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Chair

Mr. Garry Breitkreuz

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•(1030)

[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. This is meeting number 49.

For the first part of the meeting today, we are going to study the review of the witness protection program.

I will have to ask the cameras to leave. This is going to be recorded, but no cameras are allowed in here.

We have with us today, from the Department of Justice, Erin McKey, senior counsel in the criminal law policy division; from the Royal Canadian Mounted Police, Chief Superintendent Derek Ogden, a director general; from RCMP legal services, David Bird, counsel; and we have Superintendent Carl Busson, officer in charge of the drugs and organized crime division.

Welcome, everyone, to our committee. We look forward to your testimony.

I believe only Chief Superintendent Ogden has an opening statement. Is that right? Anytime you're ready, sir, you may go ahead. You have approximately ten minutes. If you need a little more than that, just let us know.

Chief Superintendent Derek R. Ogden (Chief Superintendent and Director General, Drugs and Organized Crime, Federal and International Operations, Royal Canadian Mounted Police): Thank you. I'll be very brief.

Good morning. It's my pleasure to appear before you again today. As you're aware, I'm the director general of the drugs and organized crime program for the Royal Canadian Mounted Police. As such, I oversee the source witness protection program as administered by the RCMP.

Today I would also like to introduce Superintendent Carl Busson. He's the officer in charge of the drug program in the province of British Columbia for the RCMP.

The witness protection program currently has approximately 1,000 protectees. Of these, approximately 700 are from RCMP cases, while approximately 300 are assistance cases to other law enforcement agencies.

I want to stress that none of these protectees has the benefit of immunity should he or she go on to commit further criminal offences. In fact, paragraph 8(b) of the Witness Protection Program Act clearly stipulates that as a condition of protection agreement, a

protectee shall refrain from activities that constitute an offence against an act of Parliament. In addition, protectees are warned about committing criminal offences during the screening process, and they also have to sign protection agreements where these stipulations and undertakings are fully documented and outlined.

That said, it would be unrealistic to expect that none of the protectees would go on to commit further criminal offences. In fact, between April 1, 2004, and April 1, 2007, nine of the 1,000 protectees were terminated for commission of criminal offences. When a protectee has committed, or is suspected of committing, a criminal offence, the criminal investigation is pursued by the enforcement agency of jurisdiction.

In addition, it should be understood that all protectees retain their past criminal record. All protectees are subject to prosecution for the commission of criminal offences, and courts of criminal jurisdiction are provided with a protectee's criminal record for their consideration. Essentially, protectees are treated under the criminal justice system like any other Canadian citizen.

As the administrator of the current national program, I can advise you that we are constantly reviewing the program in an effort to provide program improvements. These efforts include both on-site reviews of individual witness protection sites and cases, as well as updates to the various courses we offer in the area of human source training and source witness protection. I welcome this opportunity to discuss how the program could be made better to serve the needs of Canadians as well as of all law enforcement agencies in Canada.

Thank you very much.

•(1035)

The Chair: Thank you.

Does no one else have a statement?

The usual practice here, as you know, is to go to the official opposition first of all for a seven-minute round of questions and answers. After the three opposition parties are done, we'll move over to the government side for questions.

The first person on my list is Ms. Barnes.

Hon. Sue Barnes (London West, Lib.): Thank you very much, Chair. I'm glad to see you back here again.

I would like to go to Mr. Busson. There was supposed to be a review taking place on an incident in B.C. that had been the subject matter of part of the hearings here. Where are you in that internal review?

Superintendent Carl Busson (Superintendent, Officer in charge, Drugs and Organized Crime, "E" Division, BC, Royal Canadian Mounted Police): That review has been completed.

Hon. Sue Barnes: Okay. Has it—

The Chair: Is that report available?

Supt Carl Busson: I believe it is. I think there was a question raised about it yesterday. There is some editing that had to be done to the report, but I understand that a copy is going to be supplied.

The Chair: My information was that it was not ready yet.

Hon. Sue Barnes: I asked the clerk yesterday specifically to check with you, because I had not received anything in my office. We had been advised we'd be able to see it, I believe. The clerk advised me that she did contact you, and that it was not ready. Now you're saying it is ready. When was it ready?

Supt Carl Busson: The investigation is completed. I don't believe the report to be given to you people is ready. I wasn't made aware until yesterday that you were looking for a copy of it.

Hon. Sue Barnes: I think part of the intention was to have you here after we had taken a look at whatever it was that was being provided to us. Maybe that will be an ongoing thing that we'll have to do, then.

Turning to the legal services—and I'd like to hear both from legal services at the justice department and for the RCMP—I would like to go over your understanding of the provisions that do or do not enable the commissioner to release the identity in certain circumstances. I would like you to be specific to the RCMP Act, please.

We'll start with Ms. McKey from the RCMP.

The Chair: I believe you're referring to the Witness Protection Program Act, not the RCMP Act.

Hon. Sue Barnes: Yes, it's the Witness Protection Program Act that, I think, is the subject of today's hearings, the act you're here to discuss.

Thank you.

Ms. Erin McKey (Senior Counsel, Criminal Law Policy Section, Department of Justice): The provision would be section 11 of the Witness Protection Program Act, but I'd think you would be probably best served by hearing from my colleague Mr. Bird at RCMP legal services, who is the expert on the act itself.

Hon. Sue Barnes: I would like an answer from both.

Very well. We'll start with Mr. Bird. I want this for the record, please.

Mr. David Bird (Counsel, RCMP Legal Services, Royal Canadian Mounted Police): Yes. Thank you.

I would direct your attention to section 11 of the Witness Protection Program Act. That is the one that makes it an offence to knowingly disclose the identity or information about the location of a protectee or former protectee. The exceptions in it are set out so that the RCMP commissioner herself could only disclose information that's not permitted, by virtue of that section, which deals with the administration of the Witness Protection Program Act—actually, steps that would be taken to provide protection to the protectee, which would have to be done to provide it.... Where information is

going to be disclosed that is potentially outside that mandate, that would put the protectee or another witness at risk or affect the integrity of the program, the commissioner must go through a series of considerations and steps.

The information in section 12 has to be provided to the commissioner before the commissioner can personally make a decision. The first question in section 12 is, "What are the reasons for the disclosure?" The authority has to relate to the exceptions in subsection 11(3) of the Witness Protection Program Act, which allows the commissioner to disclose it with the consent—that's a case where it's possible that the protectee or former protectee may consent to it.

If there's no consent, then you are into paragraph 11(3)(b), where you may have the protectee acting in a manner that results in disclosure. That's a question of the protectee's behaviour. An example of that may be where they become involved a criminal offence and it has come out as a result of that and there being a further requirement for information to be disclosed about that person.

It doesn't really make much difference whether it is that or the other exceptions in the public interest in paragraph 11(3)(c) that apply, where there's a public interest to be considered. There are examples of those public interests there. It's not limited to those, because it says "such as", but the commissioner has to be concerned that it is in the public interest.

Both paragraphs 11(3)(b) and 11(3)(c) require that all the procedural steps be taken to allow the commissioner, in subsection 11(5), to also make sure that the person has a reasonable opportunity to make representations concerning the matter.

So there are a number of procedural steps that have to be taken as well—I would bring that to your attention—before the commissioner could exercise any public interest or determine that the person has acted in a way that results in disclosure.

Following in section 12, in paragraph (b), the commissioner must consider the danger or adverse consequences of the disclosure in relation to the person and the integrity of the program. There has to be some consideration of that.

There has to be, in paragraph 12(c), a consideration of "the likelihood that the information will be used solely for the purpose for which the disclosure is made", which is an obvious intent of Parliament to take steps to make disclosure only to persons who would have a direct interest, and there must be some consideration of trying to limit the further disclosure of the information.

Section 12 in paragraph (d) requires the commissioner to consider "whether the need for the disclosure can be effectively met by another means".

Finally, in paragraph (e) of section 12, there has to be a consideration of "whether there are effective means available to prevent further disclosure of the information".

So the commissioner starts with those obligations, then goes back to the reasons, which are going to be before the commissioner, that would convince her that it's in the public interest.

•(1040)

Assuming the notice is given to the affected person—either a protectee or a former protectee—that person has the right to a hearing. The commissioner must consider those representations and finally make a decision. That decision would be a decision of a federal body, which means the commissioner's decision would be reviewable in Federal Court. The grounds of judicial review for a decision of a federal body or board is in the Federal Courts Act.

The grounds for judicial review in relation to that person would be similar: the commissioner acted without jurisdiction; the commissioner failed to observe a principle of natural justice—and I believe you heard evidence about that in another matter; he or she erred in law in making a decision with respect to the order; he or she based the decision on an erroneous finding of fact, or acted in a perverse or capricious way with regard to the material before him or her. The other grounds are that the commissioner acted or failed to act by reason of fraud or perjured evidence; and finally, that the commissioner acted in any other way that was contrary to law.

With respect to the identity or location of a protectee, in my view there is a high onus on the commissioner with respect to determining that something is in the public interest to disclose. The commissioner cannot delegate that decision. It's related to the commissioner, personally. Parliament obviously intended for this to be at the highest level of the RCMP. The commissioner must address his or her mind to all of these factors, follow all of these rules, and follow these procedural safeguards before coming to the conclusion that disclosure is in the public interest.

In my view, Parliament has set up the Witness Protection Program Act to protect the protectee and former protectees from disclosure by the police, except in the most serious cases. Before such steps are taken, the primary consideration must be for the benefit of people in the witness protection program, security of their lives and those related to them.

•(1045)

The Chair: Thank you very much.

We're way over time.

Hon. Sue Barnes: Can I ask one more quick question?

The Chair: You're three minutes over, Sue.

Hon. Sue Barnes: Okay, fine. There will be more minutes....

The Chair: It's just not fair to everybody else. You will have another opportunity.

Monsieur Ménard, please, for seven minutes.

[*Translation*]

Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ): Thank you, Mr. Chairman.

First, while I'm always happy to hear that it doesn't show, I did start practising criminal law in Montreal in 1966, on the Crown's side, and later on the defence side most of the time, until I went into politics in 1993. At the time, there were no witness protection programs. I saw them come into being unofficially. And I have particularly seen them improve in terms of reliability, transparency and effectiveness.

I remember that at the time in Quebec there was a report by Mr. Justice Guy Guérin, which set out what type of written arrangements there should be with these individuals who had a criminal past but who were prepared to testify against others so that we could get a conviction. I very much appreciated the fact that the agreements were in writing, but I had some experience with the system when things were more or less improvised. Things were left entirely to the discretion of police officers. The arrangement was hidden and operated using police funds. There is no doubt that the current situation is much better.

This is an extremely difficult subject. The people with whom you have to work have a criminal past, and they have criminal tendencies as well. These people are not always reliable, almost by definition. I understand that it is difficult to develop a perfect system that is effective while controlling these people at the same time.

I think you have some experience running the program now. Do you have any suggestions for us as to how it could be improved? I think that if you are quite succinct, I will mention some of the improvements that have been suggested to us and ask for your opinion on them.

[*English*]

C/Supt Derek R. Ogden: I thank you for your comments.

Yes, you're very correct that it's a high-risk program. And we know that we're not going to develop a perfect system.

One area where we have spent a lot of time is training, especially since 2003. We now have a complete training package on human source development and human source handling. It starts with an eight-hour Internet course that everybody can take at the RCMP; it's a mandatory training course now in Regina. The next step is a five- or six-day course focusing strictly on human source development. We also have a course on human source development for supervisors.

We recognize that the whole area of human source development is important; we have to have people who are trained and who understand that when somebody brings us information, we have to take independent steps on our own to corroborate the material being brought in. We have to have some method to evaluate the information that's being provided to us.

I think we've been quite proactive and have had an awful lot of strong partnerships across the country. We have presented our courses in the provinces of Quebec and Ontario. In Alberta they have essentially adopted the course, and our delivery net as such, exactly as we have written it. I know that in Quebec we work very closely with the people who manage the internal program in that province, and they also put a lot of focus on the intake, on the assessment, and on the protection agreement.

So I would say that training is one area. Another area, though, where I think there's a bit of a gap—

•(1050)

[Translation]

Mr. Serge Ménard: I apologize for interrupting, but we have relatively little time. I know what work you have done. As I said, I am aware of the problems involved in running the program. I also understand that it cannot be perfect.

Now that you have some experience with it, can you suggest to us how to improve the act or the witness protection system? I appreciate the good work you have done, but we would like to know what you could do to improve things even more, in your view.

[English]

C/Supt Derek R. Ogden: One area I see as a gap is that there are, as you are aware, quite a number of cases brought in under the Witness Protection Program Act where we're actually assisting other law enforcement agencies. We essentially can't ensure any consistency in that across the board or control what takes place with an individual up to that point.

The other thing that can cause us problems is that when we reach the termination process, there may be gaps and we may not be fully aware of why a person was terminated or aware if the termination was done in what we would feel to be in an equitable manner.

What can happen is that we'll see cases come in as assistance cases, and we will essentially have to take them on because they do meet the section 7 criteria of the act. So these people are provided secure identification and are made part of the witness protection program.

We take on all of that risk in the federal program without having any of the checks and balances in place. So if something goes wrong and the local program decides to terminate the person, we're left owning that person. When we look at any of the civil cases and stuff that arise around that, the first area they look to is the federal government side. That's one area where we see a bit of a gap.

In my mind, the best possible world would be to have an integrated national source witness protection program, where many different police agencies participate side by side and there is one program, rather than various versions of programs running across the country. Then I think you'd move closer to having a guarantee of really good consistency, and you'd know that the people doing the screening were all trained the same way and that the people doing the assessments and handling the moves were doing it the same way, and there will be much more exposure to those handling agents or to the high-risk protectees.

The Chair: Just a brief supplementary question, if you have one.
[Translation]

Mr. Serge Ménard: If I understand you correctly, you would like the legislation to apply to all police forces. At the moment, it applies to the RCMP only. You could also have an agreement with an attorney general, but unless he agrees to follow the same rules—and in theory—the provinces are not required to follow them.

[English]

C/Supt Derek R. Ogden: You're right. The difficulty is that there's only one agency in the country that can provide secure documentation, and that comes under the Witness Protection

Program Act, the federal act, and it's the RCMP that looks after securing the secure identification. In the process right now, when these other agencies choose to actually move somebody with a secure identification, they're forced, basically, to come into the program.

I guess there are a few different options. One would be to amend the act and to allow the RCMP to obtain secure documentation for these other agencies, but we would not have responsibility, essentially, for those cases. So there would be a clause that would say you're allowed to provide this secure identification; however, the person doesn't technically come under the act.

The problem with that, of course, is that when you look back to why the act was originally created, the act was created to protect the witnesses, and they wanted to have a structured program that would bring witnesses under the full protection of the act. One of the key areas of protection under the Witness Protection Program Act is the disclosure side, and that's the only act, of course, that has addressed disclosure and said that it's a criminal offence to disclose.

•(1055)

The Chair: Okay. Thank you.

We'll now go over to Mr. Comartin, please.

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

And thank you to the witnesses for being here.

Superintendent Busson, if I understood what you answered in response to Ms. Barnes's question, there is a written report of the review that was done on the Young case in existence at this time.

Supt Carl Busson: That's correct.

Mr. Joe Comartin: That's being edited by whom?

C/Supt Derek R. Ogden: I expect our office will probably have the final edit on that, but I do want to....

Mr. Joe Comartin: No, I'm sorry, Superintendent Ogden. You don't know that yourself?

C/Supt Derek R. Ogden: I'll have the decision-making for the final edit on that.

Mr. Joe Comartin: Have you seen the report?

C/Supt Derek R. Ogden: Yes, I reviewed the report yesterday and I spoke to Superintendent Busson about it. Essentially, there should be very little that's edited from the report. On my first review of the report I noticed one clause that would link old identity to new identity, so obviously we'd have to take that out. But I believe the report will be able to come pretty much intact to the committee.

Mr. Joe Comartin: How soon will you complete the editing?

C/Supt Derek R. Ogden: I would suspect that we could complete that this week. Again, I want to reiterate that I've only read it once, and I would like to take some time to make sure, but I know there was one sentence in the act that caught my attention earlier in the report, and I said, "No, a person would be able to link old and new identity. We'll have to take that out."

Other than that, the report speaks to the facts of the case, and there will be no problem in speaking about the facts of that case.

Mr. Joe Comartin: To one of the two of you, who prepared the report and who has seen it?

Supt Carl Busson: It was prepared by two senior investigators out of Alberta, and it would have been seen by the senior management in British Columbia. As well, we have ordered a copy to Ottawa, so I'm sure Superintendent Ogden and other people in his area have seen it.

Mr. Joe Comartin: Superintendent Ogden, other than your reviewing and making the minor edits, will Mr. Bird and Ms. McKey see it, or will there be other legal counsel who will look at it before the committee is allowed to see it?

C/Supt Derek R. Ogden: I would suspect that Mr. Bird would be able to see it. I'm not sure if he's read it at this point.

Mr. Joe Comartin: Ms. McKey, have you seen it?

Ms. Erin McKey: No.

Mr. Joe Comartin: Do you expect you will?

Ms. Erin McKey: No, I don't expect that I would review it.

Mr. Joe Comartin: Mr. Bird?

Mr. David Bird: If I'm asked, I'll review it, but it's not necessary that I would be asked to review it.

Mr. Joe Comartin: Superintendent Ogden, will it go above you, or will you be the final reviewer of this report?

C/Supt Derek R. Ogden: No, I'll make the final decision on that.

Mr. Joe Comartin: Mr. Bird, in terms of pursuing this, if I understand your opinion of the act, even in the Young case, where an individual has committed a murder while a protectee, even under those circumstances the act prevents the commissioner from releasing information about his new identity.

Mr. David Bird: In my interpretation, yes, the commissioner has to follow the steps and has to be satisfied that the purpose, the reasons for that disclosure, fall within the intent of section 11 of the Witness Protection Program Act. In this case, the appropriate disclosures were made to the necessary police investigating authorities and court. They were aware of the background, and when rendering his decision in the court, the trial judge in the case we're talking about ruled that that information was not relevant for further disclosure and is subject to publication bans and confidentiality of orders with regard to the decisions.

Justice was done. The necessary disclosures are made in those cases to the appropriate authorities for the purposes of the investigation and prosecution of these offences, as well as the apprehension of individuals who may be at large. So you can be certain that the RCMP is very concerned about justice being done, and that where it is appropriate to give out that information they do, under the circumstances that require that there be limitations on further disclosure.

• (1100)

Mr. Joe Comartin: I understand this is not the case, but even in the situation of this case, if the commissioner terminated the protection given under the act, under those circumstances she would still not divulge information.

Mr. David Bird: That's absolutely correct. Sections 9 and 10 deal with termination. Termination, in fact, in my interpretation of the act,

is not regarded as as serious a matter as the termination of a protectee from the witness protection program. It is not regarded as as serious a matter as the disclosure of the identity or location of a protectee. Terminating an individual simply stops the agreement and the obligations that the RCMP have with regard to further protection, but the person then retains their status as a former protectee, and former protectees' information is kept at exactly the same status as that of a protectee. So the same steps have to be afforded to a former protectee, with regard to disclosure, as are afforded to a protectee.

Mr. Joe Comartin: In terms of your opinion, have you taken into account that section 12 provides that the subsequent paragraphs 12 (a) through (e) are really guidelines more than mandatory, because of the terminology being used: "should be disclosed" rather than "shall be disclosed", "shall" being the stronger terminology that we use in drafting our legislation, rather than "should", which is more of a directive, more of a guideline rather than something mandatory?

Mr. David Bird: I read section 12 as saying these factors shall be considered, and if they aren't considered—

Mr. Joe Comartin: But it doesn't say that.

Mr. David Bird: It says—and I will read it to you: "The following factors shall be considered in determining whether information about a person should be disclosed under section 11..." Failure by the commissioner to do that would open the commissioner to judicial review.

Mr. Joe Comartin: Mr. Chair, given that the review of that report is not available today, I just want to be clear that I would like Superintendents Ogden and Busson back here next week, and at the end of the meeting I would want to address that point.

Those are all the questions I have for now.

The Chair: Thank you very much.

We will now go over to the government side. I believe Mr. MacKenzie has some questions.

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

Thanks to the members for being here today.

We had a witness before us earlier this week, and he has been outspoken about the shortcomings of the act. One of the things he wasn't aware of, it seems, is that the criminal record follows the individual. It doesn't specifically say that in the Witness Protection Program Act, but there is another act that obviously applies. Perhaps you could tell us why the criminal record follows the individual and not the name.

C/Supt Derek R. Ogden: I don't have specifics on the other act, and it's not just the criminal record that follows the person. It is the criminal history as well.

Mr. Dave MacKenzie: It follows the person because in Canada we identify individuals by fingerprints that are taken under the Identification of Criminals Act.

C/Supt Derek R. Ogden: That's right. I have stayed familiar with some of the other testimony. The person's fingerprinting history obviously doesn't change from old identity to new identity. But what happens is that we house all the fingerprint records, so we have a system that will automatically make it so you can't tie the old name with the old fingerprints; they're automatically tied to the new identity. So if a person commits a criminal act while a protectee, the criminal record is still attached to that person, although it may not appear exactly as it did before, because sometimes there may be things in the criminal record for specific dates and locations that we may have to alter a little bit so we can protect the witness. But that will remain with that individual. If the person's fingerprints are found at the scene of a break and enter, they'll run those fingerprints, and those fingerprints will be attached to that new protectee. They don't have any advantage with their new identity when they go on to commit these further criminal offences.

Mr. Dave MacKenzie: I probably didn't ask the question properly in the first part, but the real reason the criminal record stays with the individual is because the fingerprints don't change, even if the name changes.

• (1105)

C/Supt Derek R. Ogden: Yes, that's quite correct.

Mr. Dave MacKenzie: That's fair, okay.

Mr. Bird, I think you indicated that in the Young case, and it's one of the interesting things I think I heard here this morning, it was not only the police; in this case, there was a judicial decision made. It was reviewed by a judge, who said the information should not be released.

Mr. David Bird: Yes, that's correct. My understanding, although I wasn't present at that hearing—the proceedings are sealed—is that this information was given about the background of Mr. Young, and the court ruled that it was not relevant to that proceeding.

Mr. Dave MacKenzie: So where frequently the police are being criticized, in fact in that case—the one that is most frequently cited—it isn't just a police decision. That's the point. It has had additional review by a judge.

Mr. David Bird: Yes, the basic decision would be made by the commissioner that this is necessary for the investigation or prosecution of this offence. Hearings would then take place about the extent of the disclosure to the various accused and about the potential publication of that in public. All that was considered.

Mr. Dave MacKenzie: The issue of location under subsection 11 (1) came up the other day too. That section is dealing with both disclosure of information and change of identity and location. Is the reason the location is not to be disclosed so as not to identify a person who is under the protection of the plan?

Mr. David Bird: My interpretation of the reason for that provision is to prevent anyone who can link the two identities together from saying... Even if they don't make the link of the identities, they link them to the new location, and that simply means that the people who are potential threats to that person would now know where to look. It would be as good as telling them the name of the person. And that's the reason why you have the double prohibition on those two types of information.

Mr. Dave MacKenzie: Would you have an opinion on how defined location is? Is it a city or a province? Or is it anything?

Mr. David Bird: We've had to grapple with that issue with respect to the meaning and intent of the section. The conclusion we've come to is that it has to be specific enough information that it would be reasonable that someone could locate the person without many problems. So a province, by itself, probably is not sufficient to say that it would be a criminal act and that with disclosure someone would indirectly or directly be able to find that person within a specific province.

It's all going to be assessed on a case-by-case basis as to what other information is involved that would lead the person to a specific location and would therefore put the person or their relatives, who also may be with them, and also other witnesses who may be there, at risk. So by definition, it's their families.

That is essentially an assessment that has to be made about all the circumstances of the information that is made available by someone who may be disclosing it.

Mr. Dave MacKenzie: Thank you.

We've had witnesses who have given us a great deal of information, and some of it from other jurisdictions, in particular Mr. Shur, from the United States, who had some very good information for the committee. One of the differences was they operate their program in a different way because the makeup of the law enforcement community is also different in the United States.

One of the things in Canada we have is CPIC, which all police agencies utilize. Are you aware, in the United States, whether they have a similar computer program as we do in the Canadian police information system, where we can query a name across the country? Do their local police have a similar system in the United States?

• (1110)

C/Supt Derek R. Ogden: I'm not an expert in any way on the U. S. system; however, my understanding is there are a couple of main differences.

One, they become involved in a file much later in the process than what we do in Canada, and I can explain that if required; and two, they don't have the ability to do the same thing we do with the criminal records. In the criminal records, they don't have the ability, so the criminal records follow these people. What they have to do, on a case-by-case basis, is go back to the old identity and produce the criminal record. We're not required to do that because we have the ability to manage it nationally, so on a one-time basis.

Mr. Dave MacKenzie: Correct me if I'm wrong, but in Canada the system, as I understand it, is that if any individual who enters into the program with his new identity is queried by a police agency anywhere in Canada, it will trigger something in your department to alert them that the police are dealing with the individual.

C/Supt Derek R. Ogden: Yes, we'll be aware. That's correct.

Mr. Dave MacKenzie: And that perhaps is different from what some other countries would have, where they're not connected across the country, from police agency to police agency, to the source of their witness protection program?

C/Supt Derek R. Ogden: I believe that's a big difference, yes.

Mr. Dave MacKenzie: How much time do we have?

The Chair: I'm trying to keep everybody about equal. You're just about out of time. Perhaps you have a brief supplementary.

Mr. Dave MacKenzie: No, I'll ask it in the next round.

The Chair: Okay, thank you very much.

Mr. Cullen, please.

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

Thank you to the witnesses.

I appreciate that you have to work within the legislative framework that's currently in front of you, but from the point of view of elected people, it seems to me that it's a Catch-22. If we would recommend changes to the legislation, we're only dealing with half a deck, because we don't know, really, exactly what happened and what needs to be changed to fix a problem, if indeed there is a systemic problem in the legislation.

This is going to be dumb question; perhaps I should know the answer to this. All the witnesses we've had to date from various jurisdictions talking about witness protection programs talk very clearly about the fact that if a witness who's under a protection commits a crime, they come out of the witness protection program. They lose their protection.

Now, you've mentioned that former protected people are also protected. I know you're not legislators, but why would it be in the public interest to protect a former protected person, someone who has committed...? I think Mr. Young has been convicted of murder, has he not, if I'm not mistaken? So why would it be in Canada's national interest to protect a person like that?

C/Supt Derek R. Ogden: When you look at the broad scope, I'm sure one of the first reasons they probably would consider is we want to encourage people to come into the program. So they would try to restrict disclosure as much as possible.

Number two, I think they've recognized there have to be some exceptions to disclosure, but when you look at the act it appears it's when we have to be proactive. So if a person has committed a criminal act—the investigation's ongoing—perhaps that person's using an old identity or a new identity and they're trying to make it across the border, then we have the ability to disclose. If it's a national security type of case, then we have the ability. If it's a case where there may be a miscarriage of justice, yes, then we can step in and disclose.

I can't speak to exactly what the intent of the act was, but I don't think it's very clear right now that they've identified any types of categories where you can say "Okay, now that person has committed X, from this point on you can disclose their identity." I think it's also something they would have to very carefully consider. If a person's name is revealed—and they may very well be found guilty—there

have been several cases in this country where there has then been a review and they've been exonerated. Now they're out in the public; now we've exposed them to danger. Is that a risk the government would want to take as well?

It's a very, very complicated question. I don't have a direct answer as to why exactly they wouldn't want that, but I do know that at this point I don't believe we have the authority to do that.

• (1115)

Hon. Roy Cullen: I understand. That's actually a good answer, but I'm not sure I'm totally convinced.

When someone goes into the witness protection program they agree to certain conditions. Has anyone ever said that if you commit a crime, even though it might be subject to appeal, you will come out of the witness protection program? Until you actually present the proposition that way we won't have any experience, perhaps, in how many takers there would be or not. But it seems to me most witnesses who go into this program seem to understand that if they commit a crime they might lose their protection.

Can I move to another question?

C/Supt Derek R. Ogden: If you don't mind, I would like to answer that.

We do have letters of acknowledgment with the protectees. We have protection agreements with them and we have training on our source witness protection course. It's documented through every step of the way that if you commit a criminal act, steps may be taken to terminate you. So they will be terminated from the program, but it would be a huge step to move from terminating someone from the program to revealing their identity in public, because then we may become the executioner at that point. We can say you've broken your agreement and we're not going to continue to give you this much money to live per month, or do these different steps whereby we provide further training in this different area, but it would be a huge step to all of a sudden say we are going to terminate you, and we wish you luck with this criminal organization, but your name is going to be in public.

Hon. Roy Cullen: I understand what you're saying. But as opposed to going out and publicly revealing the person's name and maybe briefing a committee of elected people in a confidential way... I don't know, I don't pretend to have all the answers, but it seems to me we have a problem here, because we don't know what the problem really is and how to fix it if there is one.

I'd like to come back to this public interest test. I know you're not legislators, but it seems to me there could be a conflict between the public interest test—and how you define that is another thing—and the criteria that you don't want to be exposed to adverse consequences on the integrity of the program. It seems to me there could be a situation where the program is not working as well as it could and this might not be in the RCMP's interest. The RCMP might want to deal with that internally. And I'm sure that you're all upstanding people and good managers and you'll fix things if there's a problem, but if there's a public interest test that says that maybe it is people who are elected who are perhaps, without any disrespect, a better judge of what's in the public interest and better able to make the trade-off between any adverse consequences.... In other words, if the program is being criticized, maybe it's a good thing from the point of view of the public interest to deal with that in a fulsome way.

C/Supt Derek R. Ogden: I agree, I think the public interest is very important. And I do think it's important that the committee try to separate the difference between if we take on an agent or an informant and that doesn't work out and the actual administration of somebody when they're in the witness protection program. There's a huge difference in that, in that there are cases and there will continue to be cases where we work with agents and then things don't work out the way we would have wanted them to work. That's the nature of the beast. I think the committee would have full right to review those cases, just as they will be doing with our case out of British Columbia.

But from the point of view where we take that person on and expose them to that threat from the criminal organization, we as an organization have an absolute obligation to protect that person. So, yes, we may be duped in an investigation, absolutely, but from that point on, once we've exposed that person we have an obligation under that act to protect that person, and we have to follow it.

The Chair: Thank you.

We'll now go over to the Bloc Québécois. Do you have any follow-up questions, Mr. Ménard, or Mr. Roy?

[*Translation*]

Mr. Serge Ménard: Something that concerns us in particular is that in one case, an individual who has committed murder in the past and was under the witness protection program committed another murder. I know it is difficult to try to prevent an offender from committing another crime or to determine whether or not he will commit one.

I also know that your program provides psychological services, that there can be psychological testing of sources when they join the program and that psychological support is provided to the witness, if he needs it, and to his family as well. But we cannot help but think, even though the act does not talk about this, that when the police assume responsibility for protecting a criminal who has killed in the past, even if it is in the public interest to provide this protection in order to convict other criminals even more dangerous than him, the police does not have the moral duty to ensure that the person will not reoffend and therefore it will not maintain a close enough relationship to the individual to try to prevent him from reoffending, even though this is difficult.

From the evidence we have heard, it seems that if any psychological support is offered, it is offered at the beginning of the process. However, once the individual seems to be reintegrated into a new type of life, he is left alone.

I would like to hear your comments on this, because I imagine this incident must have caused you as much concern as it causes us.

• (1120)

[*English*]

C/Supt Derek R. Ogden: Referring to the British Columbia case, which I understand you'll probably want to talk about once you have the report, this individual had not had any criminal convictions, wasn't on probation, wasn't on parole. From that point of view, there were no indicators that the person would go on to commit this serious crime.

From the point of view of whether we will face the challenge at some point of dealing with somebody who has committed a murder and would know that ahead of time and still be forced to perhaps take them into the program, certainly we will, and again, we have to try to weigh the risks and mitigate the risk to the communities. That, I think, is what the act speaks to. I'm not sure what the magic solution to that would be.

Concerning psychological testing, just to be clear—I don't want to mislead the committee—it's not to determine whether the person is going to go on to commit further criminal offences. We use it, and it's not mandatory, but we offer it to all protectees. We do it from the point of view of helping him reintegrate into society.

Do we have a set method of maintaining some sort of surveillance or tracking of these people on a continuous basis while they're in the community? We don't. To do that, I would think, would require a continual refreshing of resources in that area. As the act stands now, that is one gap in the act: that although all law enforcement agencies in the country have access to bring people in, when we deal with outside agencies, it's on a cost recovery basis.

If you are the chief of a small police force, but you have a witness who requires protection, this may really make it a difficult choice. They may decide to take some measures on their own: to move the person, not to obtain a secure name, and not to bring them in under the witness protection program.

That's one reason why I was saying that if there were a funded, integrated, national program, then all police agencies in the country would be treated equally, because we don't know where these protectees are going to come from.

But you make an excellent point.

The Chair: Mr. Ménard, do you have a supplementary question? Go ahead, briefly.

[*Translation*]

Mr. Serge Ménard: Yes.

I understand that you are providing some reassurance about this particular case, but I also know that in Quebec, convictions were obtained against certain people involved in organized crime, in particular Mom Boucher, using testimony from people who had committed murder, who had been involved in the crimes themselves. One of these days, these people are going to get out of prison. I think they will come under the program: that must already have been negotiated. So there are some circumstances where you will be dealing with people who have killed others. We have to be able to reassure the public about the surveillance that will be put in place for them.

• (1125)

[English]

C/Supt Derek R. Ogden: I'm not aware of any cases in the national witness protection program that fit that scenario. There may be people in local programs, in provincial programs who fit that criterion, but as far as I know, we don't have anybody who would fit that criterion in the national program.

But I do concede that it could be a situation we could face down the road. And sure to heaven, someone attached to them 24 hours a day...I'm not sure what actions we would take.

The Chair: Okay, quickly.

Mr. Serge Ménard: I would like to know if you would have any objection if we had a system as in the United States, where a similar system is administered not by police forces but by a special commission.

C/Supt Derek R. Ogden: I'm sorry, I don't know anything about that.

The Chair: Do you want to give a brief explanation as to what we were told the other day, that they have a separate agency? Is that your question?

[Translation]

Mr. Serge Ménard: No. I will tell you why some day. We heard from Mr. Shur. Is he not the president of that organization? And the RCMP is not aware of that? Perhaps we could get some clarification on this.

[English]

Mr. Laurie Hawn (Edmonton Centre, CPC): I'll ask the question for you.

Mr. Serge Ménard: Okay.

The Chair: Okay. Mr. Hawn, please.

Mr. Laurie Hawn: I may be wrong, but I think what Mr. Ménard was asking, and it's a good question, was that we heard from Mr. Shur about the United States Marshals Service's program, that they looked after that. I think the question was, would the RCMP have an objection if there were a similar organization in Canada that did that and it was not the RCMP?

Was that...?

Mr. Serge Ménard: Yes.

Mr. Laurie Hawn: Okay. See, I understood.

C/Supt Derek R. Ogden: You mean a separate law enforcement agency that would look after it?

Mr. Laurie Hawn: The U.S. Marshals Service handles it, independent of the police...the way they do in the U.S.

C/Supt Derek R. Ogden: I'm not really sure. And my impression was that the U.S. Marshals were a police agency in the United States.

Mr. Laurie Hawn: I think they are, but it's a separate organization that handles it across all jurisdictions.

C/Supt Derek R. Ogden: Well, it may sound a little bit self-serving, but we are the national police force and there is not another police force that does have jurisdiction across the country. I can't imagine that another law enforcement agency would be in a better position to manage the program.

Mr. Laurie Hawn: Okay.

Now I'll ask my own questions.

The Chair: Go ahead.

Mr. Laurie Hawn: I'd like to follow on a little bit with what Mr. Cullen was talking about, because I think there is room for a little confusion. I understand the responsibility to protect and so on, but it seems to me, and I think it seems to Mr. Cullen, that once you are a protectee, you're virtually always then a protectee, no matter what you do.

When you terminate someone from the protection program, you still protect the information that you have. But if that person says "I don't want to live in Winnipeg, I want to move to Edmonton", and you say "Fine, have a nice day, carry on", you won't disclose anything about it, but they're on their own in terms of going to Edmonton and re-establishing and whatever. Is that a fair statement?

C/Supt Derek R. Ogden: Yes. The difference is that we will have some obligations to a protectee who is in the program. So we may agree to do additional training. We may pay their rent. We may help them. We may buy a car for them. We may do several different things. And we may move them from one location to another if there is a requirement.

Once we terminate them, their identity is still kept secret, so none of that changes. The only change is that we don't feel we're under any further financial obligation.

But rest assured, if that person phoned up in the middle of the night and said "I'm under threat", then the police of jurisdiction will respond, guaranteed.

Mr. Laurie Hawn: So they really never become not a protectee. Is that...?

C/Supt Derek R. Ogden: They can be terminated from the program, but they will never revert back to their old identity. Once they've been given a secure name change and new identity, that new identity will remain.

Mr. Laurie Hawn: So the local police, let's say in Edmonton, for the sake of argument... If whoever that person is has moved to Edmonton on their own, paid their own way, and they decide they're under threat and they call the Edmonton Police Service and say "I feel threatened, and I was a protectee", does the Edmonton Police Service then call you and say, "Hey, we've got this guy. What's his background?"

•(1130)

C/Supt Derek R. Ogden: If the person self-discloses, then we would get a call.

Mr. Laurie Hawn: Okay.

C/Supt Derek R. Ogden: But if the person didn't self-disclose, Edmonton police wouldn't be aware that person had been in the witness protection program.

Mr. Laurie Hawn: Okay.

You said there were nine people terminated between April 2004 and April 2007 for offences. Are those people in jail, or are they back out on the street? Do you know?

C/Supt Derek R. Ogden: I don't know.

Mr. Laurie Hawn: They'd obviously be in the same sort of category as the case I just mentioned. They'd be on their own, in terms of moving around and paying their way, and so on, but they would still be under the protection with respect to their identity and the use of information, and so on.

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

Mr. Laurie Hawn: So sometimes it's hard to know whether we have a problem.

C/Supt Derek R. Ogden: I guess it's easy to examine individual cases in the intake process, whether or not the person was a good agent to take on; obviously, we deal with high volume.

So do we have problems? Certainly we do at times. We also have a lot of successes, as you're aware, as well. But that's separate from the actual program.

I guess what I would consider a problem in the program is that if we had a protectee and a group was able to carry out a threat against that protectee. That would be an indication we've had a breakdown in security.

Mr. Laurie Hawn: So in terms of the overall program, I think most people would agree it's a good program and that it's been a successful program. Any program could use tweaking and improvement.

You've learned best practices. How much time do you spend looking at best practices from other countries, from the States, Britain, or wherever?

C/Supt Derek R. Ogden: Actually, I think we're seen as a leader worldwide when it comes to human source handling and development; we have people from agencies all around the world come here. When we set up our source witness protection course, we went abroad as well; we went down to the States to look at their program and we spoke to other experts. But when you look at the adoption rate for the course training standard we've developed and you see that it's taken, I think, pretty much word for word in Alberta and Ontario—and although they haven't put the course on firmly in Quebec, they've come and attended our courses and taken the material back—I think that speaks highly of the degree of credibility we have with it.

Mr. Laurie Hawn: Okay, that's all I have, Mr. Chair.

The Chair: Thank you, Mr. Hawn.

Ms. Barnes, please.

Hon. Sue Barnes: Thank you very much.

You've tried to be nuanced with some of the rationales for keeping identities, and maybe it's just me who is not getting the total picture here. If someone in the witness protection program commits murder, presumably they would go to jail. Maybe you should answer this. Would they then be removed from the witness protection program?

C/Supt Derek R. Ogden: If a person commits a criminal offence—and obviously murder is a criminal offence—we would look at the criminal offence, and the decision whether or not the person will be terminated from the program would rest with the assistant commissioner for federal and international operations. I can't imagine a case where a person commits a homicide and is not actually terminated from the program.

However, we have been to Federal Court on our termination process. There were some recommendations coming from that process, and I changed the termination process within the last year. Now it's a bit lengthier process than before, and we spell out in great detail what the agreement was in the beginning and how that person breached the agreement; and if they're not happy with the decision or not in agreement with the decision to be terminated, there is a period of time when they can go and get legal counsel and come back and challenge that decision. So that has been changed somewhat.

Hon. Sue Barnes: Let's just carry on with the hypothetical someone in the program who commits murder. Let's say you take them out of the program; that's the decision.

C/Supt Derek R. Ogden: Right.

Hon. Sue Barnes: At that point in time, they would retain the new identity they had in the program.

C/Supt Derek R. Ogden: Correct.

Hon. Sue Barnes: Could you tell us whether or not the individual who had committed murder and been convicted in a courtroom—a Mr. Young—is out of the program now?

C/Supt Derek R. Ogden: I could say that the termination process of Mr. Young is in progress, but it's not finalized, due to the process I talked about. To be more specific, the subject has been advised that he will be terminated, and he's consulted his lawyer and is bringing back information to appeal that decision. But it's our intention—

Hon. Sue Barnes: How long will that process take?

•(1135)

C/Supt Derek R. Ogden: We're very close to the end of that process now.

Hon. Sue Barnes: At the end of the process, could you reveal the name of somebody who has been terminated from the program? Does the act allow you to do that currently?

C/Supt Derek R. Ogden: No. Even once we're done with the termination process and everything is finalized, and even if we go through the Federal Court in an appeal process, the name won't be revealed.

Hon. Sue Barnes: Okay.

I was trying to establish, in Mr. Bird's answer, the legal requirements here. Currently the Department of Justice of the Government of Canada and the RCMP are interpreting the rules. There is a "may", as in, "the commissioner may". Has any commissioner since the establishment of this act—so not just this acting commissioner but any prior commissioner—utilized that discretionary provision to divulge an identity in any circumstance?

C/Supt Derek R. Ogden: In this particular case, the subject's identity was revealed for the purpose of furthering this police investigation, but it wasn't released outside of law enforcement for the purpose of the public.

Hon. Sue Barnes: Mr. Bird, I want my question answered directly.

Mr. David Bird: I'm not aware of any case where it was made public, but it certainly has been disclosed to investigating agencies for prosecuting an individual who's subject to an offence that required that information. So yes, it has happened under the circumstances. Further disclosure of that is prohibited by the persons who would receive it. It's not necessarily been done in public, but the information has been disclosed to investigating agencies who have required it.

Hon. Sue Barnes: I take it you're talking about agencies that are only dealing with criminal actions. What about civil procedures? What about somebody who's trying to bring a civil action for wrongful death?

Mr. David Bird: I'm not aware of any case where that has happened in a civil proceeding. There have been many cases where people who have approached the RCMP with respect to people they knew or who were in the program and asked for service by the police on that person who has been affected. They have been able to commence civil actions without any prejudice to the fact that the person was in the witness protection program.

Hon. Sue Barnes: Mr. Ogden, what if we had a boilerplate clause in every initial agreement? For instance, if you enter a program, it's clearly stated that you will not be protected, your identity will not be protected, you will put it at risk, and whoever accompanies you will be put at risk if you commit murder, if you commit a serious personal injury in this country. What if that were one of the entry clauses? Wouldn't that at least act as some sort of deterrent?

C/Supt Derek R. Ogden: You mean if the act were changed, and they put that in the act as a guideline?

Hon. Sue Barnes: No, I don't think the act specifies what your boilerplate agreements are with your protectees, but you could put that in there. You'd create the conditions that are part of the agreement between the protectee and the law enforcement.

C/Supt Derek R. Ogden: But I'm guided by the act. I don't see any way I'd be allowed to draft something that would go outside the act and go against the act, because—

Hon. Sue Barnes: Thank you, Mr. Ogden; my time is short.

Mr. Bird, I'd like to hear you on that.

Mr. David Bird: I would agree with that assessment. The RCMP could not contract with an individual outside of the legal protections that Parliament has imposed upon someone in the witness protection program. In those cases, that person should never be in the witness

protection program. Once the person has a status of a protectee, then they have all the legal protections.

I'd like to go back to an earlier question by Mr. Cullen, on why Parliament would conceive of such a scheme where, even though someone commits a serious offence, that information about their former identity should not be made public. I think if you were to have counsel here for the people who may be in that position, they could give you a number of arguments. One argument we are getting is that these persons in their former identity assisted the police. They were good citizens and witnesses in a proceeding. If you were to let them know later that because of some action by the police against them in some other proceeding, where they're charged with an offence, at some point in the proceedings that information would become public, and all the people who were after them...

Even if they're sentenced in jail, they would now be regarded as an informant, a rat, and would be subject to another punishment with regard to any other punishment the courts may have imposed upon them with regard to subsequent criminal activity that they maybe know—

● (1140)

The Chair: Okay, thank you. I think that's pretty obvious, the problems there.

You're way over your time, Ms. Barnes.

Mr. Norlock, please

Mr. Rick Norlock (Northumberland—Quinte West, CPC): I'd like to go back, chief, to one of the previous questions. I think it was Mr. Ménard who mentioned Mr. Shur and the placement of the administration of the program from the police into civilian hands.

Just to assist you, and I don't think I'm wrong here, but in the U.S. model, a civilian body determines who should or who should not be in the program, but it is the U.S. marshals who physically move the person and their family or the persons around. That's my understanding.

Mr. Shur from the U.S. seemed to indicate that Canada's program was a very good program, but because of the civilian oversight of the program, it took it out of the hands of the police and we seem to be, in this country, in this Parliament, in this specific time in the history of our Parliament, in our relationship with our national police force, in a time when everything you do as an organization will be under scrutiny because of certain other things that are occurring. That theme is now in this body.

You're here today particularly because of one instance in the entire program that some people are manipulating or trying to manipulate and are saying a whole lot of things are wrong with the program. No program, because we deal in human beings, and because doctors practise their trade and lawyers practise their trade, policemen aren't permitted to practise their trade.... We haven't said policemen practise law enforcement; we say policemen do law enforcement. Why you don't practise it is because the lawmakers of this country practise making laws. So I guess we're practising now by looking at the law and looking at what you do and how you do it, in order to determine, do we have one of the best programs in the world?

I'm going to make a very polite suggestion, as I made to a previous commissioner: that we from time to time need to—and I think as parliamentarians that's what we're doing here today—look at what we do in terms of best practices, and what other organizations do. I am quite certain the RCMP has a distinct ability to be able to go to the public safety minister and say this program may not be.... Here are some suggestions we have as to how to change them.

I think if there was that ebb and flow and seemed to have and be seen by the public.... Because what we're doing here is we need to make sure the public has faith, not only in our ability as legislators that we're doing our job, but that the people who are tasked with enforcing the law and making these programs work are doing so in an open way instead of in an opaque way.

My question is, would you not think it advisable that the RCMP look at the U.S. model, which may or may not be better than ours, but at least look at it, in terms of could it be.... And this body, they work within the RCMP, this civilian body may use you to do the physical part of it, but make the determination. Do you think that would be a worthy exercise?

C/Supt Derek R. Ogden: You raised a number of points.

One thing I think we need to make clear is that when we run into a case in which we deal with a person who becomes an agent and we realize later that this agent didn't provide the best information, once we've exposed that agent to the criminal element, it's very clear that we absolutely have an obligation to protect that witness. I think most people would agree with that.

Second, there's been some talk that if the person doesn't provide the evidence we would expect in court, maybe we should walk away and terminate from that person. I don't agree with that position at all. It would mean we would basically extort that witness. We would tell them to go in; they'd know what they've got to say, and they'd have to make sure the court knows exactly our point of view, and if they don't do everything we expect—basically extorting them—then we'll terminate them from the program. I say that when we bring somebody in and it doesn't work out, we still have our obligation.

On the comparison to the U.S. system, the one thing I think is an advantage, a best practice in Canada, is that we're involved at the early stage. What I mean is that when an agency wants to bring somebody in as an agent and expose them to that threat, we go in with source witness protection coordinators. We interview and assess, and we advise the investigative team at that point as to whether we should continue with this or we shouldn't. If we don't do it that way, then we'd use the person all the way through, expose them to the risk, and then decide whether we should or should not take them on, and that's exactly what the U.S. model is.

In the U.S. model they will have people providing information and they'll expose them to that threat. They'll obviously house them in hotels and wait while they're in a temporary position, but they'll expose them to that threat. Then they'll go before the U.S. witness protection program system to say yea or nay to taking them in. At that point the witness is really left out in the cold. That witness is at the mercy of whatever agency decided to expose them to the criminal element and at the mercy of whatever type of side agreement they can negotiate—perhaps money to go somewhere else.

On your point about civilian oversight, I think that whatever system the government decides we should have, we should make sure that the process is done at a very early stage. I would hate to see a system in which we add more red tape and make it more complicated for agencies to be able to use the act. If we make it too complicated, a lot of police forces in Canada are just going to step away from it and say they'll risk-manage it and do it on their own. There's got to be a real balance there.

On the act side, I think we do a relatively good job, but from the point of view of Parliament, I can understand exactly why you would like to have a clear view of what really goes on behind that curtain. I'm not sure what mechanism could be put in place. Perhaps the act could be amended in such a manner that periodically people could be allowed to actually examine cases and follow them through.

● (1145)

Mr. Rick Norlock: I'll stop you there, because you've just hit my second question. That's one of the recommendations I believe Mr. Shur had.

I'm not going to the British model, because quite frankly ours is far superior to theirs, and we shouldn't waste any time talking or thinking about it. I think that because of our proximity to the United States and the societal relationships we have, we bear some of the same burdens from a law enforcement perspective.

It's very dangerous, I suppose, to ask the policemen this, but we're seriously thinking about a need for a periodic review of the program so that parliamentarians can feel better about it and so that we can have our constituents and Canada feel better about the program, in that it is working as we anticipated it should because we in fact made the law that made it work.

Could I have your thoughts on, first, a periodic review—my thinking is every three or five years—and then on a civilian oversight body? I think you addressed this, but succinctly give us your thoughts on a civilian oversight body that actually decides who should or shouldn't be in the program—or maybe, again, this periodic review should be a civilian body that examines that.

C/Supt Derek R. Ogden: As far as a review of the act is concerned, I think it's a good idea. I think it's a good idea that you come together and you ask questions, because it's a complicated act, and it's not well understood because most people aren't exposed to it on a regular basis. I think it's good to look at the act and say we've run with the act for a five-year time period, let's get together, have a look to see how it's working and if we have to make some changes. I think that's 100% the right way to go.

The Chair: Okay. I thought it was a good question. That's why I gave you extra time.

Mr. Cullen, please.

Hon. Roy Cullen: Thank you, Mr. Chair.

I'd like to come back to this public interest test, and I guess that's a test that's used by the commissioner to decide whether or not information will be divulged. I know you can't speak for the commissioner necessarily, and that would be her decision.

If by revealing information it could lead to enhancements in the transparency and the accountability of the program, surely that would be an argument to say that such disclosure might be in the public interest, would you not say?

• (1150)

C/Supt Derek R. Ogden: I'm not sure how to answer that. When the facts of the case out of British Columbia are examined, everybody will have a much better understanding of what happened at that point, and clearly in that investigation there were mistakes made. We'll lay that out and say here are the areas where we could have done a better job.

I don't know that there would be any advantage, but I speak only because I know both sides of the file and have seen what went on from the point the person entered the program onward. I am aware of how that case was handled, and I can't imagine any way that we could have possibly prevented what happened in that case.

Hon. Roy Cullen: Yes. It's interesting that you know that.

C/Supt Derek R. Ogden: I see your point of view.

Hon. Roy Cullen: I'm sure everyone around the table has great confidence in the RCMP, notwithstanding some of the current challenges. I think your point is a good one, that the witness protection program, I'm sure, has many success stories. We have to be careful to not just focus on the mistakes, because we all make mistakes as humans, and things can happen. Nonetheless, that's what we're studying here today.

In terms of the public interest, are there any developed public interest criteria that the commissioner would use, any regulations or guidelines, or would the commissioner use her own judgment of what would be in the public interest?

C/Supt Derek R. Ogden: The act doesn't provide an exhaustive list of what some of the examples are, but in my personal interpretation—and I'm not a lawyer, I'm a police officer—it seems to me that the act is trying to guide the police that when you have to be proactive, when the investigation is ongoing, when you have to either capture somebody or do something to further that investigation, and you have to make a disclosure, then bring that information to the commissioner so that we can legally make that disclosure. I don't see anything that would indicate, once the person is captured, in custody, convicted, that it's almost like a sanction that you could say okay, now we're going to release that name. I don't see it there.

Hon. Roy Cullen: You would be concerned, of course, regarding this question of the integrity of the program, that in future, people who might want to participate in the program might have learned about the fact that the commissioner, in a particular case, decided it was in the public interest to disclose the identity, and that might jeopardize the usefulness of the program. With many of these witnesses, it's not just them making these choices; they have pretty qualified lawyers who are working with them, and they know the ins and outs of the program.

If a person is in the witness protection program and let's say is convicted of murder, there's a process, as you say, of taking them out of the witness protection program, and there are appeal processes. But let's say that person, for example, was incarcerated in a jail—hopefully if they are convicted of murder that's where they would be—and let's say, under the witness protection program, they had

certain relatives who were also protected, or they had various arrangements. Obviously, the person would be in a prison, and their well-being would be.... They'd be fed and they'd be taken care of in prison, so they're not receiving any financial contribution from the Government of Canada other than the fact that they're incarcerated in a prison. But let's say they had other arrangements for relatives and other expenses that the RCMP had committed to. Would those continue while this person was incarcerated?

C/Supt Derek R. Ogden: It would be case by case, but I suspect they do.

There are times when we'll have multiple people under one file on a protection agreement. One or two individuals may not work out and we have to do a termination. In those cases we'll move those people one more time. They will have a secure identification, a name change, so they're not in danger of the person who has shown they're not going to abide by the rules of the program. That person can't reveal their identification. We do that most often when their spouse or children are involved.

• (1155)

Hon. Roy Cullen: So with this person who let's say committed murder, if it was a decision of the RCMP that this person come off the witness protection program after the process and appeals, would that mean his extended family, or these other persons, if they are part of the program, would automatically come off, as well?

C/Supt Derek R. Ogden: No. They would most likely stay in.

Hon. Roy Cullen: They would most likely stay on. I see. I suppose the rationale would be that they haven't committed any crimes themselves.

C/Supt Derek R. Ogden: Yes. However, if we felt that those people faced the threat of having their new identity revealed by the person who had gone to prison, we would change their names and move them again so the person in prison couldn't provide a threat to those people.

Hon. Roy Cullen: Okay. Thank you.

The Chair: Thank you.

Is there anybody else on this side who has a question. Mr. MacKenzie or...?

While they're deciding, I have a brief question on a statistic you gave right at the beginning. You said nine out of 1,000 committed a criminal offence. How many of those 1,000 were criminals to begin with, and how many are family members?

I'm looking at a percentage we were given that 11% to 17% from the U.S. commit an offence while they're under the program. I'm wondering what the actual statistic is here. How many of those 1,000 are actually at risk to offend?

C/Supt Derek R. Ogden: I saw the testimony on that. My answer will have to be anecdotal, because I don't have exact numbers.

Roughly 30% of people are in the program because they have some sort of family relationship to the person we needed to get into the program. Those people aside, I would say that probably 90% of the core group have a criminal past.

The Chair: Ninety...as in nine-zero?

C/Supt Derek R. Ogden: It's somewhere around that number, I would think. Again, I say that anecdotally because I've asked that question myself.

The Chair: Okay, thank you.

Yes, Mr. Comartin

Mr. Joe Comartin: I didn't catch how many of the 1,000 were family members. I didn't catch his...

C/Supt Derek R. Ogden: It's roughly 30% of the people in the program. They are in the program because they're attached to the person we needed to bring in as a protectee.

Mr. Joe Comartin: Just so we're clear on that, of the 1,000 we are aware of—the 700 by the RCMP and the 300 from other police forces—30% of them are family or associates.

C/Supt Derek R. Ogden: Yes. That's a rough, rough estimate.

The Chair: That's about 300.

Mr. Joe Comartin: Thank you.

Hon. Sue Barnes: Mr. Chair, could we get the right numbers sent to the clerk?

The Chair: Do you keep statistics on that?

C/Supt Derek R. Ogden: That would be very, very time-consuming. We would have to go back through each and every agency over all the years. It would be difficult.

The Chair: I suspected as much.

Okay. Mr. MacKenzie, go ahead.

Mr. Dave MacKenzie: For the benefit of the researchers, when Mr. Shur was here, he indicated there was a time limit for these people to be self-sufficient. And I think I recall, from when you were here before, that you had a similar expectation.

C/Supt Derek R. Ogden: We do, and it's written into the protection agreement. But it's flexible and not set in stone. Some people take longer to find employment. Some people find it much harder to adapt. We could continue to work with people over an extended period of time.

Mr. Dave MacKenzie: But the initial expectation would be for some shorter time than that.

C/Supt Derek R. Ogden: There is an expectation in the protection agreement. We could issue a breach if we saw that the person was absolutely not making any effort to truly reintegrate and find a job and do the things we specified.

Mr. Dave MacKenzie: Would there be a normal timeframe to start with? Would you anticipate three months, six months?

C/Supt Derek R. Ogden: I think it probably would be closer to a year.

I'll check with our coordinators to see if I can get you a better answer on that.

Mr. Dave MacKenzie: There is some expectation.

C/Supt Derek R. Ogden: Yes, there's an expectation.

The Chair: That's it?

I have four more people on my list: Mr. Volpe, Mr. Comartin, Mr. Chan, and Ms. Barnes.

Mr. Volpe, please.

Hon. Joseph Volpe (Eglinton—Lawrence, Lib.): Thank you very much, Mr. Chairman.

Superintendent and gentlemen, I recall when the bill was first proposed by a colleague of mine in the very early 1990s, Mr. Tom Wappel. Unfortunately, he isn't here to be able to offer his reflections on just how well the system is working, to the extent to which it respects some of the concerns of the day.

As I read through the notes, Superintendent, it seems to me that if we are going to have any questions or judgments about the workability of the program today, we would take into consideration at least some of the following: number one, have we protected and do we continue to protect the new identity of both the individual and all of his dependants, i.e., his family? Excuse me for using the masculine here. I have used the singular, but I think most of the offenders, as I understand it, who enter into the program are masculine. That's the first thing.

Second, we must not undermine public security, police enforcement, and the integrity of the act or any acts in criminal law.

When I look at those and I see what the commissioner may do with respect to disclosing information, it would be a test. I guess somebody has to make an initial decision. In the event that the commissioner makes a decision that would, in the view of others, offend one of those two principles, then we have a serious problem. It would undermine all of the intentions and the work of parliamentarians that went into establishing this program.

I know that at the time—and I stand to be corrected—part of the debate focused around perhaps having an in camera meeting with members of Parliament sworn to secrecy in order to address some of the potential breaches on one side or the other, but I guess because we must always be above suspicion, as Caesar's wife was, the concern was more about the way that the government authorities, in this case the RCMP or maybe a local jurisdiction, would handle this.

Do you have any observations in that regard about going into a closed environment with people sworn to secrecy to address some of the issues that have been raised today and potential breaches of the program?

• (1200)

C/Supt Derek R. Ogden: Do I personally? I'm not speaking for the RCMP, and no, I don't.

It's really a challenging issue because there are lots of times when we sit here and we'd like to be able to tell you that this is what happened, and not make it as difficult as it is.

I think that when the legislators got together to make that act, they knew it was going to be a challenge. They knew what we were going to face down the road, and there's not an easy answer.

Even if it's a group of parliamentarians sitting in secret, then where's the public interest really in that? I think people still think that for things to be truly transparent, everybody needs to know the story.

It's a case, I guess, that the more people are exposed to it, the more we could undermine the program.

But to your initial question, if I understand correctly, if there's a particular aspect that you want to examine, if it's a committee in secret and if the act allowed for that, then I would say certainly.

Hon. Joseph Volpe: I guess there's probably a very fine line. I acknowledge what one of my colleagues said earlier on, that these are difficult days for everybody, including the RCMP. But when there is a question of the ethical behaviour of a representative of the RCMP or anybody else, the only way you can deal with that is if you have a body like one of these committees of representatives of the public, i.e., the legislators, who have the ultimate responsibility and accountability to the public—because they will lose their job if they're not believable—in an environment in which they could ask the very tough questions.

And as you say, here we are in an open environment. You're governed by privacy legislation and by other agreements, and you can't say exactly what everybody would want. But the legislators around the table, if they're sworn to confidentiality while they discharge their obligations, would provide that additional buffer that would satisfy the public that the police force did act according to those two basic principles that are the foundation stone of the program.

• (1205)

C/Supt Derek R. Ogden: I guess for me it would come down to knowing that if I'm acting within the act, and I know I am not breaching the act, I wouldn't have a problem talking about it. If I'm giving advice to Derek that he's going to break the law by doing that, then obviously I would have concerns.

The Acting Chair (Mr. John Williams): Thank you very much, Mr. Volpe.

Mr. Comartin, you have five minutes, please.

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

I have just a quick comment, I guess, to Mr. Bird and the chief superintendent.

The evidence we got from Mr. Shur would show that about 18% of the participants in the program are recidivists. And their policy, I think with very few exceptions, is that all of them are terminated. In response to a question I put to him, he said that none of them—it was an absolute—had suffered any physical harm as a result of being terminated from the program.

I want to ask this question to follow up on a question that I think Mr. Ménard asked. We have had this news report on Yves Trudeau being in the witness protection program and subsequently being charged with ten crimes. I am being left with the impression that the report identified him as being in the federal program, and in fact he may not be. Are you able to give us an answer as to whether he is in the federal program?

C/Supt Derek R. Ogden: Generally, we don't comment on whether a person is in or is not in the federal program. But my

understanding is that the case was well before the Witness Protection Program Act even took place.

Mr. Joe Comartin: This report is from March 25, 2004. The charge is that he was in court that day.

C/Supt Derek R. Ogden: My understanding of the story is that he was in the witness protection program prior to that for the assistance he provided concerning the Hells Angels, and that occurred, as far as I know, well before this act took place.

But the short answer is no, he is not in our program.

Mr. Joe Comartin: With regard to that, would the review that was done on the Young file have been undertaken by the RCMP but for the hearings that are going on here and the newspaper articles on his case?

C/Supt Derek R. Ogden: I suspect not.

Mr. Joe Comartin: So it's not automatic that even when there is as serious a crime as murder there is an automatic review done that would come to your desk.

C/Supt Derek R. Ogden: I can't say whether it is or isn't automatic, because as far as I'm aware, this is the first time this has ever happened.

I guess I should clarify. Would British Columbia have started to examine that file beforehand? I am not sure. But I know that the driving force behind my becoming aware of the file and doing this examination was in part through the material that was brought forward through the press.

Mr. Joe Comartin: In the nine cases in which people have been terminated, was there a full review done, in preparation for terminating, only after the crime was committed?

C/Supt Derek R. Ogden: In the nine cases, I don't believe there were full reviews. If a person commits an offence, such as a break-in or a theft, then we'll be notified of that and we'll take our steps to terminate.

Mr. Joe Comartin: In the material that has been provided to us, you call it an agreement, not a contract. I must say, as a lawyer, that I was interested in that kind of wording. I don't know how you can handle an agreement without a contract.

My first question is with regard to the agreement. How long has this particular version of the agreement been in place? Did it start when the law went into effect, or have there been other versions of it?

C/Supt Derek R. Ogden: I'm not sure. I can get that information for you.

Mr. Joe Comartin: Okay. Do you know who prepared the current version?

Mr. David Bird: I can tell you that the agreement evolved pre-act, which I was involved with, and it has been changed to incorporate the requirements of the act. So there have been amendments to it, but it basically is an amended version of a document that has evolved over time.

Mr. Joe Comartin: I want to draw your attention specifically to paragraph 11 of the agreement. It sets out the basis on which the relationship can be terminated. There are two provisions in it. One is on material misrepresentation or failure to disclose information at the time of admission. The second is a “deliberate and material contravention by me and my obligations under this protection agreement”. But there is no third point that specifically acknowledges that criminal activity will be grounds for termination.

That struck me, because there is a specific part in the policy, near the end of the policy, that says that a crime will be grounds for termination. Do you know if that was an omission or an oversight, or is it intentional that paragraph 11 does not contain a specific acknowledgement by the protectee that crimes will be a basis for termination?

• (1210)

C/Supt Derek R. Ogden: I'm just a bit confused by the question, because in the letter of acknowledgement in paragraph 8 we say: “I've been specifically informed that my assistance to the Royal Canadian Mounted Police in this investigation does not at any time exempt me from any criminal and/or legal responsibilities.”

Mr. Joe Comartin: It's even more specific than that in paragraph 3. The person acknowledges that they'll refrain from activities that constitute an offence against any act. But the point is that in the paragraph that's specific about termination, there's no reference to criminal activity, in spite of the fact that your policy says that will be a basis for termination.

Superintendent, the question is fairly simple. Is it intentional that it's not in there, or is it simply an oversight?

C/Supt Derek R. Ogden: I understand your point, and I think it's a good idea to have it in there. It is an oversight, you're right.

Mr. Joe Comartin: Thank you.

In terms of the pre-admission policy, again, I'm looking at your policy guidelines.

I'm sorry, there is just one more thing I wanted to ask about the agreement. I forgot to ask this. There is no requirement—we heard from Mr. Swadron at the last meeting—in the agreement for independent legal advice. Correct?

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

Mr. Joe Comartin: Has that been considered by the RCMP?

C/Supt Derek R. Ogden: We have a scenario on our source witness protection course that deals with legal advice. But it doesn't specifically direct people or instruct people to go and get legal advice.

Mr. Joe Comartin: Is that still the policy of the department, or are you considering...?

C/Supt Derek R. Ogden: Currently it is the policy, and it wasn't until I reviewed the minutes of the testimony here that I saw that one of the key questions was concerning legal advice.

The Chair: You'll have to wrap it up.

C/Supt Derek R. Ogden: But I will say I am aware that some protectees do get legal advice, and on occasion we have dealt directly with the lawyer and the protectee when we negotiate an agreement.

The Chair: Okay. Thank you.

Mr. MacKenzie.

Mr. Dave MacKenzie: Thank you, Chair.

I think perhaps at your last appearance here there was some discussion about what the cost of the program is. Subsequent to that, I think we had a witness questioning what the costs covered. Can you review that for us in a general sense?

C/Supt Derek R. Ogden: At the last meeting I committed that we would have in our next annual report a more detailed breakdown of the costs. The costs that are reflected in the annual report only relate to specific activities. I can tell you that for the cost for salaries and operating of the program—and I think we have somewhere in the neighbourhood of 34 coordinators in the program—it's approximately \$5.5 million a year. Now, the costs can vary for the entire cost of the program because sometimes awards or protection measures that we have to put in place vary quite a bit between one witness and another. What I'd like to see—and I will provide it in the next report—is a more detailed breakdown of the costs so it gives a little clearer picture. When we say we “cost-recover” when we work with other law enforcement agencies, we don't bill them back for salary dollars. We just assume that cost internally. We do bill them if there's a cost. Say the apartment is \$1,000 a month; then we'll send a bill back to that agency and say “You will pay that bill for us.”

Mr. Dave MacKenzie: So the breakdown, in essence, will give the whole cost, but it will show the administrative costs to run the program and then the costs to provide whatever is needed.

C/Supt Derek R. Ogden: The breakdown should give the committee a lot better idea of what the true costs are of operating that program.

Mr. Dave MacKenzie: Part of it is a comment from my side and perhaps a view of yours, but with all due respect to Ms. McKey and Mr. Bird, I think you indicated you weren't a lawyer, you were a police officer, and Mr. Norlock and I don't see that as being a problem.

But having said that, much of the criticism seems to get directed back to the agency, and perhaps unfairly. As I understand, in most dealings the police have in any of these situations, you're dealing with legislation that's been set up by lawmakers and legislators. And some of the questions asked concerning a civilian oversight body, if it says there'll be a civilian oversight body, that's what it would be, right? That's a given.

• (1215)

C/Supt Derek R. Ogden: Exactly.

Mr. Dave MacKenzie: Perhaps Mr. Shur is a good example. He indicated when he was here that he was a civilian and he took care of that national witness protection program. But at the same time, I think he made it clear to this committee that he did not see a separate agency within the RCMP that was trained and functioned to do that as being a program.

Maybe it's a bit of an unfair question, but what change would occur if there were a civilian oversight body, in place of Mr. Shur, that did that? If that were mandated in the legislation, would the RCMP have a problem, then, administering the other part of it, if that's what the act specifies?

C/Supt Derek R. Ogden: If the act specifies, at the end of the day, that there'll be civilian oversight, obviously we'll be guided by the act and we'll respond accordingly.

Mr. Dave MacKenzie: I think that's fair enough.

That's the end of my questioning.

The Chair: Thank you very much.

We'll move now to Mr. Chan, please.

Hon. Raymond Chan (Richmond, Lib.): Thank you very much, Mr. Chair.

Thank you very much, officers. I think your input has been very informative and appreciated. You have a different perspective of what's going on in those issues.

Over the last few sessions on this issue, I can feel, just as anybody else does, that this is a very complex matter and that what we have been hearing in these meetings from our perspective is only a small corner of the whole operation. Because the acts have been here over ten years, I feel it's time to have a thorough review of that issue.

In one of the sessions there was a gentleman from Scotland on TV. He is a professor. He was doing an overview of the whole system they operate in Scotland. To me, in order for us to be able to have a good review of the program, I would suggest we appoint someone like that to review the operations of the last ten years in confidentiality and see with this policy if there are problems in the system. Would you have any problem, based on your experience, to allow such independent criminologists or lawyers or whatever to review that system?

C/Supt Derek R. Ogden: I understand exactly why you would want that done, but you're still guided by the act, and the act is pretty clear on that. The act doesn't grant me the authority to say yes, you can have somebody come in and examine our files, because it doesn't allow for that.

If that's what the decision-makers and Parliament would like to see happen, then the act would have to be changed so that it's clear that somebody can come in and examine the program.

Hon. Raymond Chan: In the reviewing of identity, I think that's the most critical, problematic one, to have someone in the system, but there must be some way.

For example, Mr. Bird talked about the process, the procedure for reviewing the identification. You said that in the Young case, the details have been revealed to the prosecutors and in the court. Do you have to go through such a process to do that?

Mr. David Bird: To the process...?

Hon. Raymond Chan: Is there an appeal process where Mr. Young was able to—

• (1220)

Mr. David Bird: Yes, there was.

Hon. Raymond Chan: So they went through that.

Mr. David Bird: Yes, they did. Mr. Young's case was one where it didn't only happen once. So there was a possibility that he met the criteria for disclosure for investigation, the prevention of an offence

disclosure, and then again the criterion with regard to prosecution, and in the process was afforded the opportunity to be heard.

Hon. Raymond Chan: In looking at this act, wouldn't you say that the information is to be revealed to one person, who swears to keep it to himself or herself? Do you think that to disclose it is still valid?

Mr. David Bird: What you're really talking about is an issue of whether or not it amounts to a disclosure for the purpose that would...

Hon. Raymond Chan: It would be for administration.

Mr. David Bird: Administration is permitted. If it's necessary for the proper administration of the act, then these disclosures can take place. If Mr. Swadron were here, you might find him dealing with complaints about the RCMP having, for example, too many handlers involved with access to a protectee's file. There's a standard about who has access to the protected information, and it's on a need to know basis.

So you'd be looking at the relevance of that. Is it possible to set up a system where the prohibited information would be codified? Most of the time that's what happens. It's possible you could have this review done in an anonymous way without revealing the sensitive information, and that would not be a problem.

Hon. Raymond Chan: Thank you.

The Chair: Thank you, Mr. Chan.

Ms. Barnes, please.

Hon. Sue Barnes: Thank you.

Further to Mr. Chan's point, I think it would be very useful, especially as we have a longer time period of experience with the program, that we have some social science or humanities research to help us make our decisions. We have the difficulty of hearing your version from an enforcement or a court usefulness perspective that this is a beneficial program, but we're only seeing one side as evidence. The closest we've ever gotten to a protectee is through anecdotes from the lawyers, and just a few of those. It makes our job difficult.

I want to state at the outset that I think it's a valuable program and I'm pleased it's here, but like everything else, it could stand improvement.

I think there are two reasons we're here. One was the original reason why this hearing was called, and I had hoped to be able to do more today on it. When we get the review, we will try to pursue it further, because it will help with not only our understanding but the public's understanding of what happened.

But it's the second part: what recommendations, when we write our report, we will we do for the program as a whole. A couple of things have come up that are separate. Under agreements and arrangements with other jurisdictions, under the act, I see that the commissioner and the Solicitor General can make agreements to accept people into the program from other jurisdictions or other forces inside Canada.

What I don't see, statutorily, is our ability to export into another jurisdiction. How is that done, if it's done? Why is it not in the act? Is that something we should address at this time, if we wish to not only be taking incoming protectees but also having ours maybe travel outside of the jurisdiction? Was it an oversight, or have we done it some other way, or do you not want to get involved?

C/Supt Derek R. Ogden: There's a reciprocal agreement in place, I believe. I know for a fact that we have taken people in from other countries. The process for it is quite similar to taking them internally; we do our intake assessment on our side as well. The only exception is that the Minister of Immigration and the Minister of Public Safety both must agree that the person is suitable to come into the country.

Hon. Sue Barnes: Mr. Bird, with respect to the legislation, do you see that there's a need there?

Mr. David Bird: I would direct your attention to section 14, subsections (2) and (3). Subsection 14(2) deals with the fact that the minister may enter into reciprocal arrangements with foreign governments, and subsection 14(3) allows for admission of witnesses of that jurisdiction to the program.

It anticipates that the foreign jurisdiction would then agree to consider applications for similar witnesses from us, so it opens the door for us to send witnesses abroad to be protected by them in appropriate circumstances.

That requirement was specifically changed in subsection 14(3) by an amendment in 1996 with regard to the International Criminal Court's tribunals, to avoid our having to have this, because they have no capacity to accept witnesses for that purpose. If we accept your witness from a foreign country, except for an international criminal court or tribunal, we will expect you to consider accepting our witnesses in future.

• (1225)

Hon. Sue Barnes: But they don't have to be simultaneous actions.

Mr. David Bird: Absolutely not.

Hon. Sue Barnes: Okay. So do you do it on a case-by-case basis, or are there standing relationships pre-existing, or agreements made?

Mr. David Bird: It would be case by case in the future. It just opens the door for consideration. None of these agreements forces us to accept future cases.

Hon. Sue Barnes: And just so that I understand the costing on it, who pays? When we accept somebody from an outside jurisdiction, which government is paying?

Mr. David Bird: The general policy would be that the country sending will pay 100% of the costs.

Hon. Sue Barnes: For the duration of the protection.

Mr. David Bird: For the protection. That's contained in the specific protection agreement with that individual between the RCMP and the individual. That government would then be expected to compensate the RCMP for its expenses.

Hon. Sue Barnes: That's fine.

Thank you very much.

The Chair: Is it possible to get a copy of those agreements for the committee or not? Are they something that's not available?

Mr. Joe Comartin: That is, Mr. Chair, a request for how many of those agreements we have and with what countries, if they're prepared to divulge those, but at least for how many.

C/Supt Derek R. Ogden: I should have advised the committee that all these agreements have a non-disclosure agreement that the agreement should not be made public.

Mr. Joe Comartin: On a point of order, that doesn't answer my question as to whether they can tell us how many there are.

C/Supt Derek R. Ogden: Do you mean whether we can tell you how many times we've accepted people from other countries?

Mr. Joe Comartin: No, it's how many agreements we've entered into.

C/Supt Derek R. Ogden: We should be able to get that information.

The Chair: Okay. That's the number of agreements, not the number of people, I understand.

Mr. Cullen, you can take a couple of minutes.

Hon. Roy Cullen: Thank you, Mr. Chair.

Chief Superintendent, you've probably reviewed some of the testimony. We had Mr. Tom Bulmer here. Basically, what I understood him to say was that the possibility that this person—Mr. Young, I guess it was—would commit harm was quite readily predictable. I thought I heard you say earlier that what happened in this particular case was not, in your judgment, avoidable at all.

So the dilemma we have is that we are hearing you say this and we're hearing Mr. Bulmer say something that seems to me to be quite the opposite. Could you comment on that?

C/Supt Derek R. Ogden: I'm absolutely, 100% convinced that nobody would have been able to predict what happened in that case, and I would be shocked if any of the committee members come to any other conclusion, once you see the report out of British Columbia. You'll see the history on this person. I think it would have been impossible to predict any behaviour of a type anywhere near that.

Hon. Roy Cullen: We look forward to the report.

The Chair: I'd like to thank our witnesses again for coming before the committee. We appreciate it very much.

Committee members, we're going to suspend for a minute before we go into the briefings from the Department of Transport.

• _____ (Pause) _____

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• (1230)

The Chair: I'd like to reconvene this meeting.

We are now on the second part of our Standing Committee on Public Safety and National Security, meeting number 49. At this point we're going to entertain a briefing on the no-fly list.

I'd like to welcome as witnesses before the committee Mr. Brion Brandt, the director of security policy for the Department of Transport, and Linda Savoie, the director of access to information, privacy and reconsideration, and executive services. We welcome you both to the committee.

I understand, Ms. Savoie, that you have a brief that you're going to deliver to the committee.

Mrs. Linda L. Savoie (Director, Access to Information, Privacy and Reconsideration, Executive Services, Department of Transport): Yes, I have a short opening statement.

The Chair: You can have ten minutes, or if you need a little more than that, we're flexible.

Mrs. Linda L. Savoie: Thank you very much.

The Chair: Go ahead.

[*Translation*]

Mrs. Linda L. Savoie: You invited us to speak to you about the Office of Reconsideration. The invitation followed the testimony given by my colleague, Marc Grégoire, the Assistant Deputy Minister for Security and Safety at this committee on March 1, 2007. At that time, he described briefly the Passenger Protect Program, the procedure involved in issuing a no-fly order, and the reconsideration process.

I am here today to describe the process in more detail, to tell you how my office works, and of course to answer your questions.

I would like to start by giving you some general information about the Office before I get into the reconsideration procedure. I will say a few words about our mandate. Our role is to offer a simple, free remedy to individuals who receive a negative decision in the context of two different Transport Canada programs. The first is the Marine Transportation Security Clearance Program, and the second, the one you are interested in, is the Passenger Protect Program.

Our clients are not just passengers who have been put on the no-fly list, they are also marine workers whose security clearance has been turned down or cancelled. In both cases, however, our office allows the applicant to submit his or her case for consideration by individuals other than those who made the initial recommendation to the minister.

We expect to play an important role in the Passenger Protect Program, not only for passengers who want to challenge the minister's decision to put their name on the list, but also—and I would say especially—with those where there may be a problem of mistaken identity.

I will now give you some more concrete information about my office. We are located here in Ottawa. We report to the Assistant Deputy Minister for corporate services at Transport Canada. We are open from Monday to Friday, from 8:30 a.m. to 4:30 p.m. We have officers who look after the official request, who answer questions and concerns raised by applicants, and by the general public, and who do identity checks. In addition to these officers, there are independent security consultants hired on contract to conduct the reviews. Each year, my office reports on our activities to the minister—the number of applications and the results of the reviews.

I would now like to speak more specifically about the review process, particularly in the case of passengers who are not allowed to board an aircraft. For people who like visual representation, there is a chart outlying the process in the material we distributed earlier.

● (1235)

[*English*]

As I describe this process, you will note that it is fairly linear and straightforward. The intent is not to create bureaucratic obstacles, but rather to keep the process as simple as possible.

● (1240)

[*Translation*]

Does everyone have this document? All right.

[*English*]

Once the passenger has been denied boarding, the process begins with the individual submitting a written application to the office as soon as possible after being denied boarding. There is no set time limit for this. The application should outline the grounds for the reconsideration, and for privacy and for accuracy purposes we will require that it includes documents that confirm the identity of the applicant. There is a case officer available during regular office hours to assist the applicant in making this application to our office.

At that point, the applications—and that doesn't appear on your chart because it's an administrative function, but it is of significance—will be sorted according to whether the applicant is seeking reconsideration as a result of an error in identity, or is challenging the basis for being placed on a specified persons list.

In the first case, where it's a matter of an error in identity, our office will obtain from the applicant any new element of information, personal information primarily, that's necessary to differentiate the applicant from the person listed. Once the error is confirmed, we will take the measures to ensure that corrections and additions are made everywhere necessary to eliminate the error.

Getting back to my chart, this describes the next scenario where the applicant is in fact challenging the basis for being placed on the list. At that moment, the office will be assigning the file to one of the independent security advisers. The review process should differ, depending on whether or not we have new information that is submitted by the applicant. In the absence of new information—the grey arrows on the right-hand side of the chart—the adviser will conduct a review of the file to assess whether the information it contains could reasonably have led to a decision to place the person on a list.

The adviser then provides a report outlining any areas of concern that are apparent from the file, and submits an opinion as to the need for the minister to reassess the matter. The applicant is informed of both the recommendation of the office of reconsideration to the minister and of the final decision of the minister.

In the cases where the office of reconsideration receives new relevant elements of information—we're now on the left-hand side of your chart—our office is going to work with the program to ensure that the appropriate investigative bodies, and that would be CSIS and the RCMP, validate or invalidate this new information. The rest of the process follows through the same way once we've received this validation or not.

Timewise, our aim is to conduct this review within a 30-day timeframe. This being said, I completely realize that some of these files will be too complex to be disposed of in 30 days, but we will be making every effort to meet the standard we've set for ourselves.

A record of the reviews that we will be undertaking will be kept, and as I mentioned in French, an annual report will be submitted to the minister to ensure that lessons learned allow for the adjustments to be made as needed during the course of this program.

To conclude, while it's impossible to anticipate every possible scenario, we think this process will offer valuable assistance to all the passengers seeking reconsideration. It may, however, be particularly appreciated by those who are struggling with an unfamiliar process to have their identity distinguished from that of an individual with an identical name who is the person who is posing the threat to aviation security.

[Translation]

I would be pleased to answer any questions you may have.

[English]

The Chair: Thank you.

You said that the process takes about 30 days to review if there's information about the person. What is the length of time if it's a mistaken identity? For some people, this would really violate their rights to move about.

Mrs. Linda L. Savoie: In those cases we anticipate it will be much quicker. However, it depends on how quickly and how thoroughly the applicant provides us the information that will allow us to distinguish this person from the person on the list, so our aim is to conduct those in an expedited manner. The 30 days I was referring to is for a real contested file with an independent adviser assigned.

The Chair: Yes, I realize that, but if he produces a passport, could it happen right there and then?

Mrs. Linda L. Savoie: It could if it's sufficient to distinguish from the person who's on the list, but this may or may not be enough. We'll have to compare the information that's on the list and compare what's in the passport.

One scenario is if this passenger who was denied boarding has given names—first names in English, *les prénoms*, and multiple *prénoms*, and these are different from the ones on the list. We can do that rather quickly, but that complexity is going to depend on what the element is that distinguishes the person from the person on the list.

The Chair: I have more questions, but really I am abusing my....

Okay, who's first? Monsieur Ménard, go ahead.

[Translation]

Mr. Serge Ménard: I have a point of order, Mr. Chairman. Will Mr. Brandt be making his presentation later? Are we supposed to question Ms. Savoie first, and Mr. Brandt later?

[English]

The Chair: Mr. Brandt, my indication was that you did not have a presentation.

[Translation]

Mr. Brion Brandt (Director, Security Policy, Department of Transport): I do not have a presentation. All we have is Ms. Savoie's presentation. If there are any questions about the Passenger Protect Program, I am here to answer them.

Mr. Serge Ménard: So we can question Mr. Brandt as well. Thank you.

[English]

The Chair: Absolutely, yes.

Okay, Mr. Volpe. That does not count against your time. Go ahead.

Hon. Joseph Volpe: Thank you very much, Ms. Savoie and Monsieur Brandt.

I really want to follow four general questions, if you don't mind. I read the transcripts of the initial presentation made before this committee, some three months ago. Some concerns still exist with respect to how your name gets put on the list. Now, I know that's the exclusive purview of the Minister of Transport and that the Minister of Transport will consult, or may consult, with other agencies: CSIS, RCMP, Homeland Security, Defense, Interpol, and my next-door neighbour. Do I have that right?

• (1245)

The Chair: Go ahead, Mr. Brandt

Mr. Brion Brandt: Yes, the process for putting someone's name on the list is articulated very clearly, publicly in terms of our having an advisory group led by Transport Canada. You're right that the information, the recommendation that goes forward, goes forward to the Minister of Transport, who will make the decision to put someone's name on the list.

The advisory group includes Transport Canada, it includes the RCMP, it includes CSIS, with advice from the Department of Justice, to look at information that comes forward about individuals, to examine that information. Really it's the RCMP and CSIS that would be the sources of that information.

Hon. Joseph Volpe: Mr. Brandt, with Homeland Security in the United States being as concerned as it is about security, especially cross-border security and especially about American airspace, is this not a roundabout way of complying with Homeland Security's demands to ensure that any fly-overs coincide with the no-fly list that the Americans have, which they will enforce?

Mr. Brion Brandt: The key thing I can point out at the outset is that this is a Canadian program with very specific guidelines that have been made public for the types of individuals who would be included on the list. We—

Hon. Joseph Volpe: That's fine, Mr. Brandt, but allow me to interrupt you for a moment—and I don't mean any discourtesy. Defense and Homeland Security really say you cannot fly over American airspace unless you are in compliance with their no-fly list.

Now, there are flights from Montreal, from Toronto, from Halifax, and from Vancouver that will go over American airspace. A major Canadian carrier has already said that they would rely on the American no-fly list.

What is it about the Canadian program that's different from the demands of the American no-fly list?

Mr. Brion Brandt: What distinguishes it, in our case, is that the Canadian program is very narrowly focused on aviation security. I accept your premise that the U.S. is concerned about aviation security. So are we in Canada. We're interested in making sure that we have a program that meets domestic needs from a Canadian point of view, but also protects Canada from flights into Canada and also respects the interests of our international partners in terms of flights from Canada. So this program will apply domestically. It will apply to flights into Canada and flights out of Canada as well.

Hon. Joseph Volpe: I'm probably going to have to go on another round, but I want to go on a second series of questions in this regard, and that is the very unsatisfactory way this program has been advertised. Because now this program, as I read it, will capture all those who appear to be over the age of 12, who will have to provide documentation as to their identity. I won't bore you with the statistics or the data. You already know. But there are very few people who know that their 12- or 13- or 14-year-old now needs to have ID in order to board a plane as of June 18.

How would you address an issue that will automatically put the onus on that 13- and 14-year-old or his or her parents who may be travelling unaware that they will have to provide such documentation?

Mr. Brion Brandt: You're right about the application of the program to those who appear to be 12 or older. There is already a provision in place for international flights, of course, that anyone who wants to fly internationally is required to produce identification. So that is there.

In terms of publicizing the new requirement for domestic flights, some of you may have seen the public notices in the newspapers that are appearing this week. We're taking special care to work with provinces and territories and with other organizations to communicate this message. There will be a continuous public information campaign. We're encouraging everyone we can to make people aware and also recognize that there's some variability, there's likely to be some concern. So in the implementation of the program, making sure that we're taking account of that as well, so for—

• (1250)

Hon. Joseph Volpe: But with all due respect, that sounds to me very much like the implementer making all the rationale—excuses, if one wants—about some of the pitfalls that everybody's going to fall into. Number one, for example, it is not very common in Canadian culture for 13- and 14-year-olds to be walking around with documentation like OHIP numbers, like SIN numbers. They're not supposed to have them at that age. But that these would be used in breach of privacy protection for ID purposes is something that for Canadian culture is so far unconscionable.

But even more importantly, if Canadians are going to provide themselves with the security of documentation that will allow them to board a plane, in the environment that currently sees tens of thousands of new applications for passports—I'm quoting one of the ministers—over the course of the last six months, how can we deal with something in such short order?

Mr. Brion Brandt: Well, as I say, the public information program is under way.

On your point about privacy and so forth and so on, one of the reasons why we indicated this requirement quite clearly in the regulations was to make sure that it was clear that this was a requirement. This is a precaution—not for 12-year-olds, for older people—that has been used by air carriers in many circumstances for several years now, to require that. What we're doing is recognizing that this good security practice should be encased in regulation for this program.

I recognize the challenge you're representing in terms of getting that information out, and we're doing a number of things at this point in time to make sure we get that information—

Hon. Joseph Volpe: But your final regulations were only published on May 16. That's like three weeks. The Americans and we had received two years' notice about the requirement for passports to go over to the States, back and forth across the border, and you know the problems that has created for our passport department.

Yet three or four weeks before people will go on holidays with their family.... It's not a question any longer of simply penalizing 12-, 13-, and 14-year-olds; it's actually a question of penalizing their families, who will find out only upon arrival at the airport—unless they get their boarding pass at home, but not everybody is capable of doing that—to get a boarding pass, and they find themselves in a position of embarrassment because a 12- or 13-year-old may not be able to produce the kind of documentation that's required.

The Chair: Do you have a brief response to that?

Mr. Brion Brandt: Just to say that we're very sensitive to that issue. And in the compliance that we will require related to this, we will be sensitive to that issue as well.

The Chair: Thank you.

Monsieur Ménard.

[*Translation*]

Mr. Serge Ménard: Thank you, Mr. Chairman. Mr. Brandt, as the Director of Security Policy, you are probably the person in Canada best able to answer my question.

I think we are missing a very important document we need to give us some idea about how useful this program is. Has anyone done a study looking at most incidents involving air security on aircraft to try to determine whether the people involved were on a list of undesirable passengers?

Mr. Brion Brandt: That is a good question. It is difficult to answer with respect to past incidents. However, we have seen incidents and other circumstances and we think this list, this program will provide another layer of safety and security for the aviation system. It will not answer all the questions or solve all the problems, but it will answer the question that came up with respect to the events that occurred on September 11, 2001 and more recent events regarding the activities that were suggested by others. In my opinion, this program will be very beneficial.

•(1255)

Mr. Serge Ménard: Your answer to my specific question is: “Not to my knowledge”. You cannot show us a study that seriously examines whether the existence of such a list would have prevented the air security incidents that happened.

Mr. Brion Brandt: We have seen examples of cases where watch lists prevented potential problems. We can say—

Mr. Serge Ménard: That is not what we are interested in. What we are interested in are air security incidents that actually happened.

Can you give us a single example where a list of this type would have prevented such events from happening?

Mr. Brion Brandt: I have no study that shows that such a list would have prevented these events. As I said, we really think this will help with the security of the aviation system.

Mr. Serge Ménard: First, I am quite sure that it is impossible to draw up a complete list, that it is impossible to make no mistake in a list of this type, mistakes that can happen both ways. Like leave off the names of some people who should be on the list, and we might include on the list the names of people who should not be there. So it works both ways.

When I look at the disadvantages you are imposing on people who should not be on the list and when I compare the harm of such a list to that caused by other security measures, I think that the list will never be perfect, will never be able to guarantee that people will be safe and secure.

What would give me the greatest security as a passenger? Would it be a list of this type, or would it rather be a focus on other procedures, such as making the cockpit secure, conducting searches, ensuring that everyone who has checked luggage and other property onboard has been properly checked?

I don't think there's any comparison between the benefits of the list and the difficulties that it could cause.

Mr. Brion Brandt: I can tell you that this list will only address the potential actions of very specific people. Most people are not affected by this kind of list. All the measures mentioned on your own security list are already in place, thereby adding a new layer of security to deal with any potential deficiency in these circumstances.

Mr. Serge Ménard: In preparing your own list, do you copy the American list?

Mr. Brion Brandt: No, not at all, but we've already indicated that we will have discussions with the U.S. to obtain information that we review under our own established criteria to determine whether or not there are people coming from the U.S. or anywhere in the world, who may pose a risk to the aviation system.

•(1300)

Mr. Serge Ménard: Will you take the name of Canadians who appear on the US no-fly list, to place them on the Canadian list?

Mr. Brion Brandt: If I understand correctly, you are asking if we will be obtaining names of Canadians from the U.S.—

Mr. Serge Ménard: Who are on the U.S. no-fly list.

Mr. Brion Brandt: I'm not directly involved in reviewing names, but it's possible to obtain the names of those people. However, as

I've said, criteria published on the Internet clearly indicate the types of actions that have already been taken by people we have an interest in. If there are people, be they Canadians or other, who, following a review by CSIS, the RCMP, or Transport Canada, lead us to conclude that they truly pose a risk to our aviation system, we expect their name to be on the list.

Mr. Serge Ménard: This is exactly the type of issue that is of concern to us. The fact that some may be on the U.S. no-fly list will be a sufficient enough reason to put them on the Canadian list.

Mr. Brion Brandt: This is not our approach. In fact, if somebody living in Canada truly poses a threat to the aviation system, one expects, I expect that CSIS or the RCMP will forward their name to our advisory group, as a first measure. I imagine that if there are such people, this information will already be available to the Canadian authorities.

[English]

The Chair: Thank you.

We'll now go over to Mr. Comartin, please.

Mr. Joe Comartin: This program is just so dumb that I'm almost tempted not to ask any questions.

First of all, if I understand you correctly, you're not going to be publicizing how many names are on the list.

Mr. Brion Brandt: There's no plan to publicize the numbers or names.

Mr. Joe Comartin: Can you tell us how much this plan is going to cost Canadian taxpayers?

Mr. Brion Brandt: Over a span of five years, the amount is in the neighbourhood of \$13 million. We're talking about less than \$3 million a year to operate the program.

Mr. Joe Comartin: I just want to point out to the Conservatives that's what it's costing us for the long gun registry.

One of my colleagues, Pat Martin, was on the American no-fly list. We don't know if he still is. Can you tell us whether he's on the Canadian no-fly list?

Mr. Brion Brandt: I can't tell you that because I don't have access to the list that is currently being developed. If he doesn't measure up against any of the guidelines that we've established—those three principal guidelines—I would say that he will not be on that list.

Mr. Joe Comartin: Can an individual make an inquiry as to whether their name is on the list, or do they have to be embarrassed by showing up at the airport and being turned down?

Mr. Brion Brandt: Can they make an inquiry as to whether their name is on the list? Certainly someone can make an inquiry to ask if their name is on the list. But just to be clear, sir, we don't have a plan of pre-notification to tell people who may be on the list that they are, in fact, on the list. The reason—

•(1305)

Mr. Joe Comartin: That's an interesting part. You won't send out the list to the people who are on it, because that would be a way of telling them that maybe they're part of a terrorist group and they're now under investigation. Of course, it's easy enough for that person to buy the ticket, show up at the airport, get turned down, not get on the plane, pay the cancellation fee, and find out for \$50 or \$75 that they're under investigation. That's how dumb this thing is.

I don't have any more questions.

The Chair: Thank you.

We'll now go over to Mr. Brown, please.

Mr. Gord Brown (Leeds—Grenville, CPC): Thank you, Mr. Chairman.

Thank you to our witnesses.

I have to say that I have sympathies for what Mr. Comartin has to say, because I have a situation when I go to the United States where my name is on some list. There's some bad actor in a part of the United States who has a similar name, and I have to get special treatment. I carry a passport that indicates quite clearly that I'm a member of the House of Commons, but regardless....

I want to talk about how we can focus on those who are on this list and protect our aviation system and not inconvenience innocent travellers who are just trying to go about their business.

My understanding from the materials that I've read is that the proposed no-fly list is going to be a name-based system. Is that correct? This is a name-based system. You're not using any other way to identify people.

Mr. Brion Brandt: To make sure that we reduce the potential number of false positives as far as we possibly can, what will be provided to the air carriers for implementing the program are name, date of birth, and gender. We believe that's a limited amount of information, but it's a sufficient amount of information to distinguish beyond just someone with the same name as someone else.

Mr. Gord Brown: Okay. The point of your system is that you're going to be relying on information that people are going to produce themselves by supplying the identification. Is that correct? You're not using any other way to identify people.

Mr. Brion Brandt: I'll try to explain how I understand your question, and respond to it.

What we'll be doing is through the advisory group. They will be examining—

Mr. Gord Brown: No, I'm sorry, I'm trying to get at a point here. You are going to be identifying people when they show up at the airport by identification that they are going to present. Is that correct?

Mr. Brion Brandt: Yes, and we're asking people to come to the airport with identification that includes at least that sort of information. We view the number of people who will potentially be affected by this as being very limited. If someone books a ticket and so forth, and their name shows up—

Mr. Gord Brown: All right, I understand. I'm sorry, I don't have a whole lot of time and I'm trying to get at a point here.

Do you recognize the name Abdel Nur?

Mr. Brion Brandt: I don't.

Mr. Gord Brown: He's been in the news recently. His name was connected with this alleged terrorist attack at JFK airport.

How would you deal with a guy like him if he showed up at the airport? He apparently has seven aliases and different names. He has documents from Trinidad. He has documents from Guyana. He has U.S. and Canadian passports. How would you deal with someone like that who showed up at the airport to fly?

Mr. Brion Brandt: What I was going to indicate is the information that will be provided to air carriers. If someone has multiple names, multiple spellings of names, we will try to make sure we have those and provide those to the air carrier. So the air carrier will have as much information from a name, gender, date of birth point of view—and name is of course the one you're getting at—to try to identify if someone who's trying to fly matches up with the name or any of those aliases.

Mr. Gord Brown: Okay, I'll go back to Mr. Comartin's point. This isn't going to do anything to protect us, because you're relying on information that's provided by the person who's planning on travelling.

Have you had any experience with face recognition biometric lookout systems and face recognition technology?

Mr. Brion Brandt: I've heard of them, and I'm familiar with the concept of biometrics and those sorts of things.

•(1310)

Mr. Gord Brown: Have you seen a demonstration of face recognition technology?

Mr. Brion Brandt: Not live. I've seen a film variety.

Mr. Gord Brown: Okay. Do you think that's something that could help improve the situation? Right now I have no confidence whatsoever in what you're doing to keep Canadians safe.

Mr. Brion Brandt: Just to be clear, as I say, the idea here is when we ask someone to produce identification at the airport, there's a process that needs to be followed. If someone produces identification that there's some question about their identity, and so on and so forth, against that match, there's a process with the air carrier and Transport Canada to resolve that issue.

On your question about other programming that might be useful, from a security point of view, there are all kinds of ideas out there. We're aware of many of them, maybe not all of them. We are examining them to the extent that we can to determine, on balance—based upon risk, based upon privacy, based upon efficiency, privacy, security—how we take a look at these to see what is practical and useful in an aviation security environment.

Mr. Gord Brown: Okay, so you agree that we need to improve ways to clearly identify the bad guys and not focus on inconveniencing innocent regular travellers.

Mr. Brion Brandt: This program does focus on people whose actions have determined that they are people you wouldn't want to get on an aircraft, and it's not designed to target innocent travellers.

Mr. Gord Brown: Okay. I'm about as frustrated as Mr. Comartin was. Thank you very much.

The Chair: I thought maybe you would draw some parallels between how the money being spent on this is as useful as the money being spent on the gun registry. Has it come back to—

Mr. Gord Brown: I would leave that to you, Mr. Chairman. I assume you would be doing that.

The Chair: Thank you.

Mr. Joe Comartin: There's a really good opening there, Mr. Chair.

The Chair: Ms. Barnes, please.

Hon. Sue Barnes: Thank you so much.

I just want to get this straight. So right now is your definition of "aviation security" just in terrorism situations? Or would "aviation security", for instance, include something that's a health risk?

Mr. Brion Brandt: We're looking at it from the point of view of the guidelines we have. If you're referring to recent situations—

Hon. Sue Barnes: No, I'm referring to the acts that define "aviation security".

Mr. Brion Brandt: If we had information indicating that someone could be reasonably suspected of undertaking action that would threaten aviation security, passengers, aircraft, air crew, and so forth, we would consider whether or not that person's name should be placed on the list.

Hon. Sue Barnes: That's obviously not something you're going to get from CSIS or the RCMP, so who are you consulting for that information?

Mr. Brion Brandt: Well, as I say, from the point of view of protecting the aviation system, the Minister of Transport has broad powers to do that. If there were circumstances outside of this program, where the aviation system was seen to be threatened by some kind of a potential event, we would expect those authorities who have responsibility in those areas, whether it be health or any of the others, beyond a CSIS and RCMP to bring to—

Hon. Sue Barnes: My time is limited and I have a number of questions.

Mr. Brion Brandt: —our attention those circumstances. Although it might not be under the provisions of this program, there is authority there for the Minister of Transport to respond, if necessary, to those types of circumstances.

Hon. Sue Barnes: All right. I think there are a lot of questions about that and it's very problematic. I really do believe you're getting into incredibly complex territory right there, if you're adding in health.

I really don't get this. You're saying that you're going to have potential terrorist threats or aviation security threats. Okay, so the person comes to the desk. If they don't get their boarding pass, what do you say to them? Goodbye, go home? What's going to happen here? Are you supposed to call the police, or do we let them go and

wander around? They're too dangerous to get on a plane and fly, but they can just go home and contact your reconsideration board?

This isn't a joke.

Mr. Brion Brandt: Excuse me for interrupting, but what I wanted to say is that there is a very clear process where, if the air carrier believes someone on the specified persons list is going to present themselves at the check-in gate, they can contact security and the police.

Also, when they contact Transport Canada—and this is another important part of the program—to verify that the person is in fact on the list, at Transport Canada we will have people 24-7 to contact the RCMP to advise them there is someone on a specified persons list who will be appearing at an airport, so they can make use of that information to carry out the functions they would deem necessary.

The purpose of this program is to prevent people who pose a threat to aviation from boarding a flight. That's the key—to keep them off the flight. And if the RCMP or any other police force of local jurisdiction have reason to believe there is something else, such as a warrant against this person, or something like that, they should be enforcing; it's up to them to enforce it.

Our role, really, is to make sure that the person who represents the threat does not get on the flight.

• (1315)

Hon. Sue Barnes: I dread to think this summer of how my MP constituency office is going to be dealing with the phone calls coming in with the false identifications. Has there been any thought to providing MPs with information on how we can contact somebody to be of assistance? Because I'm sure we'll get these calls about false positives.

Mr. Brion Brandt: Linda may want to respond, but if there are questions about this.... I would just say that we've tried to design it so there will be a minimal number of false positives—hopefully none, but there could be some. If there are some and people are getting questions and they need information about this, they can contact the Office of Reconsideration, and that information will be readily available to people. It is available now.

Hon. Sue Barnes: And is that the same number the public would get—and supposedly somebody will be there 24 hours a day? No?

Mrs. Linda L. Savoie: No, that's separate. There is a 24-7 centre, which is where the carriers will be having a dialogue with Transport Canada to determine if it's a match, and so on and so forth.

My office is a regular business hours operation, where we will be helping the person put in an application and find out what the situation is. If there is an error in identity, it's not an instantaneous process.

Hon. Sue Barnes: So say somebody is taking an overseas flight at 8 p.m. out of Toronto's Pearson International Airport, and they're phoning me at home—which they would do. Your office will be closed, you're telling me.

Mrs. Linda L. Savoie: I am not a quick fix, for sure. We have a process where we have to examine the file and see what the issue is.

Mr. Brion Brandt: Just on that point of the 24-7 number, if we're talking about a situation where someone has been denied boarding—a very rare situation, I would suggest—and they contact that 24-7 number, we need to know who the person is before we can start dealing with their case, and so on and so forth. Identity has to be clear. You could have anyone phoning up that number, saying “I'm Brion Brandt, and I have an issue here.” So identity needs to be clear.

But if we have somebody saying “I'm in airport and I have a problem that needs to be dealt with”, at least the Reconsideration Office at that moment will be able to direct them to the right person, and so forth. It's not as though there they are and there's no potential for contact. It's just that we don't envision being able to resolve those issues in a reconsideration process on the spot.

The verification of identity is on the spot.

Hon. Sue Barnes: Okay.

Have you appointed all of the necessary people, the reconsideration people, to all of your panels? And if so, has there been a press release? I haven't seen one from the Minister of Public Safety or the Minister of Transport telling me who these people are.

Mrs. Linda L. Savoie: What I have are employees. The case officers are in place.

With respect to the people we are hiring on contract, I have a pool of a dozen people, and I will identify a couple and sign a contract with them for this program specifically, because, as you'll recall, my office does two separate programs. Once the contracts are signed, we could certainly post the names of the independent advisors on our website.

The Chair: Monsieur Ménard, do you have any follow-up?

Hon. Raymond Chan: Mr. Chair, because of the time, I am sure that many of us have many questions. Would we be able to get the lady and gentleman back next week?

The Chair: We were going to discuss that next Tuesday, but if you're here we can do that. That's something for the future business of the committee, I would submit.

• (1320)

Hon. Raymond Chan: Yes.

The Chair: Monsieur Roy.

[*Translation*]

Mr. Jean-Yves Roy (Haute-Gaspésie—La Mitis—Matane—Matapédia, BQ): Thank you, Mr. Chairman. I have a question, and I will then give the floor to my colleague Serge. Like him, I totally, or almost totally doubt the effectiveness of the list. I will tell you why, but firstly, I want to ask you a question.

Is it true that we can check on the Internet and find out immediately if our registration has been turned down?

Mr. Brion Brandt: Are you talking about registration on the list?

Mr. Jean-Yves Roy: Yes. If it's automatically refused, is this known immediately? I would be able to check on the Internet to find out if I can board a plane, and I would know immediately if I were on the passenger list, or if I am turned down.

Mr. Brion Brandt: There are all sorts of reasons why a document may be refused, but in those circumstances, it's really to identify—

Mr. Jean-Yves Roy: This means that if I were an organization with the intention of committing a crime, if I had three, four or five separate identities, I would just find a new one. It's as simple as that. Ultimately you are telling us that you do not provide the information you have on a specific individual. But I had the intention of committing a crime, I would only have to check on the Internet to see if all of my identities were already in the system. If this is the case, I'd only have to create a new identity that is not in the system and which will allow me to circumvent it. That's basically what the list can do right now.

Mr. Brion Brandt: We have seen cases of people using their own identity.

Mr. Jean-Yves Roy: They are rather stupid.

Mr. Brion Brandt: Yes, that's true. It's not a solution to all the world problems. It's really a matter of dealing with the true problem. We've already seen circumstances such as these. If one wants to falsify an identity, it is possible to do so, I agree but it requires a certain effort, and the authorities can be made aware of such actions.

To my mind, it is truly necessary to recognize that this is an additional layer of security and safety. It's not a panacea.

Mr. Serge Ménard: I wish to make a comment to complete what I was saying earlier. As a passenger, I would feel safer if I knew that all measures are taken to prevent a terrorist, should one be on board, to attempt anything.

I'd like to hear from Ms. Savoie. What can I say, or what should I say if I were on the list, for reasons unknown to me, in order to convince the authorities that I shouldn't be on the list? For example, I can name at least five reasons why I would be put on the list.

First, there are just as many Serge Ménards as there are Linda Savoies in the world, and they are not all...

In addition, for several months, I was in contact with people who were accused of exporting nuclear material to Pakistan. Even though they were acquitted, I'm convinced that the RCMP still believes that they are guilty, and that the accused simply had good lawyers.

Voices: Ah, ah!

Mr. Serge Ménard: Third, I travelled to Cuba, but I went to Club Med.

Fourth, when I was a young lawyer, before there was legal aid, I defended many terrorists to provide legal assistance. The difference between legal assistance and legal aid, is that lawyers are given low fees under the legal aid system, whereas at the time, we didn't receive anything by providing legal assistance. As a young lawyer, I felt that we had a duty toward society to provide services free-of-charge.

Fifthly, I interrogated several RCMP officers over the course of my career, and many did not appreciate the experience: they are probably still upset with me.

How many reasons would I be able to give you, if I do not know why I am on the list? Wouldn't it be easier to do a quick check to see if it is the real Serge Ménard who is on the list, or if it is someone else who has the same name, etc. Did I have a professional relationship with these people?

Mrs. Linda L. Savoie: Indeed, our entire process always begins with an identity check. Once it has been determined that we have the correct person, that the birth date matches, you will receive a copy of the order. I also receive one. Once the 24-7 centre, referred to earlier by Mr. Brandt, issues instructions to prohibit a passenger from boarding a plane, my office receives a copy. Instructions contain the reasons why you would be refused to board. Is it because of your association with terrorist groups? Is it because you have committed serious offences? There are three reasons, if I'm not mistaken, for which your name may be put on the list. You already have an idea of the type of information that you would have to provide in order to proceed with an effective review.

• (1325)

Mr. Serge Ménard: We would be given at least that?

Mrs. Linda L. Savoie: If you do not receive the order, my office can give you a copy.

Mr. Serge Ménard: According to testimony we've heard, the person would still not know why he is on the list. Now, I know of three possible reasons, but even then, each one of these categories would apply.

Mrs. Linda L. Savoie: Yes. You would be a problem.

[English]

The Chair: Thank you. I can't relate to your problems with a name like mine. There are never any problems of identity.

Could I ask if the witnesses would be willing to stay an extra ten minutes? I have three more people on my list who would like to ask questions. It may save you from coming back to the committee. Would that...?

Mr. Dave MacKenzie: Mr. Chair, with respect to my colleague, I think we might better invite these folks to come back, so that we can get a proper airing. All I'm thinking is that I hadn't asked to be put on the list, but before we finish I would like to be on the list. I'm just not sure we would get finished.

I don't have any problem; I know Mr. Williams wants to ask some questions, and he's here as a sub. I don't have any problem with the ten minutes, as long as we understand that we still may wish them to come back at a later date.

The Chair: What does the committee wish? Should we extend for ten minutes if it's okay with our witnesses?

Okay. We'll extend for ten minutes.

Go ahead, Mr. Comartin.

Mr. Joe Comartin: On my comments at the beginning—the dumb comment—I just want to be very clear, because there has been criticism of members of Parliament on how witnesses have been

treated, that my comment was about the program, not about these two individuals. I understand they are simply doing their job. I just wanted to make that very clear to both of them.

The Chair: I appreciate that clarification.

Mr. Williams is next, please.

Mr. John Williams (Edmonton—St. Albert, CPC): Thank you, Mr. Chair.

I have been listening to the benign responses by the witnesses who assure us that this program is all well and working well, but I and Mr. Chan... I have not been on your list, but I think I have been on the American list.

I don't have the benefit of this 30 days to get my name off the list. I want to understand the sovereignty jurisdiction you have and how much other countries, especially our neighbours to the south, are imposing their list and their restrictions on travel upon us as Canadians. To what extent are they telling you how to run your program?

Mr. Brion Brandt: They are certainly not telling us how to run our program. I'd recognize that the U.S. has a strong interest in security and a strong interest in aviation security; so do we.

I think pretty well everyone in this room knows that the Public Safety Act that gave rise to this particular program was introduced in 2002, and five years later, we're developing the program. That's to say, sir, that there has been an awful lot of discussion, an awful lot of consultation, to develop a program that meets Canadian interests.

Mr. John Williams: Well, you haven't allayed my suspicions that the Americans are dictating a lot to us.

I also have a Canadian passport that indicates I'm a member of the House of Commons. I always use it for identification when I travel. I'm flying from Edmonton to Ottawa, not normally over U.S. airspace, but when they scan my passport through the passport reader, it still isn't good enough, and they have to phone in to some 24-7 department, I presume—thankfully it was operating 24-7—so I could get on a plane to travel across Canada.

I thought that as far as I could tell, it was the Americans who were dictating this issue, because when I contacted your department, you said there was nothing you could do about getting my name off the list and that I should talk to the Americans. I talked to the U.S. embassy, and they said that in six months to a year they could maybe do something about it.

That, to me, isn't good enough for Canadians flying in Canadian airspace. I need to know what you're doing to protect our Canadian sovereignty for Canadians flying in Canadian airspace. There's no problem with doing what you want to try to ensure safety, but do not let it be dictated by a foreign country when we are flying as Canadians in Canada.

What do you say?

• (1330)

Mr. Brion Brandt: We have no intention of being dictated to by anyone.

Mr. John Williams: So how do I get my name off the list, on your 30-day plan?

Mr. Brion Brandt: On the 30-day plan, talking about the Canadian program that comes into effect June 18, if in fact you are a person who is denied boarding—

Mr. John Williams: Almost.

Mr. Brion Brandt: If you're denied boarding, well, then, you have the reconsideration office. If your name closely matches someone else's name on the list, there is also a provision, through the reconsideration office, to make that information known and to include information there so that hopefully—

Mr. John Williams: But you miss my point. I did contact your office. You said there was nothing you could do; you hadn't put my name on your list, and therefore I had to talk to the Americans. The Americans said it was too bad, so sad; they'd send me a form, and maybe in six months to a year they might do something.

Now, I travel a lot, and I travel a lot in Canadian airspace. I don't see why the Americans should be dictating whether or not I get on a Canadian plane to fly across Canadian airspace.

Mr. Brion Brandt: The distinction there is that it wasn't our list. If you were on a list, it was probably the U.S. no-fly list. We don't tell them who goes on their list.

Mr. John Williams: But you use it for Canadian passengers in Canadian airspace.

Mr. Brion Brandt: We do not use that. If an air carrier applied the U.S. no-fly list for domestic reasons, we would strongly discourage them from doing that.

Mr. John Williams: Well, if you're from Transport Canada, I think you should be explaining to the air carriers that when it comes to Canadian law, Canadian citizens, Canadian airspace, it is the Canadian rules that apply and not anybody else's.

Mr. Brion Brandt: We've had those conversations.

The Chair: Thank you.

I have two more people on my list, starting with Mr. Cullen. Mr. Chan will follow.

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

Unlike some of my colleagues, I'm a big supporter of this program. I'm not sure it's going to be as quite as useful as the gun registry program, but I think it's probably ranking up there in terms of protecting Canadians.

The reality is that air carriers are using all sorts of lists. In the absence of our own list in Canada, they're using the U.S. no-fly list. On June 18 we'll have our own list. Frankly, the U.S. no-fly list was fraught with errors. We all know that. In my previous life on the other side, we helped people get off the lists. It didn't take six months. We had to go through the U.S. departments of transport and homeland security and we got a lot of people off the list. There'll be some of that on the Canadian list.

I have some other questions. First, are carriers coming into Canada or leaving from Canada obligated to use this Canadian passenger protect list? In other words, it's not an option, not a tool; it's a mandated requirement.

Mr. Brion Brandt: It's a mandated requirement. There are very clear requirements for air carriers—those operating into Canada, within Canada, out of Canada—to use the list and to protect the information, to treat that information carefully. If they don't, they are subject to some fairly severe sanctions.

Hon. Roy Cullen: In the recent case of the chap with TB who got on a plane with a Czechoslovakian airline, they would only have access to the U.S. no-fly list or any other lists that they might use. But if our passenger protect program had been in place when he boarded that Czechoslovakian airline, and he'd been on our list, he would not have been allowed to travel to Canada. Is that correct?

Mr. Brion Brandt: From what I understand of the circumstances surrounding this particular individual, which I don't claim to understand all of—

• (1335)

Hon. Roy Cullen: No, no, I'm not asking about those circumstances. If he had been on the Canadian passenger protect list when he decided to board an aircraft in Prague, I'm asking if Czech Airlines would have been required to not allow him to board. That's my question.

Mr. Brion Brandt: I understand your question. I'm just conscious of Madam Barnes' concerns.

I will address your question by saying—

Hon. Roy Cullen: I'm not interested in Madam Barnes' concerns right now. I'm asking you a question, sir.

Mr. Brion Brandt: What I'm trying to say is that if someone was trying to fly here from Czechoslovakia and they were on our list, that person should have been denied boarding in Czechoslovakia.

Hon. Roy Cullen: But “should have been” was not the question. Would Czech Airlines have been required, by law, to say the person, “You will not board this aircraft”?

Mr. Brion Brandt: Yes. By Canadian law, they could not board that person.

Hon. Roy Cullen: By Canadian law? Okay.

If they had not bothered or had been sloppy, what are the sanctions or recourses from the Government of Canada against that carrier?

Mr. Brion Brandt: The recourse is very clear. If someone does not fulfill the requirements of this program for an air carrier, there are sanctions that can mean fines of \$25,000. There are sanctions for individuals, not just carriers. It depends on just what the action is, and all those kinds of things. I don't know if we have time to get into that, but there are sanctions.

Hon. Roy Cullen: No, I just wanted to know if there are sanctions. Okay, thank you.

What about passengers boarding in Canada and going through U.S. airspace, the question Mr. Williams alluded to?

On June 18 we will have a Canadian passenger protect list. If the aircraft is going through U.S. airspace, let's say on its way to Halifax from Vancouver or something, will the air carrier, let's say Air Canada, be required to check that name against the Canadian passenger protect list and the no-fly list of the United States?

Mr. Brion Brandt: The Canadian carriers currently are obligated to check against the U.S. no-fly list for flights into the United States, and under passenger protect, they will be required to check for flights leaving Canada under our program. For overflights, that's a matter that's still currently under discussion, a matter of concern, but in terms of Canadian air carriers, it's for flights landing in the United States where the obligation exists.

Hon. Roy Cullen: To check against the U.S. no-fly list.

If it's over U.S. airspace...let's say a person was boarding in Vancouver, going to Halifax, going through U.S. airspace, and they were on the U.S. no-fly list but they weren't on the Canadian passenger protect list. What happens then? They can't board?

Mr. Brion Brandt: If...

Hon. Roy Cullen: It's an academic example. They are flying from Vancouver to Halifax, but they are flying through U.S. airspace. And they are on the U.S. no-fly list, but they are not on the Canadian passenger protect program list. Would they be allowed to board that aircraft?

Mr. Brion Brandt: As far as I'm concerned, if that's a domestic flight, even though it maybe crosses—

Hon. Roy Cullen: I just finished telling you, sir, that it was: Vancouver to Halifax.

Mr. Brion Brandt: Yes. Then there's no obligation for a Canadian carrier to check against the U.S. no-fly list for that.

Hon. Roy Cullen: Even if it's through U.S. airspace.

Mr. Brion Brandt: Even if it's through U.S. airspace.

We, as I say, recognize that there are these concerns, and we are working very closely with the U.S. to make sure that as we move forward with developing our own programs, these issues get resolved satisfactorily.

Hon. Roy Cullen: In other words, you are saying that the U.S. hasn't totally bought into this proposal that you've just outlined for us.

Anyway, I would like to say that I think the program won't be perfect, but we need it. We certainly need to use something other than the U.S. no-fly list, because it has all kinds of problems with it, so carry on.

The Chair: Mr. Cullen, those were good questions, but drawing the parallel to the gun registry was really not a strong defence of the no-fly list, in my estimation. The Auditor General pointed out that 90% of the registrations had errors on them, and I hope the lists don't have a 90% error rate.

I know I was out of order.

Mr. Chan.

Hon. Raymond Chan: I'm leaning more towards agreement with Mr. Comartin about the effectiveness and usefulness of this program. At best, it's marginally effective and would only catch the dumbest terrorists. Yet it inflicts a great problem on the civil liberties of the ordinary citizen, and this is what I worry about.

I'll follow up on Mr. Cullen's question about stopping people from boarding a plane from overseas. If somebody is coming from Hong Kong, China, or India and wants to return to Canada, and they are Canadian and have not committed any crime, but barely might be a suspect or associated with a suspect, they will be denied a way to come back to their own country. This is unacceptable. I don't think that is fair.

The other thing is, I have some experience with Transport Canada and getting a security clearance through a department. I have a constituent who has worked in the Hong Kong airport on the air side doing maintenance as a Canadian, because he couldn't find a job in Canada. He went back to Hong Kong and worked for five years. He then came back and tried to get a job with Air Canada on the air side. He was denied clearance. It took me half a year with the interference of the minister before we could get him a security clearance. This is how complicated and difficult it is for an ordinary citizen to live like an ordinary Canadian.

This no-fly list is going to have a lot of impact on people for reasons that they would not be told. They wouldn't understand why, and they would not be told why they were on the list. They won't be able to defend themselves if they don't even know why they're on the list. To me, this is a great infraction on the civil liberty of Canadians, and it is also going to be very problematic for the minister, and at best maybe you'll catch the dumbest of the dumbest terrorists.

• (1340)

The Chair: I didn't detect a question there, but if you have any comments, go ahead.

Mr. Brion Brandt: This list would be very focused, and we've taken account of the potential situation that you're describing of a Canadian who could be overseas. Those sorts of circumstances sometimes present themselves for issues other than ours. We're working with the Department of Foreign Affairs and others to make sure that the rights of Canadians are respected. If someone finds themselves outside the country and not able to board a flight in a regular manner because of the program, we will have solutions to address that. We are very interested in making sure that the rights of Canadians are defended.

Hon. Raymond Chan: How would you do it? Would you provide a private jet to fly them back, or do you have an air marshal to accompany them?

The Chair: I think he is asking if there would be compensation.

Hon. Raymond Chan: No, it's not compensation. You are denying his right to come back.

Mr. Brion Brandt: It depends very much on the circumstances that are presented by that individual case. The number of those types of cases I would expect to be extremely limited, extremely small, and we will deal with them case by case, depending on the circumstances surrounding the individual.

As I said, this program is not for your average traveller. It's for people who pose a threat to aviation security. We have to deal with that based upon the circumstances surrounding that individual.

The Chair: Mr. MacKenzie, you will have the final word here.

Mr. Dave MacKenzie: Thank you, Chair.

Thank you to the two panel members.

I agree 50% with Mr. Cullen, but I do believe that this program, not necessarily the other one he talked of, is effective.

When we talk about the civil liberties of the individuals who are refused the opportunity to fly, I understand that issue. But I believe, and I think most Canadians believe, that the civil liberties of people flying on the aircraft are also important. Those innocent people who get on the aircraft have every right to believe, as Mr. Cullen indicated, that there will be some way to check that the other passengers on that aircraft don't represent a threat to the travelling public. From that perspective, I agree with the plan. Equally, as he has indicated, I recognize that it won't be perfect, but without any plan, I don't know what protection there is for the travelling public.

I know that a great deal of the negative things have been focused on the American program, but this is not the American program. Would you confirm for Canadians that this is a Canadian program, made in Canada for Canadians, to protect them—

• (1345)

Hon. Sue Barnes: Like environmental problems?

I'm sorry.

Mr. Dave MacKenzie: Well, listen, we're talking about the safety of Canadians who travel on our airlights, and I think it needs to be abundantly clear that this is a made-in-Canada plan, for Canadians, to represent safe travel in our airspace.

Mr. Brion Brandt: That's absolutely true, and we recognize that aviation is important to Canada. It's also an international industry. This program, as I say, over the last five years has been developed to meet what we believe are Canadian interests in an international context.

Mr. Dave MacKenzie: Are there other countries besides the North American countries that have similar systems, regardless of what it might be called?

Mr. Brion Brandt: There are not many, but there are others that do have programs either that are in place or they're considering developing them.

Mr. Dave MacKenzie: And much of this I think you indicated came from the 9/11 incident in the United States.

Mr. Brion Brandt: If you look at those circumstances, I appreciate the comments. We do have very clear examples of people using their own names, of people who are involved in these types of activities, of people who might carry out these types of activities. As I say, it's addressed to those types of people. It's not addressed to the average traveller who has never had any of that kind of action in their background.

Mr. Dave MacKenzie: Thank you.

Those are my questions, Mr. Chair.

The Chair: Thank you.

I would like to thank our witnesses very much.

Just to let this committee know, I'm planning on calling a meeting for Tuesday, at the regular time—11 o'clock—to discuss future business of the committee. Please come prepared for that.

Mr. Serge Ménard: And my motion.

The Chair: That's future business of the committee. We can discuss that.

Thank you.

The meeting is adjourned.

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