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Chair

Mr. Garry Breitkreuz

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• (1535)

[English]

The Chair (Mr. Garry Breitkreuz (Yorkton—Melville, CPC)): I'd like to bring this meeting to order.

This is the Standing Committee on Public Safety and National Security. We're on meeting number 14, and today we are again studying the witness protection program.

I regret to inform you that one of our witnesses who was scheduled to appear is, because of health reasons, not able to be with us, so we have only one witness with us. Next Monday we will have a session to deal with the report, so we'll have to discuss at that point whether we still want to have her come as a witness, but she was not able to come today.

[Translation]

Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ): Mr. Chair?

[English]

The Chair: Yes.

[Translation]

Mr. Serge Ménard: Which witness cannot appear?

[English]

The Chair: Anne-Marie Boisvert.

Mr. Serge Ménard: I'm sorry, because I know her very well. She is a very good lawyer. You know, she is dean of the faculty of law.

The Chair: Oh, yes, I know. It's unfortunate that she cannot be here.

Mr. Serge Ménard: Yes, it is, but I hope she is not too....

The Chair: Well, she couldn't travel on the bus. I don't know the details of it.

We do welcome, from the University College of the Fraser Valley, Mr. Yvon Dandurand. He is the associate vice-president of research and graduate studies. We look forward to having you with us.

The usual practice at this committee is to give you an opportunity to make an opening statement, approximately ten minutes or so, and then we open it up for questions and comments. If that's all right with you, sir, you may begin as soon as you're ready. Welcome to our committee.

Mr. Yvon Dandurand (Associate Vice-President of Research and Graduate Studies, University College of the Fraser Valley, and Senior Associate, International Centre for Criminal Law Reform and Criminal Justice Policy, University College of the Fraser Valley): Thank you, Mr. Chairman, and good afternoon.

I'm grateful to the committee for this opportunity to appear before you today and offer some comments on witness protection programs.

As members of this committee can fully appreciate, witness protection is especially important in the fight against organized crime and terrorism. This is because the close character of the groups involved in such conspiracies makes it particularly difficult to use traditional investigation methods.

I've had several opportunities to examine international best practices with respect to witness protection programs and also the use of informants and agents by law enforcement agencies, particularly in the context of the implementation of the United Nations Convention against Transnational Organized Crime, a convention that calls for these kinds of methods and for international cooperation in using informants and in protecting witnesses, and also recently on behalf of the commission of inquiry into the investigation of the bombing of Air India Flight 182.

However, let me say at the outset that the very nature of the problem of witness intimidation, which is what we're really trying to prevent, makes it a problem that is quite resistant to public scrutiny and research. I'm sure that this committee has already become quite acquainted with that particular problem as it was conducting its own review of the existing programs in Canada. There is, in fact, far too little systematic research on the practical, legal, and ethical issues that surface in relation to current witness protection practices in Canada and the related question of the use of informants and agents by law enforcement agencies.

I understand that the committee has already heard witnesses who have pointed at several of those issues. What is particularly lacking, as you might already appreciate, is good evaluative research on what works and on the efficacy of existing witness protection programs.

Please allow me to say a few words here, to start with, about the use of informants or agents and their protection.

The most frequent use of a witness protection program is for the protection of individuals who have acted as agents or informants for the police. Law enforcement authorities increasingly need to rely on the testimonies of co-defendants and accomplices willing to cooperate and provide evidence against former associates. In many instances, an attempt will be made by the police to turn an "informant" into an "agent". The use of criminal informants and agents is generally considered essential to the successful prosecution and detection of various criminal conspiracies, because this is where these methods are the most useful. However, the practice is not without its own perils and pitfalls.

Furthermore, one must also remember that the reputation of the police as to its own ability to protect informants and witnesses affects the ability of the police to recruit people who can assist them. So it is crucial, really, to have very solid programs in order to have a chance to become effective at fighting organized crime in any criminal conspiracies. Failure to protect witnesses and agents can lead, of course, to a lack of trust in law enforcement, which itself will result in fewer informants coming forward and fewer witnesses making the decision to cooperate freely with the authorities, not just with the police but also with the prosecution during the trial. The recruitment and handling of informants and collaborators is, however, problematic in different ways, and so are some of the controversial methods that are sometimes used by law enforcement to compel criminals to cooperate.

In my view, there remains a need to provide a tighter framework for the management of informants and agents, in the form of guidelines, statutory regulations, or increased independent oversight of practices in that area.

I'll now move to a few comments about witness protection programs themselves.

We should all keep in mind that formal witness protection programs are only one measure within a broader range of measures that may be taken to protect witnesses or informants. These formal witness protection and relocation programs are at one extreme of that continuum of protection measures, but they are very costly—as you by now can appreciate—and quite difficult to manage.

There's a whole range of other protection measures that are available and should be emphasized, from procedural measures to regular low-level police protection measures.

● (1540)

What we are referring to oftentimes here as a witness program is what I will refer to as formal witness protection, because it's only one aspect of witness protection measures that can be taken by law enforcement.

Formal witness protection programs offer a way to safeguard the investigation, the criminal trial, and the security of the witnesses. Their main objective is to safeguard the lives and personal security of witnesses and collaborators of justice and people close to them. Witness protection programs are not some reward for the witnesses for cooperating with the authorities.

Ineffective protection measures can affect the outcome of prosecutions and trials, and affect public confidence in the efficacy and fairness of the courts. When we compare existing programs internationally, which I've had the chance to do, even though the information that is generally available to the public and to experts is quite limited, we find that existing protection programs in western countries do not differ from each other significantly in terms of the protection they offer. There are some small differences in terms of eligibility criteria, the administrative process for making decisions about who gets protection and what kind of protection, and the modalities of the program—how it operates. There are, however, significant differences among programs in terms of who is responsible for their operation. In many countries, witness protection is largely seen as a police function, as a police program, whereas in

other countries the judiciary or other government agencies are called upon to play a key role.

In Canada, as you well know, the national witness protection program is seen primarily as a police program. Protection in existing programs, particularly those that are seen as police programs, tends to be extended only to witnesses in cases involving the most serious crimes and not necessarily always in cases involving the more serious threats.

One of the first criticisms that is oftentimes addressed to those witness protection programs that are primarily understood as police programs is that they offer the protection selectively based on what is useful for the police in attempting to obtain a conviction or advance a prosecution. It is not based necessarily on the needs of individuals in society who require the protection. So one may well find oneself in a situation where one is facing a serious threat but one is of no real value as a witness to the police. In those cases, protection is rarely forthcoming. And that is one of the major drawbacks of the idea of having a witness protection program that is conceived of as a police program.

In our country, at the federal level, the law gives the responsibility of managing the federal witness protection program to the Commissioner of the RCMP. As you know already, at the provincial level the situation varies.

A Council of Europe study of best practices in witness protection concluded that it is important to separate witness protection agencies from investigative and prosecutorial units with respect to personnel and organization. My understanding is that this is very much a point on which the debate is still ongoing in Canada, because clearly that is not the practice in Canada.

I think it is fair to say that whatever model one is deciding to support will have advantages and disadvantages. But I think it's also fair to say that if you were to consult most experts internationally in terms of best practices in witnesses protection, the consensus would be on the side of keeping witness protection programs operated separately from police functions.

Serious consideration should be given, in my view, to creating a national and autonomous witness protection program in Canada and of course providing it with adequate resources. In my view, a program that would be kept separate from normal police functions would offer greater protection to witnesses and would hopefully be more credible than current programs in the eyes of witnesses and potential witnesses and also other citizens who require protection from organized criminal groups or terrorist organizations.

● (1545)

The establishment of such a program would require addressing a number of practical, logistical, and communication issues, as well as securing the collaboration and participation of the provinces, the RCMP, and other Canadian police services.

Another point I would like to bring to the attention of the committee, Mr. Chairman, is the issue around the accountability for programs. In making the following comments I am not specifically targeting the federal program here in Canada under the responsibility of the RCMP, but talking more in general terms that are applicable, as well, to the Canadian situation.

Whether or not Canada eventually decides to create a separate agency to manage the federal witness protection program, or to institute a truly national witness protection program across the country, there is, in my view, an urgent need to elaborate and perhaps also legislate some clear national guidelines concerning the protection of witnesses and collaborators of justice. The roles, responsibilities, and obligations of the police in that area need to be more clearly defined. It is also time to address the need for an effective complaint-and-redress mechanism for witnesses at risk or for protected witnesses who are endangered and whose rights may be abused as a result of poor witness protection practices.

In this, Mr. Chairman, I would also include a category of people who are oftentimes neglected in the whole debate. They are the people who request protection but are denied. Oftentimes in agencies there will be accountability mechanisms for decisions concerning witnesses who have entered the program or decisions looking back retrospectively at decisions concerning individuals who later enter the program, but there is very little information on people who are denied access and on the reasons why they are denied access to the programs. We suspect at times that the decision is based largely on cost.

Effective means must be developed to make the agencies involved in witness protection more accountable for their decisions and practices. We all know that there are judicial reviews possible in those cases, but clearly if you are depending on a particular agency for your protection, and perhaps even for your own safety and security, the first thing that comes to your mind is not necessarily to go and start legal action against that particular agency. Clearly, witnesses are in a very vulnerable situation. Normal means of redress for them, even though they exist in practice or in theory, are difficult to access.

To conclude, Mr. Chairman and members of the committee, I would like to draw your attention to the general idea of the rights of witnesses. Most witness protection programs of 20 years or more tend to define this whole issue in terms of seeking the cooperation of a particular class of individuals who might advance a prosecution or provide police with necessary intelligence.

If you turn this problem around and realize that you're dealing with witnesses who also, like all other Canadian citizens, have rights, then you have to try to shed some light on a number of decisions that are made concerning individuals in the community who need protection. You have to place at the centre of all the initiatives that we take one basic concept, which is that first and foremost you protect people, and secondly you try to advance your case. I know this is a difficult concept to get hold of, but if we don't put the protection of all people at the centre of all our interventions against organized crime or terrorism, we are going to find ourselves in a lot of trouble.

In brief, I would submit, Mr. Chairman and members of the committee, that notwithstanding the legitimate legal, public safety, security, confidentiality, and privacy considerations that must equally be addressed, it is imperative that some greater transparency be introduced with respect to decisions that are made concerning witness protection, the denial of protection in certain cases, and the general use of informants and collaborators of justice. It is also important to ensure that witnesses and informants, as they make

important decisions, also have access to legal advice and representation when necessary, with respect to these very difficult decisions they have to make.

Thank you.

• (1550)

The Chair: We thank you.

We will now begin our questions and comments.

From the Liberal Party, Ms. Barnes, please.

Hon. Sue Barnes (London West, Lib.): Thank you for coming today. It's been a while since we've been on this topic—last spring. It's good to get refreshed by having you here.

One of the statements you made in your paper is “There is an urgent need to provide some effective independent oversight of witness protection programs and activities.” I would like you to elaborate on exactly what you mean by that.

Mr. Yvon Dandurand: When it comes to the federal program, the RCMP program—and there are other practices at other levels—the main mechanism would be the Public Complaints Commission. There have been cases before that particular body, but the protection tends to be limited. I know that Mr. Paul Kennedy, who is the commissioner, has appeared before you, but I don't remember clearly all of his comments.

It is very difficult for witnesses to come forward with complaints, because they are basically complaining about people who are responsible for their protection. We may be prepared to believe that all of the people involved in the program will act with integrity, are professionals, and so on, and it may well be the case, but from the point of view of witnesses and people who are caught in those situations—really frightening situations oftentimes—the first thing that comes to their mind is not to go and complain about them. I'm not saying they don't, but what we need to have is a mechanism whereby reviews are done independently of individual complaints when there are signs that perhaps practices are evolving in a direction that is problematic, or when there are signs that policies or practices might be in need of review.

Hon. Sue Barnes: There is a need for it, I agree with that, but I'm trying to figure out which independent oversight. Mr. Kennedy came here and effectively told us he didn't have the teeth to do the job and was proposing other legislation for his own situation.

What other oversight are you looking at? I don't understand how you can make such a statement and then not give us an example.

Mr. Yvon Dandurand: Thank you for the opportunity to clarify.

If we're specifically talking about the RCMP program, the current mechanism is probably the mechanism that needs to be enhanced and strengthened. If we're talking, at some point, about establishing a national program that may or may not be located within the RCMP, then you might want to consider a different reporting mechanism.

Under the current system, I do not see that it would be that problematic to change the mandate—with legislation of course—of the Public Complaints Commission and make it possible for that commission to perform that role effectively and efficiently in relation to witness protection. I'm not suggesting you need a different one, unless, of course, you have a different program, which might call for a different situation.

• (1555)

Hon. Sue Barnes: You talked about reviewing the European Union's and other countries' situations with respect to witness protection. Was there any research information on the Canadian witness protection program that you had available to you, or do you know if any exists?

Mr. Yvon Dandurand: Do you mean on the Canadian program?

Hon. Sue Barnes: Yes.

Mr. Yvon Dandurand: There are annual reports and statements that have been made in public, but there is very little systematic research. I must say it is also the case in most other countries. There are very few cases.

There are some cases, such as the federal marshal program in the U.S. and others that have been subjected to a fairly detailed review, but typically these programs are covered by some kind of veil of secrecy, which is partly justified. Obviously, you need to keep these operations confidential and secret to a certain extent, but it's a level of secrecy that is not justified. It is quite possible to review those programs in a more open and transparent way without compromising anybody's security.

Hon. Sue Barnes: When we had a representative from some of the programs in the United States, they were certainly advocating for psychological screening that doesn't exist in the current programs, at least not in the RCMP witness protection program. We're looking toward recommendations and ultimately a report. Is that something you think is important, or did you see it in other jurisdictions as you reviewed their literature?

Mr. Yvon Dandurand: I think it is important, but to make it automatic would be a waste of resources. This is a decision that is better left to the people operating the program and assessing the risk.

Basically, the psychological tests, to a large extent, tend to establish whether the witness or the individual in question is going to be able to function under the program. That is part of the broader risk assessment. I think that our police officers and those currently operating the program here and in many other countries are oftentimes quite capable of doing this and making that decision. There is no need to impose criteria upon them, as is done in some cases. Oftentimes it is a matter of resources, because those assessments take time and are costly.

Hon. Sue Barnes: Okay.

You touched on the resources, and I think that's one of the biggest problems. We're talking right now about the RCMP, but at the municipal level and the provincial level I think they all encountered that situation.

Some of the suggestions put before us have been about funding this program. Where do you think such funding should come from? Because I think that does impact the level of protection given.

The other concern that one of the witnesses who came before us expressed was that there should be a separation of the person who makes the decision on the payment from the person who is controlling the witness.

Mr. Yvon Dandurand: Thank you.

On the second part of your question, I think there is almost unanimity that there needs to be a very clear separation between the two aspects. Some people will have argued it's sufficient to have that separation within a police force, to have two different branches with some kind of firewall—if you'll allow me the expression—between the two. Generally, experts say it has to be more than this: two separate agencies, separate budgets, budgets that do not impact on each other and so on.

As to where the funding should come from, that's a very complicated question. Currently the funding tends to come from those who are responsible for the administration of justice, so it tends to be from the provinces. The agreements with the federal government are quite complex because in many provinces they are parallel and related to contract policing arrangements and so on. The lack of resources has been an issue.

I would not necessarily say the solution is the creation of a supernational program that is all paid out of one pocket. I know this option has been put forward in some circles. I believe even the RCMP has made such proposals known publicly. I'm not saying it's a bad idea, but it would create all kinds of difficulties.

As I mentioned earlier in my opening remarks, the RCMP program is one extreme part of the range of protection measures. We cannot institute a regime where we create the impression that witness protection is about relocating a handful of witnesses. Witness protection has to be taken from the first day a police officer takes a complaint from a victim all the way until after a trial and even after an offender has been condemned, imprisoned, and is being released. To reduce this and to say that witness protection will be a national program under one agency and will be funded by one source of government might be a simplistic response to this, but, yes, the question of resources needs to be addressed.

• (1600)

The Chair: Thank you very much.

We'll come back. We'll have more time.

We'll go to the Bloc Québécois now for a question.

[*Translation*]

Mr. Serge Ménard: Thank you, Mr. Chair.

You speak English perfectly, much better than I do, but sometimes I can detect the trace of an accent. I therefore presume that your first language is French. In any event, I would have put my question to you in French, but we will not need interpretation.

You surprise me somewhat. In response to the last question to you, I seemed to understand that to your mind, the ideal solution is not necessarily to create a separate agency that would take care of the Witness Protection Program. However, in the report that you sent us I read this:

Serious consideration should be given to creating a national and autonomous Witness Protection Program in Canada and providing it with adequate resources. A program that would be kept secret from normal police functions would offer greater protections to witnesses and would hopefully be more credible than the current program in the eyes of witnesses and potential witnesses.

I would like you to clarify your position. After reading your report, I know that you certainly have a very broad knowledge of other programs that have existed worldwide. Personally, I am hesitating, because I do not know what the best solution is. When I started practising criminal law in 1966, at the crown attorneys' office in Montreal, this did not exist; I could not even imagine such a thing. In fact witnesses who were informers... There were no formalities.

And then much later, the report by judge Guy Gu erin arrived. He stated they need to sign contracts with them. Thereafter, when I was Minister of Public Security, we received many complaints—as opposed to what you observed—from witnesses who claimed that the agreement we had with them had not been respected. Their credibility was undoubtedly dubious, because often these people had a criminal past. An independent organization would certainly have given the system as a whole greater credibility in such cases.

Your opinion is truly important to me. Do you believe that it would be preferable to have an independent organization or do you think that we should allow police to take care of protection of witnesses from whom they solicit testimony?

Mr. Yvon Dandurand: Thank you for giving me the opportunity to clarify certain points.

Indeed, I believe it would be preferable to have a completely independent organization to manage the current program. That is the first part of my answer. And if ever there was willingness to make the federal program a national program, that is to open it up to different participation from all police forces in all provinces, we would be dealing with an independent national program. For the moment, my perception is that the program that is sometimes "national" is strictly a federal program which occasionally offers other police forces or provinces the opportunity to participate in it under certain conditions.

In my written recommendation that you read, there are two sides: first of all, the program should indeed be administered autonomously with close links to police forces of course; secondly, there should also be consideration given to establishing a national program that involves in different ways all national, provincial and municipal police forces, which is more complicated.

Perhaps I confused the matter because I alluded to the fact that there was a proposal circulating. I am not sure whether it has reached this committee. This proposal, which comes from the RCMP, more or less sought to establish a new program, the cost of which would be borne by the federal government. Obviously, I would be very surprised if the provinces refused that type of gift.

But from my standpoint, what needs to be done is indeed to create a national program without removing responsibility from the provinces and the police forces. As a former crown attorney, you probably know that when it comes to witness protection, there is a lot more to it than simply relocating witnesses in very serious cases.

●(1605)

Mr. Serge M enard: In the written brief that you sent us, you really give a good overview. You truly reassure us about your knowledge, which you can't communicate to us in its entirety. It was my understanding that Ms. Boisvert would have given us more explanations on the systems in Europe, which would have been good supplementary information. I hope we at least receive her written report.

Nevertheless, there is one thing that often happens, and this was confirmed by people who work with this protection system: a lot of work is done to give these individuals a new identity and allow them to go and live abroad. It seems that in a considerable number of cases, after a relatively short time, let's say two years, these people come home.

I'd like you to elaborate on that. Should we give up this approach? I get the impression that these people believe that they've become entitled to a state pension that would replace the profits accumulated through the criminal activities that they were involved in before they informed on someone else. You don't talk about that.

Could you comment on that aspect?

Mr. Yvon Dandurand: I don't know what proportion such cases represent compared to others. You said it was a very large number. I'm convinced that it is a considerable number, but I don't really know the true magnitude of it.

We have to remember that contrary to what one may think, witness relocation programs are very difficult for witnesses themselves. A very small number of studies have been conducted with these witnesses, and all of them have corroborated the fact that adaptation is extremely difficult for people who are relocated and who have a new identity. They have a great deal of trouble staying away from their family and friends. Of course, we're not always dealing with people who had excellent social or other skills. So you can't expect miracles either.

There are always many difficulties with adaptation. It's true that we can see this as a situation where people have figured out that they've got a cushy deal or a good way to exploit the system, but on the other hand, we mustn't forget that these are people who have to face enormous and very difficult adaptation.

I hesitate to tell you about certain studies, because they don't have much credibility insofar as they were conducted with a very small number of witnesses. However, they do demonstrate that the risk of suicide, mental illness, depression and so forth is much larger among relocated witnesses than in the normal population.

It's a difficult period and we shouldn't be surprised to see that people will break the agreement they had signed with the police after one, two or three years.

[English]

The Chair: Ms. Priddy, do you have any questions and comments? It's your turn. Go ahead, please.

Ms. Penny Priddy (Surrey North, NDP): Thank you, Mr. Chair.

Thank you to the presenter.

I have a question about research. You say in your paper that there really has not been any kind of qualitative—that was my word—research around the efficacy of the programs, although there must have been reviews, obviously, because you quoted the one, and I did try to wade through all of the minutes that you folks got to hear from people last time.

In terms of there not being any research on the efficacy of the measures, can you talk a bit for me, please, about how you might see that research being done, who you might see carrying out that research, and what the challenges would be in terms of access to information to do that kind of qualitative research? As well, we know that for any kind of qualitative research we do, where one person is in a position of power over the other one, it's very hard to get true information, and there are many examples of that, in which others of us have probably been involved in other parts of our lives.

Perhaps you could please talk a bit about that research: the who, the how, the where, the challenges. It concerns me that while we may do reviews of certain things, there isn't any research about this.

• (1610)

Mr. Yvon Dandurand: Thank you.

Basically, there is a bit of research asking police officers, prosecutors, judges, and others whether they feel that in their opinion the program has assisted in the development of a proof or a condition, or whatever. The evidence that you would be looking for really requires some kind of contact with the witnesses, and the whole purpose of the program is to deny people access to those witnesses.

So usually this is being done either through vetting a researcher or research team through a very stringent process to make sure you're not exposing witnesses, and that's complicated, but possible. It has been done. The second one is to function and to ask your questions of the witnesses through their handlers or through the people responsible for their protection.

I do know, for instance, that there was a questionnaire that was given to some of the witnesses in the current RCMP witness protection program as part of the work of the commission of inquiry into the Air India incident. So it is possible to do so and it is possible to get information from them. I believe the methodology in that particular case was that questions were developed by the commission's counsel. The questions were vetted, discussed with the RCMP officials responsible for the program, and then they basically administered the questionnaire, if you would call it that, to the witnesses.

I do not know whether the findings have yet been made public by the commission. I presume it will be part of its report. So it's possible. Even in Canada, it's possible.

The normal reaction you get in all countries, and I think to a certain extent in Canada, when you ask whether you can do this kind of research...the first response is, "No, we cannot do it, it's too secret, it's too difficult. You have to protect the witnesses. There are no methodological ways of doing it." That's not true. It's not because it's a program that requires a high level of security that it's not possible to do some research. That's what I mean by using the word "transparency" here and there in my report to you.

Ms. Penny Priddy: How big a pool of witnesses do you think you would need to get some kind of evidence in which you could actually make recommendations or that the research could actually come to some conclusions? You're talking about the Air India bit. I'm wondering how big a pool you would need.

Mr. Yvon Dandurand: Because of the wide variety.... And it's not just witnesses but it's also their families. Remember that other people get protected.

Ms. Penny Priddy: Yes, I understand that.

Mr. Yvon Dandurand: You probably would need somewhere in the neighbourhood of 10%, minimum, of the people who are currently in the program. That looks like a large sample, but the population there is a fairly small one. So 10% of them would probably be a good start.

Also, I do not think it's a one-time-only kind of research. Basically, that situation is a fluid one and it needs to be monitored from time to time.

Ms. Penny Priddy: So it's longitudinal?

Mr. Yvon Dandurand: Longitudinal.

Ms. Penny Priddy: As my last question, can you name organizations? Do you think it's universities? Who would be appropriate for that kind of research?

Mr. Yvon Dandurand: There are any number of groups, but I think it would be highly credible in the eyes of the population and others if it were done by academics, universities. It should be done by people with a reputation and a history in that area—criminology schools and so on.

Ms. Penny Priddy: Thank you.

The Chair: We'll now go to the government side. Mr. MacKenzie, please.

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

Thank you, Mr. Dandurand. It's certainly interesting to hear your comments. I don't think any of us have heard anything we would disagree with very stringently.

It would seem to me that in a country the size of ours, a witness protection program presents a number of issues. Likely as not, the role of administering it fell to the police. The Americans have their U.S. marshal system in place, but in Canada the police are the body we would rely in most of our communities. So it seems that this fell to them.

My recollection—I just asked the researchers and I don't think I'm out too far—is that we have fewer than 1,000 people in the program. The number may not be big, but it's extremely important to those 1,000 people. It's also important to a lot of victims and other people who appreciated the testimony provided by those now in the program.

It would seem to me that your comments to Mr. Ménard are right in a stand-alone organization. But I'm not sure how we'd do it across the length and breadth of the country, given that folks come from each part of our country. They're not all in large cities, and they're not all in any one or two provinces. Would it not be a fairly significant operation to put in place?

I'm not sure that I've heard any of the RCMP people say they want to retain it. With the logistics, it's difficult to get it into some other domain.

• (1615)

Mr. Yvon Dandurand: I think you're right in saying that it would be difficult, but I don't think it would be impossible or even unmanageable. It clearly would require a lot of cooperation between the provinces and the federal government. A lot of it currently exists already, between police forces and between the RCMP and the provinces and those people in each province who might be responsible for police services and so on, but it's primarily basically conceived of and administered as a police collaboration program.

I think the point I'm making, and it's a point that others have made, is that it has to be a little more than that. It can't all be dictated and controlled by police tactical or strategic goals. It can't always be competing against other police costs. It has to be treated as an independent program.

I believe it's possible to coordinate them. I also think there's a trap in thinking that the measure should always be to relocate the witnesses. Oftentimes a very temporary relocation is sufficient. Oftentimes simply a new identity is sufficient. In my view, this is perhaps not used often enough.

Sometimes when you deal with police forces and police services within the country you hear that they don't feel they have access to that very simple service, which is to create a new identity for someone. You don't need the RCMP to do this. You need a place where you can actually create a new identity and make sure that it will be protected. Oftentimes just that would be sufficient.

There are a lot of witnesses who would rather take their chances.... And I'm not necessarily talking about the head of one major criminal organization. We cannot just be thinking about those stereotypical witnesses. There are lots of witnesses who would take their chances, who would have the courage to come forward, many of them innocent witnesses who are not linked to organized crime or anything, if simply we could just facilitate things a bit—short-term assistance, relocation until the trial is over, a bit of financial assistance to cover the costs of all of these measures we have to take. Sometimes they will need, for instance, private protection from a private security agency to secure their house or whatever. They might need a new identity.

So a whole range of things can be done, and it cannot be a matter of either qualifying for the heavy-duty, extreme program, which

involves relocation, or nothing. The advantage of having a national program would be that it would make each police service more responsible for taking the right kind of action.

I think one of the deplorable situations currently is that too many of those decisions are primarily made—and we all understand why—on the basis of costs as opposed to the basis of the protection of the rights of the people who are caught in those situations, whether they themselves are criminals or not.

Again, I think the statistics that have been presented to the committee will tell you that, yes, there are several criminals who were benefiting from that program, but their relatives were also benefiting from the program and in need of protection—as are a whole bunch of witnesses and collaborators of justice who basically have no association with organized crime and right now are left to their own means. The bias oftentimes within law enforcement, not just in Canada but elsewhere, is that, well, these people will be left alone; you compel them to testify, they will do so, and organized crime will understand that they had no choice. But that's not reality.

• (1620)

Mr. Dave MacKenzie: I think you've struck on what perhaps many other people feel too, that a number of these programs end up under the police umbrella and then they end up competing for the same resources as the core police function, which typically would be seen to be the important job of the police. Maybe witness protection got tagged on because there was not seen to be another agency out there that was in a position to do it. It would take a fairly significant amount of resources.

I think one of my colleagues asked about which ministry. It might seem that it should be a justice matter more than a public safety or solicitor general side of things. I think that's a major shift in terms of where we are with the program. I wonder if you'd like to comment on that particular aspect.

Mr. Yvon Dandurand: Thank you for this.

Yes, I think it would be a major shift. Most countries are aligning themselves toward that major shift. Why today, why in 2008 as opposed to in 1998 or 1988, is because countries generally understand better what is required to fight large criminal conspiracies, organized crime, and terrorism in recent years, and basically we need to give ourselves the means.

Methods that were used sporadically and in exceptional, very serious cases are now, we find out, needed to be used more routinely. Therefore, programs such as this one have acquired a new importance.

If you look internationally, ten years ago there would have been at least fifty countries that had no witness protection program that now have protection programs. It is basically a movement, and the movement is because we have realized the need to fight against criminal conspiracies across borders as well.

The next level of this, which I haven't elaborated on, is that the trend is for countries to cooperate with each other. Basically, Canada is one of the countries that is most open to cooperating with other countries on a needs basis.

The Chair: Ms. Barnes, you've indicated you would like to do some questioning.

Hon. Sue Barnes: Yes, and then if I have time, maybe Mr. Cullen....

We know that sometimes witnesses under the program are released for whatever reasons, and we also know that if these people commit a further offence they're still prosecuted. Would you go so far as to amend the bill to explicitly state that if once under protection you were convicted of any offence under the Criminal Code, the protection ceases?

Mr. Yvon Dandurand: I don't think there'd be any harm with that type of amendment. "Any offence" might perhaps be a little too much, because there are some very minor offences for which you might want to create exceptions. Certainly for any serious offence—

Hon. Sue Barnes: Say for any indictable offence.

Mr. Yvon Dandurand: Yes. What would be the harm in this?

Hon. Sue Barnes: Okay.

I'm going to turn it over to my colleague.

[*Translation*]

Hon. Roy Cullen (Etobicoke North, Lib.): Mr. Dandurand, thank you very much for your testimony here today.

[*English*]

I have a couple of questions.

In my area in Toronto, in Rexdale, we've had a lot of gun-related crime. The problem the police have is with witnesses coming forward. Many of these crimes are committed in broad daylight. There are clearly people who have witnessed what's gone on, but they're frightened to death, with good reason in many or most cases, to come forward. Even programs like Crime Stoppers or anonymous numbers aren't working.

I've heard from the Toronto police, who've argued that, yes, we need witness protection programs like the type we've been talking about, where people change identity and go to Florida or wherever. A lot of people who witness crimes might have their families in school. They have jobs and they enjoy the neighbourhood. They just wish there would be less crime in that area, and they'd like to come forward.

I've raised this before. I'm not a lawyer, and people argue that, well, under the rules of discovery for any person who would come forward, their identity would be revealed automatically. Are there any ways within the criminal judicial process that people could be encouraged to come forward, keep their anonymity, but stay in the community where they live?

• (1625)

Mr. Yvon Dandurand: Yes, there are, and what you are referring to is what some people sometimes refer to as low-level, community-wide intimidation. This has not yet received a lot of attention from law enforcement agencies, but they are beginning to try to come to grips with that particular problem. In the case of the Air India incident, clearly this was something that was revealed to be part of the difficulty police had in investigating that particular case. A lot of people were intimidated and worried about coming forward.

A witness protection program, such as the one managed by the RCMP, is an extreme measure, and in most cases these programs do not offer what people need. There are a whole range of measures, as I've said several times. So let me give you some idea.

There is low-level police protection, which is basically making sure that someone will respond to a call if there is a call from a house. There is also police presence in the community. There are even evidentiary measures. Other countries have looked at a number of measures, including delaying disclosure for a period of time. They do not prevent disclosure, but they delay disclosure until a certain time so as to give people an opportunity to take protective measures for the witnesses.

There are a range of things, including some that could be brought to the law. This is really what needs to happen and what we need to put in place, but this cannot be done just at the federal level. It basically has to be done in all communities. Police have to develop trust, work with the communities, develop the relationships, take seriously the information they get about people being threatened by organized crime groups, gangs, or whatever, and take measures. If you talk to people in various police forces, the problem is that they find that these things are very costly. Decisions of deployment and so on are based on different criteria, and this is not an area in which they place a lot of their resources.

I believe that there is a change in public attitudes and in police attitudes and practices. More and more people are understanding. If I can figure that out, and I'm not in law enforcement, I'm sure that some bright people in law enforcement have figured that out as well.

One good method to intervene against organized crime is to develop those relationships and protect people who want to come forward. The programs we have are so limited, when you look across the spectrum in Canada.

Hon. Roy Cullen: Thank you.

It's an area I think we should explore more. In the traditional witness protection program, often these people are criminals themselves, and their credibility can be attacked later. For the honest citizen who wants to clean up the neighbourhood but is not prepared to be put at risk, we have to find some solutions. I appreciate your comments on that point.

The Chair: You're actually over time.

Hon. Roy Cullen: I'll come back on the next round.

The Chair: From the Bloc, we have Ms. Thi Lac, please.

[*Translation*]

Mrs. Ève-Mary Thaï Thi Lac (Saint-Hyacinthe—Bagot, BQ): Good afternoon, Mr. Dandurand. I'm very pleased to see you here today.

I am very pleased that special attention is being given to witness protection. I myself am involved in an organization called Info-Crime Québec which essentially seeks to protect the identity of people who report crime through a completely confidential phone line. In fact, it is volunteers and not police officers who take care of this phone line. In the past few years, we have seen an increase in the number of crimes reported. I don't like the connotation of the word "informant" but I often refer to "crime reporting".

My first question will be in this vein. Do you believe that a totally independent program would help increase the number of witnesses so as to support police investigations?

• (1630)

Mr. Yvon Dandurand: I think so, especially if it's an independent program that is accompanied by other measures for local police forces and communities. An independent program would always apply to the most stringent protection measures, but there's also a multitude of protection measures that can be handled by police forces and that can be offered insofar as these police forces make witness protection a priority.

I don't know if you'll allow me to digress. I don't want to take too much of your time. There's also another way to approach organized crime. And that is to confront this kind of intimidation by taking it seriously. One of the ways to prevent witness intimidation is to react very harshly in a practical way as soon as there is any intimidation. This wasn't done as often as it should have. We are aware of the fact that certain people were intimidated, but we tend to think that it's too difficult to investigate, that we won't come up with enough evidence and that it's too complicated and we go on to the next case. That's also very important. So we need an ongoing national program of local measures including some that can be taken by citizens' groups and non-governmental organizations, as well as an approach which takes all cases of witness intimidation, whatever they may be, very seriously.

Mrs. Ève-Mary Thāi Thi Lac: Let's say that responsibility for witness protection comes under a completely independent and autonomous organization, and that this protection continues to be provided by police forces. If there were conflict between the two entities regarding the degree of protection to be afforded, how could that type of situation be resolved? There could be conflict if these two agencies are independent.

Mr. Yvon Dandurand: It could become a thorny issue, but if we brought together all the competent parties in the same room, I don't think it would be too difficult to come up with an agreed-upon protocol on the way to solve these differences of opinion. I'm supposing here that all such differences of opinion should always be resolved in favour of the witness. If one of the two groups has the impression that increased protection should be provided, that type of protection should be chosen and the witness should always be given the benefit of the doubt.

In reality, I don't think this would be very difficult. My knowledge is limited, because like you, to me this is a little black box within which I try to guess what's going on in this system. That said, to my knowledge, very little information is made public right now. I think that the conflicts that occasionally take place between police forces on the level of protection and so forth almost always involve a matter of cost. Ensuring protection costs a lot of money, and not everyone

agrees on the need for that expenditure. If the question of cost and sufficient resources can be solved, many of these debates will cease to exist.

Mrs. Ève-Mary Thāi Thi Lac: In your report, you say: "Existing civilian oversight mechanisms must also be strengthened." Could you explain what you mean by that statement?

Mr. Yvon Dandurand: As you heard during the testimony of Mr. Kennedy, who is part of the Commission for Public Complaints Against the RCMP, the current mechanism is insufficient and does not allow him to act in a very large number of cases. In other cases, there is very little information on which the investigation can be based. It is therefore necessary to strengthen this mechanism—that was my first opinion—or to create a new one. If we're dealing with a program which no longer comes under the RCMP, then we will need two mechanisms. The first should be able to examine the practices of the RCMP. The RCMP will have to participate in these programs, assess the cases, etc. The second mechanism will have to have oversight over the independent organization.

[English]

The Chair: We'll now go to Mr. Norlock, please.

Mr. Rick Norlock (Northumberland—Quinte West, CPC): I'd like to explore a little bit further some of the problems we've been talking about with previous witnesses and discussions in regard to the funding aspect. I think it goes beyond that. It's more important than always just the dollars. It's how you set up the framework.

At the beginning of your presentation you mentioned that there were international best practices that we might want to consider. Could you please list, in your opinion, the three or four best practices that you think should be incorporated into the Canadian program that aren't currently there, that are done better by other jurisdictions?

• (1635)

Mr. Yvon Dandurand: Let me start with a very positive one. I think we do very well in assessment of risk. The RCMP has acquired a competence there that is probably unique, or at least on par with the best.

On decision-making, we could learn from other jurisdictions in terms of the transparency of decisions and accountability for them.

On the rights of people who are denied right now, they really don't have a lot of recourse other than through the courts. But if they are in need of protection, it's very difficult for them to have access to it in practice. So these are two or three areas.

On the cost, it's not so much the cost but the management of the resources. If the resources are managed in a way so they are sort of comingled with other law enforcement resources, they are always competing with other priorities, whether it's to purchase more squad cars, meet the new collective agreement, or whatever. So it is very important that it's an autonomous budget that is returned to Treasury Board if it's not being used, because there's always the temptation to move those resources around. Sometimes when the resources are insufficient the pressure is on the managing organization—the RCMP in this case—to move resources from other areas. That has all kinds of consequences for law enforcement.

I'm not suggesting that the RCMP is taking resources away to do other things; it's just that basically all of the decisions that have cost implications—and I think by now all members of the committee know that those decisions have fairly significant cost implications, and even one case is expensive—are coloured by thinking around other priorities. What else could we do with this? We no longer need....

We've all heard stories in Canada—and I cannot confirm them, so please take them as no more than rumours—about people talking about entering witness protection or benefiting from some kind of protection from the police, when all of a sudden overnight they find themselves without any protection because the police lost interest in them, they're not prosecuting, they don't have enough evidence, or they found a better witness. People find themselves left in the lurch.

I cannot name cases for you, but people talk about those cases. I don't know how many there are, but the rumours are persistent. A number of people want to come forward and have come forward, but they find themselves really short-changed, not only by the RCMP witness protection program but by all law enforcement agencies, because the cost of offering protection is significant. Too many of those decisions are based on whether or not the particular individual in need of protection is required to obtain a conviction, and not on the basis of the significance of the threat that person is facing.

That person may be facing a major threat against his or her life, but the decision seems to be guided more by the fact that they don't need that person as a witness so they'll offer as little as they can in protection.

Mr. Rick Norlock: Thank you.

Going to the dollar aspect, the more I'm around this place, the more I see that it's obvious there's never enough. But there are some areas where you do have to expend resources and you do have to increase them, if necessary. I was very interested during your response to a previous question that you said sometimes it's about managing the resources that you have a little bit better. That being said, of course, the realities of the Canadian Constitution, the reality of this country the way it is, is that some people don't necessarily want to share things. They want control. So that leads me to think, what are some of the success stories? What would you say with regard to the idea that the RCMP have controls, but they also have some cost limitations?

Much of what you said, by the way, is alluded to in Mr. Brown's report concerning the RCMP, and I think you probably have read that by now. Because they're moving resources around, there's understaffing, etc.

So what I'd like to suggest and get your comments on is something like agriculture, let's say the provinces kick in 40% and the federal government 60% into a program that's run by an independent body in which there is both provincial and federal input and that each police force could have a member appointed to it, but it isn't really a police function.

Quite frankly, it appears to me—having a background in policing—that we begin to put so much responsibility on police forces that their core police functions begin to take a hit. I think this

program might be one of the ways we could begin to shift those over to, say, the Department of Justice.

Could I have your response to my suggestions?

• (1640)

Mr. Yvon Dandurand: I will attempt it.

A long time ago I used to work for the Department of Justice, and worked with cost-sharing programs in the area of justice just long enough to know that all of those cost-sharing agreements are incredibly complicated to arrive at. Something around the lines you suggested is certainly possible. It would be different, of course, because in some provinces they already have the core of a witness protection program at the provincial level, so their approach to this would be somewhat different. There are other provinces that have mostly contract policing from the RCMP, so you would be in a situation where one side of the RCMP would be cooperating with the other side of the RCMP. But I don't think any of that is insurmountable.

When I was suggesting that a national program is required and that discussions are required among the provinces and between the provinces and the federal government, I had essentially something in mind along the lines of what you're suggesting. I think it is possible to do that.

I don't think it is a suggestion to say the federal government should pay for everything and therefore just leave it all with the RCMP. I don't think this is a good move, and I'll tell you why. It's not because I don't think the RCMP would do a good job. It's not anything about the RCMP. It's really because witness protection has got to be at the heart of the responsibility of all law enforcement agencies, and that's where it becomes difficult. Protection is one of their core duties, but the running of a very extreme program of protection and relocation may not really be a core duty. It's something that is different. Everything before that—from how they take information when someone calls in to how they protect someone as that person goes to trial—these are all things the police need to do and need to continue to do.

I'm trying to be careful here not to suggest that witness protection is somebody else's problem. Witness protection is primarily a law enforcement problem. But witness relocation, new identities, all of these programs are probably better done by a separate agency.

The Chair: Thank you.

Your time is way over, so we'll go to Mr. Cullen, please.

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

I'll share my time with Ms. Barnes.

Mr. Dandurand, we've had some testimony that would indicate that not all people are suited for the sorts of witness protection programs we've been referring to and that some kind of screening mechanism should be there to screen people.

Now, we've heard from the Ontario Provincial Police that they have delegated some responsibilities to the Toronto Police Service—and other services, I'm sure—so that they can respond right on the spot at the crime scene or during an investigation. I'd have to go back to my notes to recall exactly what they said, but my understanding of how it worked was that the police would be on a crime scene or doing an investigation, and someone might be forthcoming, and the police would make a commitment that they could get them into a witness protection program.

I think the way it works in practice is that the final sign-off has to come from the OPP; they have the authority. To give the credibility of the program to the police officers on the ground, there has to be some connection so that if they say they're going to get you into the program, they will. In practical terms, I suspect it's a fairly strong delegated authority.

How do you balance those two competing interests in the sense of the need to be able to be flexible on the ground with police and potential witnesses, and the reality, I suspect, that not all people are suited to this kind of program? How do you deal with that?

• (1645)

Mr. Yvon Dandurand: I hope you get the chance to ask the same question of Madame Boisvert, because she's really looked into this issue for the province of Quebec.

From my point of view, let me just say that first, yes, there are cases where there needs to be very a expeditious decision made, but the number of those cases tends to be exaggerated. It's never a matter of seconds.

The second thing is that in those cases where a decision has to be made quickly, it is usually sufficient for the police officer involved, or the commanding officer or whoever, to promise protection, not necessarily admission in a program, because there's a whole range of protection measures.

To promise protection is probably sufficient, right there on the spot. If it takes you 24 hours afterwards to.... You can act immediately. You can immediately protect that person. You can take that person, relocate that person, you can do a whole range of things immediately, right there on the spot.

Whether that person would qualify for a relocation program or a brand-new identity is a separate decision. There's no reason why it should take months to arrive at that decision. Even most experts in law enforcement will tell you that you need to do an assessment: the psychological assessment, the likelihood of success in the program. Is it someone who's going to be able to function under this? Is it at all possible, given the family relationship and all of those other things?

I think it's an argument that is valid, but sometimes exaggerated a little bit. It is usually sufficient for the police to say "We will protect you". Even in the example you gave me, all that individual would have is the word of that one police officer. Whether the word is "You're in the program", or "We'll look after you", in both cases all that individual has is the promise of one individual police officer.

Hon. Roy Cullen: Good. Thank you.

Hon. Sue Barnes: Mr. Cullen touched on this earlier: there are certain areas in this country where, for a lot of the gang and drug

violence, there are a lot of children around. I'm not talking about the informant agent, I'm talking about innocent witnesses of serious things, maybe involved in some gang-related things, but people you wouldn't normally put in a witness protection program. Do you see a need for that right now because we're not getting the information forward, people are afraid to come forward?

Secondly, are you aware of any country that does a witness protection program for children?

Mr. Yvon Dandurand: There is a theoretical need, and that's why, in the paper I submitted, there was a line about this.

Yes, I believe there is a need to look into this, but in practice, it is very rare that law enforcement or prosecutors will want to rely on a child witness, for all kinds of reasons, including, basically, sympathy for the child, not wanting to put the child through that process. There might be exceptional situations where a decision is made that in terms of the risk to others or the nature of the case—for instance, if we were talking about a serious terrorist case—you might have to compel a child to be a witness or to have a child as a witness.

Part of the problem is that we haven't really worked out a whole lot of procedures when it comes to what you do with the rest of the family—issues of consent, all those other legal issues that deal with children.

As to the second part of your question, yes, most countries in Europe have provisions for witnesses who are children, but most of them actually do not rely on child witnesses, because it subjects them to such an ordeal. I mentioned earlier how hard it is for witnesses in general, for adults. It's even worse for children.

I did some work for the International Criminal Court when they were setting up the unit for witness protection, and I had a chance to review the situation with the tribunal for the former Yugoslavia. They had in their statute and rules of procedure an elaborate system for child witnesses, but in fact, they never called one. Why? Not because there were none. There were children who could have been witnesses, I'm told by the prosecutors, but the reason they did not is, first, they thought they would not necessarily be very reliable witnesses; and secondly, they really did not want to put children through that if there was any other way to build their case.

That said, maybe there's another thing that requires more attention than children who are witnesses, and that's children of witnesses. Very often the witness will have children, and the impact on those children can be quite severe. Again, to my knowledge, there has not been any research on what happens to those children, because there are very few of those. But those who have talked to witnesses know this is, in fact, one of the reasons that sometimes witnesses opt out of the program. It's because of the impact the program has on their spouses, or children, or relatives.

So that is an aspect. Again, in the absence of information on what really happens within those programs, it's very hard to know. I know even protection officers working in witness protection programs sometimes themselves complain about how little information they get from colleagues, because, again, that information doesn't move freely even within the network of protection agencies.

• (1650)

Hon. Sue Barnes: We did get evidence, I think from the United Kingdom, that you can second a person into a department, the RCMP or the equivalent department, and let them do some data collection and conclusion, based on information that doesn't do identification.

It's really difficult, in our shoes, to recommend vast sums of money going forward to create potential new organizations or agencies, or whatever you want to do, when you have no real research on the efficacy of what's existing. But I also understand we're just hearing from one side of the equation right now, because we'll never actually talk to somebody in protection; we'll just get what's filtered to us through other people. So this is not the easiest task, but thank you very much.

The Chair: Okay.

We'll go to Mr. Hawn, please.

Mr. Laurie Hawn (Edmonton Centre, CPC): I have two quick questions, and then I'll pass it back to Mr. Norlock, who may have some more.

Do we, or you, have any evidence of anybody being killed after being dumped from a witness protection program, either with or without their agreement? Do we know of any cases of that?

Mr. Yvon Dandurand: I don't know, because typically they don't broadcast the fact that they've been dumped, in your words—that they have been excluded from the program.

Typically, most programs claim that they have a very high rate—sometimes 100%—of success in protecting their witnesses while they are witnesses. Of course, one can become suspicious of that and say, well, what happens once you stop protecting them, and are you not stopping the protection of those who are high risk just to keep your statistics going?

You will hear that, for instance, about the federal marshal program in the U.S., where they have the reputation that they don't lose witnesses and all their witnesses are safe. But critics of that program have said yes, but those who are at risk you have excluded, so of course you never lose any, because they get killed afterwards. I don't know whether that's true, but that's the criticism.

Mr. Laurie Hawn: That actually falls under my next question, which I realize is subjective, so I don't expect anything other than a subjective answer.

You talked about the police saying “Well, I don't need you as a witness”, which can be construed by some as neglecting that person's safety. But I would suspect there are many criminals who may want protection simply to save their sorry butts because they've fallen out of favour with their own chain of command. Is that the source of some cases that might be construed as neglected?

Mr. Yvon Dandurand: I think a large number are there precisely for that reason. Law enforcement, for instance, detectives and other investigators, will look for individuals who have been compromised within their own organization. These are the people they can turn. In fact they are often looking for people who have fallen from grace, who have lost some drugs or misplaced some money or whatever, and all of a sudden they need help. Clearly these are cases you will find in a witness protection program.

I would ask why you mostly find criminals in the witness protection program and why the innocent victims are not getting any protection. There are two potential reasons for this. One is that they don't need it as much, and second, sometimes a softer method of protection for a short period of time is sufficient. I buy those arguments, up to a point.

There are other people who really need protection and never get it. They don't get it mostly because of cost and because the logic of those police-based programs is that you don't invest in that witness if you don't need the witness. These programs are seen as an investment in a case, as opposed to extending protection to someone who comes forward either to cooperate or simply to ask for protection.

• (1655)

Mr. Laurie Hawn: I think you believe we're investing in some of the wrong people and not investing in some we should.

Mr. Yvon Dandurand: Sometimes. That would be one way of putting it, yes.

Mr. Rick Norlock: That very comfortably leads me into a couple of items you spoke about when you said it would be a good idea to set up protocols.

I would ask for your comment. It would be my submission that the best way to protect the sanctity of the program from the evils of budgetary constraints—I hate to use such words—would be to set up protocols for an organization that doesn't have the same budget as the police. That's why I thought it would be better to take it out of the realm of the police, even though they're an intrinsic part of it.

I was very interested when you were talking about “the softer approach”, meaning that maybe it's not the typical Hollywood person, where the whole family is taken to a different country or a different area of the country of residence.

A little bell went off as soon as you said “delayed disclosure”. It seems to me that when we talk about terrorism and the rush to make sure we protect the very people we want protection from, we set up a whole bunch of safeguards. But the Supreme Court has really chastised the police community and crown attorneys for delaying disclosure.

We, as a committee, deal with a specific problem and try to set up the best protocols and procedures. We walk away saying that we did a really good job and we feel good about it. I think of something like the Anti-terrorism Act, which the previous government brought in. We wanted to support that and we continue to support that. But you get together to solve a problem and it seems that a few minutes later some really smart person goes to the Supreme Court and makes all that you've done seem like you've wasted your time.

So when you talk about things like this delayed disclosure, could you explain what you mean?—because I get fearful.

Mr. Yvon Dandurand: I will not claim that I have worked it out in terms of our own constitution or anything, but the general principle is that one could be able to delay part of the information in disclosure. I don't mean until after the trial, but later on in the process—for instance, about the identity of the witness. You may say “I'm disclosing that I have a witness who will be prepared to say the following”, but the actual identity of the witness will not be disclosed until later.

Countries have explored that. Of course, in Europe many countries have had a lot of success, even in front of their courts of human rights, with various forms of partial anonymity for witnesses. That's very difficult in our system, but I don't think we have fully explored all of the possibilities there. That's beyond my own competence to come up with wording that would satisfy the Supreme Court, but I think there are possibilities there that can be explored.

Of course it's always a matter of finding a balance between the rights of the accused, but I think there are methods there that we have not fully explored, because again, it's fairly recently that we have fully understood the importance of getting the collaboration of people out there who are being intimidated and who are at risk. It has always been a problem. It's been in the last 10 or 15 years that basically the criminal law community has begun to understand that if you're dealing with very powerful conspiracies, whether it's terrorist groups or organized crime or economic crime groups, basically you have to find ways to fight them, and that is with information. These groups are close. They punish those within the group who cooperate or give information to authorities. They go to great lengths to hide themselves, to protect themselves against detection, and so on. So it calls for different methods. Of course, the methods are complicated, as you pointed out. But I don't think we've done all of our homework in terms of looking at what is possible in terms of procedural law that would stand, basically, the various tests of our charter and the constitution, that would allow us to do a better job.

• (1700)

Mr. Rick Norlock: Thank you.

The Chair: Thank you.

I've come to the end of my list. Does anybody else have any questions or comments for our witness?

Ms. Priddy, do you have another question?

Ms. Penny Priddy: I do have all the minutes from last spring; it may be in here and I just did not see it. For the people who are doing the assessments of whether people will be appropriate for a witness protection program, who I expect are psychologists—I don't want to say I assume, but I expect are psychologists—with expertise in that

area, just in the work that you've done, or the research that you've done, do we have the appropriate people? Are there enough people with that kind of background to be able to do those kinds of evaluations? Because I would think it would be a fairly tricky evaluation to do.

Mr. Yvon Dandurand: First, I don't know really whether we have enough, but I have never heard that we do not. You are referring to the evaluation of the applicant, but the other very important part is the evaluation of the risk. The evaluation of the applicant really has something to do more with whether that person will be able to function in a program. The evaluation of the risk is more a police function. That's what I mentioned earlier we're pretty good at.

Ms. Penny Priddy: Thank you.

The Chair: Thank you.

I think I speak, sir, for all the members of the committee when I say we appreciate the testimony you've given us today. It's very important and highly regarded. We thank you very much. I personally have gained some good insights, so we want to thank you for coming before this committee.

Mr. Yvon Dandurand: Thank you very much.

The Chair: You may be excused.

Before everybody else leaves, I have one item I will put to you. That is, you received a notice of motion a little while back from Ms. Priddy. With the consent of the committee, we could briefly allow her to move it, because we have finished a little early here.

Are you prepared, Ms. Priddy, to move that right now?

Ms. Penny Priddy: Yes, I am, Mr. Chair. Thank you.

The Chair: First of all, as a committee, are you prepared to do this right now, seeing as we have a few minutes?

I see nobody shaking their head.

Yes, Mr. Ménard.

[*Translation*]

Mr. Serge Ménard: Could we get a copy of the motion?

[*English*]

The Chair: I'm sorry, I don't have it with me.

Can you please read it into the record, Ms. Priddy?

Ms. Penny Priddy: Absolutely.

The motion that was submitted January 24 states:

That the Minister of Public Safety be invited to appear before the Standing Committee on Public Safety and National Security for one committee meeting to discuss the drug trade and gang activity in Canada's prisons.

I submitted this because we've had four lockdowns in British Columbia, and there are a number of issues relating to some recommendations that have been made. We're very interested in British Columbia—as others will be, I'm sure—in the status of that.

Thank you.

The Chair: Okay.

Is there any further discussion this?

Mr. Cullen, and then Mr. MacKenzie.

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

I want to thank Ms. Priddy for bringing this issue forward—it's an important issue—but I'm wondering if this is the correct way to approach the work of the committee. We decided in this committee we weren't going to have a steering committee but we would set the work plan based on the committee as a whole.

I know I have some pet projects. One I'm supporting Mr. Ménard on is the question of contraband tobacco products. I think it's an enormously huge problem, which we need to look into.

So rather than deal with motions, and then the first person to get their motion in is the lucky one, I'd rather deal with it on the basis of a work plan that we can all agree to and we can go forward with.

I'm not denying that it's an important issue, but I think there are other important issues as well, and as a committee as a whole we should perhaps decide where we go from here, and the next steps.

• (1705)

The Chair: Yes. And for your information, we have set aside February 13, next Wednesday, as a day for discussion of future business of the committee.

Mr. MacKenzie.

Ms. Penny Priddy: And I understand it would be included in that.

Mr. Dave MacKenzie: Thank you, Chair.

I certainly concur with what Mr. Cullen said. I don't think we can take a shotgun approach to individual issues. As serious as this is, I don't think having the minister here for one meeting would give the committee anything to deal with. The issue might be one the committee wants to look at at some point, but I think it involves more than having the minister here for one meeting.

And Mr. Cullen hit the nail on the head. We've agreed that we're going to do the taser study. We know the importance of what we want to do there, and perhaps we'll lay out where we want to go. But I don't think we can interject items such as this in the middle of where we are.

I'm just agreeing with Mr. Cullen—which I hate to do all the time. There will be a meeting on February 13, and that's when these issues should be addressed.

The Chair: Okay.

Ms. Barnes, did you want to speak?

Hon. Sue Barnes: I'm just questioning that. I thought we had a future business meeting in the last meeting before we left so that we wouldn't have to have more future business meetings. I thought we'd done a fair bit of planning.

The Chair: But that was planning until February 13.

Hon. Sue Barnes: Okay.

The Chair: That business meeting was to plan for the weeks so that witnesses could be invited in advance and all that. We have nothing planned beyond February 13 at this point.

Hon. Sue Barnes: Thank you very much for clarifying that.

I suggest, then, that we deal with this in that meeting, although I don't think there is anything wrong with a member wanting to place a motion. I mean, it's the right of members to do that.

The Chair: Oh, absolutely. And that member can also call for a vote at this point, unless there's further discussion.

Do you want to resolve this now?

Yes, Ms. Priddy.

Ms. Penny Priddy: For one thing, the work plan went till February 13 only, so when this motion was submitted I didn't think we had another work-plan meeting—on my schedule. In the other committee I'd been on that was the way to bring forward new business that was of concern to people, so that's the process I followed for this. I assumed this would now be considered within the work-plan meeting.

But I would prefer to call for a vote on it, yes.

The Chair: Ms. Priddy has asked for a vote at this point. Is there any further discussion?

Yes, Monsieur Ménard.

[*Translation*]

Mr. Serge Ménard: I would prefer that that be postponed until Wednesday.

[*English*]

The Chair: But the motion has already been made to call for the vote, so we have to have the vote. Sorry.

(Motion negated)

The Chair: We will still have a planning committee meeting next Wednesday, February 13.

Hon. Roy Cullen: Mr. Chairman, just for the record, defeating that motion doesn't necessarily mean we disagree with doing a study at some point.

The Chair: That's right; it's understood.

Just for those who may be new to this committee, when we have our planning session, we usually bring forth all of our requests. You don't have to have a motion in order to bring one forth.

This meeting stands adjourned.

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