't supervise them, but we do work very closely. We allow them to come on our course if they are interested in coming on our course. We have varying degrees of cooperation.

Mr. Joe Comartin: I'll pursue that some more later.

Thank you.

The Chair: Seeing as there are no more questions, I'd like to thank our witnesses very much for coming here today. It's been a very informative session. We may be seeing you again.

[Proceedings continue in camera]

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

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