



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

# **Standing Committee on Justice and Human Rights**

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JUST • NUMBER 033 • 1st SESSION • 41st PARLIAMENT

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**EVIDENCE**

**Tuesday, May 1, 2012**

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**Chair**

**Mr. Dave MacKenzie**



## Standing Committee on Justice and Human Rights

Tuesday, May 1, 2012

• (1105)

[English]

**The Chair (Mr. Dave MacKenzie (Oxford, CPC)):** Seeing the clock says 11 o'clock, we'll begin this meeting of the Standing Committee on Justice and Human Rights. This is meeting number 33, pursuant to the order of reference of Wednesday, February 15, 2012, Bill C-309, An Act to amend the Criminal Code (concealment of identity).

For the first hour we've scheduled Mr. Blake Richards, the member of Parliament from Wild Rose, who is the sponsor of the bill.

Mr. Richards, as standard practice we'll give you 10 minutes for an opening address. I'll let you know at nine minutes that you have one minute left.

**Mr. Blake Richards (Wild Rose, CPC):** All right, Mr. Chair, and I know you'll hold me to that.

Thank you.

It is a bit of a unique position to be at this end of the table. It's the first time I've had this opportunity, so thank you very much. It's a pleasure to be here today to speak to you all about my private member's bill, Bill C-309. I'd like to spend a little time outlining some of its provisions and some of the outcomes I hope it will achieve.

Over the past few years cities across Canada, from Toronto, to Vancouver, to London, to Montreal, have all fallen victim to violent riots. These events often begin as peaceful demonstrations of one type or the other, and end up being escalated by masked criminals who are hiding in plain sight. The intent of my bill is, first, to be able to prevent these occurrences from happening. Secondly, the bill will help police officers ensure public safety by providing them with tools to prevent, de-escalate, and control riots and unlawful assemblies when they happen. It will also ensure that those who engage in violence and vandalism during such events are more easily identified, charged, and brought to justice.

My bill will achieve all of this by making it a new Criminal Code offence to wear a mask, or to otherwise conceal one's identity when police are working to control an unlawful assembly or riot. Measures that strip criminals of the ability to hide in plain sight in the midst of public disturbances will provide a strong deterrent to engaging in other criminal acts. It will also allow police to intervene and arrest those who wear masks in defiance of the law, defusing tense situations, and ensuring that private citizens and public and private property are protected.

The need for this legislation cannot be overstated. In the G-8 and G-20 demonstrations about two years ago, a breakaway group of violent protestors caused \$2.5 million in damage to Toronto businesses and destroyed four police cruisers. Overall, 97 police officers and 39 citizens were injured. In all this chaos only 48 offenders were charged with criminal offences. The riots last year in Vancouver were even worse. Rioters caused at least \$3 million in damages to 89 businesses and the City of Vancouver, including the destruction of almost 40 police vehicles.

The investigation that followed, hampered by the difficulty of identifying masked suspects, has cost Vancouver police an estimated \$2 million over and above their normal operating costs. Despite the great work of the Vancouver Police Department in identifying 15,000 separate criminal acts, only 85 people have been charged. Despite a heavy media presence, access to closed-circuit television cameras, and a proliferation of mobile devices, many criminals have been able to escape justice for their misdeeds.

Those two instances stand in sharp contrast to the riot at Fanshawe College in London, Ontario, in March of this year. This event involved about 1,000 people and caused an estimated \$100,000 in damages. I recently spoke to London Police Chief Brad Duncan, who confirmed that rioters there did not actually conceal their identities. As a result, in just over a month London police have already identified and charged 42 individuals with 103 offences.

It's clear that the measures proposed in my bill are sorely needed. I've met with police officers and police chiefs across the country in Vancouver, Victoria, Calgary, Toronto, and elsewhere, and all of them support this bill. They believe that not only will it help police investigate the aftermath of riots, it will also prevent disturbances from becoming so dangerous in the first place.

To quote Victoria Police Chief Jamie Graham, who is here with us today:

I welcome any legislation that reduces the potential for violence at public gatherings.... This bill is a meaningful step towards preventing those with violent intent from hiding behind disguises, masks and facial coverings.

Recently we have seen lawful student demonstrations in Montreal turn violent by a small criminal minority who conceal themselves to avoid detection. Police and journalists have been assaulted, stores and other private property have been vandalized, and over 85 people have already been arrested.

Lieutenant Ian Lafrenière of the Montreal police has said to the media that some protestors were using Black Bloc tactics by masking their faces, coordinating as a group, and using weapons they had hidden along the protest route. In fact, Montreal's Mayor Gérald Tremblay directed the city's commission of public safety to examine the issue. They're expected to recommend a law banning the wearing of masks during violent demonstrations.

However, it's not just the police and civil authorities of our major cities who are asking for these measures. As you will hear from many knowledgeable witnesses over the next week or so, the aftermath of a riot can have devastating consequences to the local economy.

You'll be hearing from business leaders in our cities who have been victimized by the actions of rioters and who believe that Bill C-309 is a needed piece of legislation to help prevent them from being victimized again in the future.

The Downtown Vancouver Business Improvement Association is comprised of member businesses that were hardest hit by the riot in that city, and their members are supporters of my bill.

I will quote their resolution. It reads:

June 15, 2011 is a dark moment in our city's history that traumatized thousands of residents, employees and hard-working business people. The property damage incurred that evening combined with the looting that took place is in the millions of dollars. Vancouver's picture postcard image was sullied by the actions of reckless and irresponsible individuals who have no respect for the laws of our country.

The Building Owners and Managers Association of British Columbia, at their recent board of directors meeting, also endorsed Bill C-309. The Building Owners and Managers Association of B.C. represents over 400 corporate members that own or manage commercial real estate in the province of British Columbia, many of whom suffered loss in the Vancouver riot. In their letter to me advising of their unanimously supported resolution, they say, and I quote:

Downtown Vancouver building owners and business tenants were seriously affected by the June 2011 post hockey riots. We believe this proposed amendment will be a valuable enforcement tool going forward to mitigate damage from any future unlawful acts of violence during riot situations.

I'm aware that some of my colleagues in the opposition have opposed this bill because they believe it would impair a citizen's right to protest. But let me be clear, these measures do no such thing. When a protest or any other public gathering, for that matter, evolves into an unlawful assembly or a riot, it is by definition no longer a charter-protected assembly. It has become a Criminal Code offence to which individuals are subject to sanctions if they choose to participate in it.

In fact, I believe that Bill C-309 actually helps to maintain the rights of all citizens to peaceful protest by providing a way to deter or to deal with those who would use the cover of a peaceful assembly to engage in criminal acts.

Bill C-309 is a measure that police and law-abiding citizens and businesses have been asking for. It would defend Canadians and their livelihoods from senseless violence while helping maintain the right of all citizens to peaceful protest, which is consistent with our

government's commitment to Canadians to protect law-abiding citizens and to keep our communities safe from criminals.

I'm also aware that some of my colleagues have suggested that we should look at harmonizing the penalties in my bill with those that are already existing in the Criminal Code for wearing disguises, under section 351, and I would welcome amendments from the committee to address that concern.

I'd like to close my remarks by urging my colleagues in the opposition parties, who have expressed reservations about the bill, especially those who represent ridings in Montreal, Vancouver, and Toronto where we've seen these incidents, to listen very closely to what their constituents are saying. The support I have received from citizens of those cities is inspiring.

I also want to sincerely thank the members on both sides who have already voted in support of Bill C-309 at second reading.

The true test of their resolve to take a stand against criminals who would assault citizens, vandalize neighbourhoods, and destroy private and public property in their cities will be realized in their vote at final reading. I therefore urge all of you to use your questions to the witnesses to learn about Bill C-309 and how it can be an effective tool to prevent such terrible events in the future.

Thank you, Mr. Chair.

• (1110)

**The Chair:** Thank you, Mr. Richards.

Now we begin the back and forth, and Madam Boivin will be first.

[*Translation*]

**Ms. Françoise Boivin (Gatineau, NDP):** Thank you, Mr. Chair.

Mr. Richards, thank you for tabling this private member's bill. Still, I would like to explain the problems that the New Democratic Party has with the bill. There are things that need to be clarified, and I hope it will be of use to the committee.

The Criminal Code already has section 351. I would like you to explain to me what your bill adds to the Criminal Code. The Criminal Code already sets out stricter penalties than those in your bill. So I'm wondering what the purpose of your bill is. It also follows on events that made the headlines. I have the impression that it's for show more than anything else.

Don't the police and the Crown already have the authority to file an indictment against an individual who commits an offence, meaning if the person takes part in a riot or an unlawful assembly wearing a disguise? That's already covered in the Criminal Code.

[*English*]

**Mr. Blake Richards:** Thank you.

I want to make it clear that this is a real response to a real problem. You mentioned the existing provision in the Criminal Code, section 351, that deals with disguises during the commission of an offence. I can tell you that I've spent a lot of time talking to police officers, police chiefs, and those directly responsible for riot squads, in dealing with these kinds of situations in a number of cities and communities across Canada over a number of years. They tell me that the biggest problem they have in dealing with these situations, both in trying to prevent and deter them from happening in the first place, is also in laying charges to ensure that people are brought to justice when they do commit crimes like destroying property, looting, and assaulting innocent bystanders. The biggest problem they are facing is trying to identify the individuals involved when so many of them are wearing masks and disguises. They'll see these individuals masking up and they'll see them removing disguises, but in the middle of that there's a period of time where there's been damage and assaults have taken place, and the police are not able to identify with clarity who was involved.

You mentioned the existing section. They're telling me that they're not able to apply that section. It's more geared to instances like armed robbery, those kinds of offences. They find they're not able to successfully lay charges when dealing with individuals involved in disguising themselves in a riot situation. There is a need to have a specific offence underneath the provisions in the Criminal Code, sections 65 and 66, which deal specifically with riots and specifically with unlawful assembly, so they can deal with what's involved in those situations.

•(1115)

**Ms. Françoise Boivin:** Mr. Richards, I've been trying to see how the police would be able to enforce that new legislation, and I'm seeing the same problems will occur with sections 65 and 66. Do you disagree? For the sole purpose that....

Let's take the example of what's happening in Quebec right now. You're talking Montreal. I can talk to you about my riding of Gatineau, because we have the CEGEP where there are some *manifestations*. We have UQO, the Université du Québec en Outaouais, with the same situation. Most of the students

[*Translation*]

are protesting peacefully. The students are wearing scarves because they don't want to be photographed by the press, not to hide their identity. Their goal isn't to take part in a riot or unlawful assembly. They simply don't want their pictures taken, which is entirely reasonable. I don't think you would refuse them that right.

At what point can the police say that it's becoming a riot and must ask people to remove their scarves and so on? I have a problem seeing the bill's practical side and whether it truly attains the objective.

During the Vancouver riots following the Stanley Cup final, photographs of people were distributed, but finding those people was difficult. I think this very impractical aspect will complicate the work of the police. We will ask our police forces to determine when it becomes a riot, an unlawful assembly, or if it's free expression on a matter. This won't be obvious.

[*English*]

**The Chair:** Only a short response.

**Mr. Blake Richards:** Well, I'm not sure that will be easy to do in a short period of time.

**The Chair:** Maybe we can explore it with someone else.

**Mr. Blake Richards:** If you want to allow me a few seconds, certainly this is a tool that police have identified a need for. You mentioned there were photographs. This isn't intended to deal with people in a peaceful protest. This is when a situation has become an unlawful assembly or riot.

Once that situation is declared, at that point it becomes illegal to be wearing a disguise. It's for the very situation that police have identified—the problem that they are unable to identify those folk who come prepared with a tool kit. You'll hear from police themselves about this, but individuals come prepared with masks and other tools to destroy property and cause mayhem. Those are the individuals that this is designed to deal with. Police tell me they believe it will, and I have full confidence that this will be the case.

**The Chair:** Thank you.

Mr. Goguen.

**Mr. Robert Goguen (Moncton—Riverview—Dieppe, CPC):** Thank you, Mr. Chair.

Thank you, Mr. Richards, for presenting this bill.

It's certainly a complement to the Criminal Code. Certainly, it's a welcome addition to try to make communities safer. In Vancouver and Montreal now we're seeing what mayhem can happen, and this is probably something that's needed to try to bring some peace to the uprisings.

Just for the sake of clarity, could you tell the committee what the main objective of your bill is? There's some talk about section 351. In your mind, how does this stand out and apart from section 351?

**Mr. Blake Richards:** I appreciate that. That's a great question.

Really, I think there are two main purposes to the bill. In talking with police, I was able to identify that the biggest problem they face in these situations, as I said earlier, is in identifying the people involved. In Vancouver, for example, I recently spoke at a meeting where the police chief, Jim Chu, also spoke that morning. He had brought a presentation with him that showed photographic evidence and video evidence they had gathered from the riots.

With just one frame alone that he put up on his screen he showed, with the prevalence of cell phone cameras, the reasons people need to wear these disguises to engage in these criminal acts during these kinds of activities, because now there's no longer that same kind of cover for them that there would have been prior to those kinds of things existing.

In just one frame alone, there were at least a dozen different people photographing, with their cell phone cameras, an instant where a number of mass rioters were beating an innocent individual. He was on the ground, being beaten. There was all kinds of photographic evidence, but they were not able to bring any of those people to justice because they were masked and disguised.

To get to your question about the main points of my bill, first, it is to try to deter those kinds of events from happening in the first place. Obviously, when people have to think twice about facing penalties for being disguised, they'll think twice about being disguised, and then therefore will think twice about engaging in criminal types of behaviour when they can be identified. With cell phone cameras out there and social media, it's very clear there's a good chance they will be identified for those kinds of behaviours. So first and foremost, the intention of this bill is to really try to deter those kinds of events from ever happening in the first place.

Second of all, it is designed as well as a tool for police to ensure public safety by being able to ensure that those individuals who do engage, despite the consequences, in a criminal act of that type will be brought to justice for their behaviours, because there will be a new provision to allow police to do so.

I think the other aspect of the bill that's important to point out is that it also, I believe very strongly, protects the legitimate right to protest. This is something I have had mentioned to me a few times, in terms of a concern, but I actually believe it's the opposite. I think it does a lot to ensure the right to peacefully and legitimately demonstrate—it's a democratic right we all enjoy in this country. It protects individuals who are looking to be part of a peaceful protest, because it will prevent those who want to infiltrate in order to engage in criminal activity.

• (1120)

**Mr. Robert Goguen:** You focus on the issues of protection and obviously deterrence, and certainly that's apparently the centrepiece. I can understand that.

Madame Boivin talked about peaceful manifestations. We all know that people have good intentions, sometimes. They show up in a very comical mask, but all of a sudden, things escalate. When the famous Riot Act is read, at that point in time, how does one identify them?

What are your thoughts on that? Isn't this basically to preclude its going the extra step? It's not really to stop peaceful demonstrations but to give the police that extra useful tool to stop further escalations, not necessarily peaceful demonstrations.

**Mr. Blake Richards:** Absolutely. That's exactly what it's designed to do. It's designed as a measure in response to unlawful assemblies and riots when they occur.

Obviously the hope is that, in preventing people from being disguised in those kinds of situations, we may be able to prevent those kinds of situations from ever occurring. Obviously the first and foremost hope anyone would have is that we can find ways to prevent it. I believe this bill will be a strong way in which we can do that.

Yes, you're absolutely right. I think it protects the ability of people to peacefully assemble and protest or demonstrate and exercise their democratic rights without being afraid of having those individuals who come...and they do come prepared. I know police will tell the committee about these incidents when they appear before you. These individuals will come prepared with a full knapsack. They'll have disguises. They'll maybe have hammers, marbles to toss under the

legs of police horses, and objects to throw at police. These are the people looking to cause trouble.

It protects everyone—businesses, law-abiding citizens, including those who were peacefully demonstrating—from those kinds of individuals who would come and try to cause mayhem in those situations.

**Mr. Robert Goguen:** It strikes a balance.

**Mr. Blake Richards:** Exactly.

**The Chair:** Thank you.

Mr. Cotler.

**Hon. Irwin Cotler (Mount Royal, Lib.):** About the terminology in the bill that refers to “without lawful excuse”, my question would be how does one define lawful excuse and whether you can provide examples of when someone might have a lawful excuse in order to conceal their identity? In other words, the concern that I have is that this bill might inadvertently have prejudicial impact on those who are legitimately seeking to conceal their identity, such as for example religious head coverings from Muslim women. Do you have any suggestions for us as to how we can clarify the term “lawful excuse” in order to ensure that innocent behaviour would not be criminalized, and that certain populations would not end up being targeted under this bill?

• (1125)

**Mr. Blake Richards:** You have hit on one of the main key reasons for the need for that lawful excuse provision being in the bill. Certainly, you would want to ensure that this is designed to... You want to always ensure there are not unintended consequences to any piece of legislation. This legislation is clearly designed to deal with a criminal element who would try to take advantage of a large public gathering of some type in order to cause mischief, mayhem, and damage. In doing so, we want to ensure we are not infringing on anyone who does have legitimate reason or lawful excuse.

You mentioned specifically the religious head coverings. Certainly, that would, with no question in my mind, comprise one form of lawful excuse. Another example might be someone who legitimately has medical bandages of some type that they are required to wear that would cover portions of their face or possibly disguise their identity in some way. Obviously, in that kind of an instance, I'm sure there would be a requirement for there to be some kind of doctor's note of some type. You have to obviously demonstrate that you actually did have a lawful excuse. Those would be a couple of examples that would apply in terms of lawful excuse.

**Hon. Irwin Cotler:** Was there any reason why the line that was chosen was that of “lawful excuse” and not, let's say, as appears elsewhere in the Criminal Code—wording such as “without lawful justification or excuse...”, or “without lawful excuse, the proof of which lies...” upon the accused.

Was there any reason why this specific wording was chosen distinct from other wordings which appear, for example, in sections 350, 351, and 352 of the Criminal Code?

**Mr. Blake Richards:** I obviously had consulted with those legal scholars who are certainly far more versed in the Criminal Code than myself. That was certainly what they felt it would cover. I identified what I wanted to ensure that I was covering off, and “lawful excuse” was something they identified they felt would cover those provisions. I believe it should.

**Hon. Irwin Cotler:** We have also had situations, as you know, in the cases of riots or demonstrations when police officers will not disclose their identity. To what extent do these provisions apply to them?

**Mr. Blake Richards:** This is designed to apply to those who are participating in a riot or unlawful assembly. Anyone who is participating in a riot or unlawful assembly who is disguising their identity would face the sanctions of this bill. I would certainly hope we would not see a situation where that would come into play. Anyone who is involved in participating in a riot or unlawful assembly would fall under the provisions of this bill.

**Hon. Irwin Cotler:** Okay.

**The Chair:** Ms. Findlay.

**Ms. Kerry-Lynne D. Findlay (Delta—Richmond East, CPC):** Thank you, Mr. Chair.

And thank you, Mr. Richards, for being here today and bringing this forward.

As a member from British Columbia, and one who has relatives in law enforcement there who were involved in trying to stem that riot that night, I am keenly aware of how dangerous things became that night. I was here in Ottawa watching the television and was concerned that my relatives who are police officers were going to be harmed. I don't think anybody who was watching that—or who was in the midst of it—would have seen it as anything but a riot and not a peaceful protest. I am also aware since that time of the difficulties of identification that Vancouver is facing. I can only assume that's true in other cities that have been touched by this.

My colleague opposite was talking about going from a peaceful protest to a riot. I assume from your remarks you have talked to a number of law enforcement people. It seems to me this is something they have to call frequently when matters get out of hand, where something may start peacefully—often, they do start peacefully—and then turn into a riot. Did you find any difficulty with what they were saying to you in terms of when they distinguish one from the other?

**Mr. Blake Richards:** Probably most helpful here are the sections of the code. They outline the definitions of what an unlawful assembly is and what a riot is. If you'll just bear with me, I'll read directly from that. I think that really tells us exactly what the difference is, and I think it clearly identifies the problem here.

Subsection 63(1) of the Criminal Code defines an unlawful assembly, and that is defined as:

An unlawful assembly is an assembly of three or more persons who, with intent to carry out any common purpose, assemble in such a manner or so conduct themselves when they are assembled as to cause persons in the neighbourhood of the assembly to fear, on reasonable grounds, that they

(a) will disturb the peace tumultuously; or

(b) will by that assembly needlessly and without reasonable cause provoke other persons to disturb the peace tumultuously.

In section 64, it defines what then becomes a riot, and that is “an unlawful assembly that has begun to disturb the peace tumultuously”.

By the very definitions in these sections, an unlawful assembly or a riot occurs when citizens on the streets of their own city have reasonable grounds to be afraid. It's defined by fear, by being afraid that the actions of others will harm them, their businesses, or their properties. That's obviously of concern to any law-abiding individual and is something we understand we have to ensure we protect the public from.

That is the kind of situation we're talking about that this bill would deal with.

• (1130)

**Ms. Kerry-Lynne D. Findlay:** I assume that you specifically use the word “riot” in your proposed bill for the reason that it is well defined, both in the Criminal Code and in the common law. Is that correct?

**Mr. Blake Richards:** That's correct, exactly. It is intended to deal with those kinds of situations where any kind of public gathering has become an unlawful assembly or a riot, because that's when the public has reason to be afraid and when police need the ability to protect public safety.

**Ms. Kerry-Lynne D. Findlay:** I know that you've talked about speaking with law enforcement. Have you also talked with business owners who have been affected by this kind of behaviour, and can you give us an idea of what their concerns are?

**Mr. Blake Richards:** Absolutely. I've spoken with business owners in a number of cities. As I mentioned in my opening remarks, the Downtown Vancouver Business Improvement Association and also the Building Owners and Managers Association in B.C. have both provided unanimous resolutions from their membership in support of this bill. There is very strong support for this bill in those associations in Vancouver that represent the businesses in the areas that were affected.

I've also spoken with business owners and downtown business associations in Toronto. A number of them in the area were affected by the riot as well. They have also expressed very strong support for the bill, and the reason they have is that they understand it will protect their businesses from the kinds of damage and looting, and their employees from the kinds of trauma, that they experienced during the riots in their cities.

**Ms. Kerry-Lynne D. Findlay:** Thank you.

**The Chair:** Thank you.

Go ahead, Mr. Scott.

**Mr. Craig Scott (Toronto—Danforth, NDP):** Thank you, Mr. Chair, and thank you, Mr. Richards, for your presentation and the initiative.

The intent is certainly laudable, but we do have concerns, as you've already heard. I think it's important to reiterate that this is not just with respect to disguise or masking in riot situations. It would also apply when there is unlawful assembly.

You've made that clear, but I want to make sure that everybody understands that the threshold for what constitutes an unlawful assembly is much lower than the threshold for a riot. If somebody ends up still being around, masked, when something at as low a threshold as an unlawful assembly is going on, that's of even greater concern, from my perspective, from the civil liberties side. I just want to put that on record.

I spoke to some police officers who were involved in the policing in Toronto during the G-20. What they wanted to emphasize was the transition issue. It's all well and good for us to define what constitutes an unlawful assembly or a riot. You've done that well. It's in the code. It's how everybody on site knows that, at a certain point in time, a peaceful demonstration has become either a riot or an unlawful assembly.

They can be large. You can be in one part of a crowd and not know what's going on in another part of the crowd. You could end up being legitimately there for either protest reasons or other reasons, with some kind of facial covering, and not even know that you're now automatically committing an illegal act.

If this provision goes forward, it needs to be amended to include a very clear provision on a reasonable opportunity to disperse after clear notice from the police. Have you given any thought at all to whether we need something along those lines? There is police practice, but it's not written into the Criminal Code.

• (1135)

**Mr. Blake Richards:** Thank you. It's a great question, and I appreciate it.

I want to point out again.... I won't read the entire definition of "unlawful assembly" from the Criminal Code—

**Mr. Craig Scott:** It's the notice issue.

**Mr. Blake Richards:** —but the idea behind it is that we're in a situation now where, on reasonable grounds, people have reason to fear being in the neighbourhood. I guess what I would point to is that individuals who have come to a legitimate public gathering of any type, whether it be a demonstration or, as we saw in Vancouver, a gathering of fans of a hockey game.... Whatever it might be, if they've come to a public gathering where there has been activity to the degree that people fear being in the neighbourhood, individuals who are there for legitimate, peaceful reasons would experience that fear themselves.

We see individuals who are innocent bystanders being assaulted in these kinds of instances. Generally, the kind of person who is there for legitimate peaceful reasons is looking to depart the situation, to leave the area—

**Mr. Craig Scott:** But that's my issue, Mr. Richards. If I could—

**Mr. Blake Richards:** That's the intention here: to deal with the people who are looking to cause the trouble, the people who have come prepared and are looking to cause trouble. With this bill, they're the individuals we're looking to deal with.

**Mr. Craig Scott:** But there's nothing about the phrasing of the bill that actually goes to those kinds of people and that kind of intentionality. It's a much broader sweep. It approaches almost a strict liability offence if people actually do not know that what they're in the middle of has become illegal.

So my concern is to make sure the transition is clearly signalled in a way that's fair to people, to allow them to have a chance to remove themselves from the situation, and nothing you've said tells me that this is something you would entertain as an amendment. Would you entertain that?

**Mr. Blake Richards:** Well, I'm always open to hearing suggestions and ideas, and certainly amendments or suggestions are welcome, but I will say that I believe the bill as it exists certainly does provide the ability.... When we're dealing with these kinds of situations where rocks are being thrown through windows, police cars are being set on fire, and innocent individuals are being assaulted, these are not the kinds of situations that a law-abiding citizen generally is looking to be a part of.

In those kinds of situations, police are looking to ensure public safety. They're going to be looking to deal with the people.... As you indicated, they have practices they follow. They're looking to deal with the individuals who are looking to damage property and to assault individuals.

These are the individuals police are trying to deal with in this kind of situation, so I really strongly believe that the bill as it's designed will be, without question in my mind, one that will be applied to individuals who are looking to cause trouble, not the individuals who would be in an area...those individuals are looking to flee an area like that.

**The Chair:** Thank you.

Mr. Woodworth.

**Mr. Stephen Woodworth (Kitchener Centre, CPC):** Thank you very much, Mr. Chair.

Thank you, Mr. Richards, for your presentation today. I think you've been really responding to the questions that have been asked of you in an excellent, detailed, and logical way and I very much appreciate that.

I just want to preface my remarks by saying that while I am the first one to defend the right of anyone to wear clothing appropriate to circumstances and according to their beliefs, I don't have any patience for anyone who shows up masked or disguised to any event where it's clear there is illegal conduct going on.

If you are in the midst of an unlawful assembly or a riot, and people are running around with black masks on and doing illegal things, it just does not make sense to me to believe that anyone with an ounce of respect for the law—or intelligence—would disguise themselves so they couldn't be photographed with no other ulterior purpose, so I just don't buy that.

I was interested in your remarks about what happened in Vancouver. Certainly, the fact that there were 15,000 criminal acts identified—I hadn't realized—and that the police were only able to charge 85 people I think is very striking. Many people were I think unjustly and unduly critical of the police because of the time and care they took in their investigation. I know much was written about that and the fact that it took time.



I'd like to ask you this. If your bill had been in place, can you give me some specifics or talk about how it would have helped the police in bringing to justice the perpetrators of these crimes in Vancouver during that riot?

• (1140)

**Mr. Blake Richards:** That's a very great question. It's one that I've had officers point out to me in the different cities I visited where they've dealt with these kinds of situations.

What they tell me very clearly is that, in these kinds of situations, there's an element of people—and these are the people who we're looking to deal with in this bill—who are looking to cause trouble. They come to a public gathering knowing that there will be some cover for them to engage in the kinds of criminal acts they're looking to engage in, and they come prepared with a complete tool kit. Certainly you can find sites on the Internet that coach people on how to do this kind of activity. They'll come prepared with the kit, including the disguise. There may be, as I said earlier, marbles to toss under the legs of police horses. There may be bricks or other objects that they'll throw at police, hammers they'll use to break the store windows, and other kinds of tools that they will use.

Police will witness the individuals with their knapsacks. They'll see them putting on disguises. They'll see them with the tools. Then they'll witness these kinds of activities taking place. They'll witness individuals leaving the scene and removing their disguises as they go. If they know that this kind of criminal activity has taken place, they know that likely these individuals were involved in it, but they're not able to actually identify the individuals who committed specific acts.

You specifically mentioned the Vancouver incident. They have video evidence and photographic evidence where they can clearly see these kinds of activities taking place, and they're done by individuals who are disguised, so they're not able to actually lay charges.

I think it comes back again to the police being able to protect public safety, because they've declared the situation to be an unlawful assembly, or they've declared it to be riot. They know that this activity is happening, or is about to happen, and will likely intensify. They can deal with individuals who they see are very clearly gearing up to engage in that kind of trouble, and hopefully what that will do then, of course, is protect the safety of the public and prevent damages to property, prevent damages to businesses, and prevent assaults on individuals by deterring it from ever happening, because these people will think twice about disguising themselves.

That's the first and foremost hope. So that will be the main thing, and then, secondly, it allows the police the opportunity to hopefully be able to lay more charges on those who are involved, because they're actually able to identify them.

**The Chair:** Thank you.

Please go ahead, Mr. Jacob.

[*Translation*]

**Mr. Pierre Jacob (Brome—Missisquoi, NDP):** Thank you, Mr. Chair.

The offences created by Bill C-309 would apply when someone wears a mask or other disguise to hide his or her identity.

How do you think we could determine whether that's really what the person intended?

Furthermore, what would the situation be for people who cover their face for other reasons, such as religious or health reasons?

[*English*]

**Mr. Blake Richards:** Part of your question goes back to the question that Mr. Cotler asked earlier. I'll address that part first.

The bill does provide for lawful excuse. Lawful excuse would apply in the situations you identified. If someone requires a head covering for religious purposes, if someone has a legitimate need to wear medical bandages, which in some way obscures the person's face, those kinds of situations, I think, would certainly apply and could be considered lawful excuse.

With respect to the first part of your question, we're talking about situations where, as I indicated, the Criminal Code defines very clearly that people have reasonable grounds to fear that the peace is going to be disturbed tumultuously, which essentially means they are now afraid to be on the streets of their own city.

If we're talking about a lawful public gathering, often these kinds of events can stem from a lawful public gathering of some type, where individuals have infiltrated a lawful public gathering. Sometimes a very small minority of the group is looking to cause trouble and uses the situation to disturb the peace. Individuals who are there for legitimate peaceful reasons are also going to be afraid and will be looking to flee the area, because they could become victims themselves.

The intention of the bill is hopefully to strengthen the ability to legitimately gather, whether it be for a demonstration or other public gatherings, because it protects the individuals who are gathering for those kinds of purposes. It protects their right to do that. In protecting others, it ensures public safety by protecting individuals who would be assaulted in those kinds of situations and by protecting businesses, which often face the majority of the damage in these situations, whether it be store windows being broken, looting taking place, or stealing of their merchandise. Also, with respect to public property, it protects the taxpayers. Police cars are often torched in these kinds of situations and other public property is damaged.

It protects the public from this kind of criminality. With respect to individuals who are looking to legitimately gather, it protects them from a criminal element that would look to infiltrate those kinds of situations.

• (1145)

[*Translation*]

**Mr. Pierre Jacob:** Thank you, Mr. Chair. Do I still have some time left?

You didn't completely answer the question. How could we determine if that was truly the person's intent?

Furthermore, if a person wears a gas mask during a lawful demonstration, should a riot break out and tear gas be launched, would that person be subject to the new offences?

[*English*]

**Mr. Blake Richards:** This is only intended to apply in a situation where we have the definition of it being an unlawful assembly or a riot. When an individual comes to a legitimate peaceful gathering—regardless of any type of facial covering, mask, or disguise that the person would choose to wear to a peaceful legitimate gathering—those provisions would not apply in that instance. They would apply in instances where there is an unlawful assembly or a riot. That's the only situation in which it would apply. It's meant as a tool to ensure public safety when situations like that occur, not at any kind of legitimate peaceful gathering.

**The Chair:** Thank you.

Mr. Goguen.

**Mr. Robert Goguen:** I want to come back to one of Mr. Scott's questions.

With respect to riots, it is extremely explosive how these situations arise. A gathering starts out as peaceful and people have good intentions, but all of a sudden, something breaks out. The Riot Act is read, and admittedly, as Mr. Scott said, there's the prospect that someone wearing a mask and being peaceful will not have heard the Riot Act and does not know that they're not participating in an unlawful assembly or a riot, right?

Let's try to grasp some reality on this. There are limited resources, let's say 40 or 50 police officers there to try to break up what becomes an unlawful assembly, a riot. Between the person doing absolutely nothing who is peacefully wearing a mask and those who are throwing Molotov cocktails or marbles at horses, to whom do you think the police are going to direct their attention?

• (1150)

**Mr. Blake Richards:** You make a very great point, and that's exactly the heart of the matter here.

This is intended to deal with situations that, as you say, get out of hand. They become an unlawful assembly. They become a riot. It's intended to deal with individuals who are participating in and involved in those kinds of situations. It's not intended to deal with the legitimate innocent bystander, whether it's someone who is passing through the area, or someone who was part of a legitimate public gathering that's become a situation like that. It's intended to deal with the troublemakers. Police are looking to deal with the troublemakers as well. That's what their job is: protect the public from people who are looking to engage in criminal activity. Very clearly, there's no question in my mind that these are the individuals police will be focusing on.

As you said, in these kinds of situations, where the public safety is threatened, and when things get to the point where police cars are being lit on fire, storefronts are being damaged, and innocent individuals are being assaulted, police are trying to protect the public and protect property from individuals who are looking to engage in criminality. That's where their focus is going to be. They're not looking to deal with the person who's there for legitimate reasons

and is looking to flee the area. They're looking to deal with people who threaten public safety.

**Mr. Robert Goguen:** At the next level of the prosecutors, it might not cut it that this person wearing a mask stuck his finger out at the police officer.

**Mr. Blake Richards:** Right. Absolutely, I couldn't agree with you more.

That's the other thing people have to keep in mind here, that before anyone is convicted of an offence, whether it be this one or any other, it goes through the police, it goes through prosecutors, and it goes through the courts.

I very strongly believe that this bill will clearly do what it's intended to do, which is to deal with the individuals who are looking to cause trouble, damage property, assault individuals. That's what it's designed to do and that's what, I'm very confident, it will do.

**Mr. Robert Goguen:** Thank you.

**The Chair:** There are still a few minutes left.

Mr. Woodworth, I cut you off earlier. Did you want to comment further?

**Mr. Stephen Woodworth:** Yes, thank you very much.

I did want to just ask you about my own idea—that by in fact creating an offence that makes it illegal or prohibits one from wearing a mask, one, in effect, enables the police to arrest that person simply for being in a riot or unlawful assembly and wearing a mask, and thereby to identify them. In other words, we're giving the police another tool with which to identify people who they would be unable to identify otherwise, since they can't legitimately arrest them.

Does that sound sensible to you or is it within the realm of what you're proposing?

**Mr. Blake Richards:** I believe that does sound very sensible. As I said, this is all designed to be another tool for police to be able to, hopefully, deter these kinds of situations from happening. But when they do happen, it does present another tool in terms of investigation, and certainly the ability to arrest someone for being part of that situation, in terms of wearing a disguise, is a key part of that tool.

**Mr. Stephen Woodworth:** Very good, thank you. That was my question.

Thank you, Mr. Chair.

**The Chair:** Monsieur Côté.

[*Translation*]

**Mr. Raymond Côté (Beauport—Limoilou, NDP):** Thank you, Mr. Chair.

Mr. Richards, in an ideal world, intentions would be fairly well-known and the police could therefore arrest anyone with harmful intent. But I'm concerned about one thing because everything changes very quickly in society. I'd like to talk about wearing a mask for health reasons, which we hardly ever see in Canada outside of health care institutions, but it's very common in Asia. They wear a surgical mask. Moreover, I've got a cold and I could wear one to protect the people around me.

During a demonstration or a riot, how could we identify people who are wearing a mask to be good citizens and avoid spreading an illness, if that practice were to be adopted in Canada?

[English]

**Mr. Blake Richards:** Thank you for the question.

Again, it goes back to the point that what we're talking about here is an offence that deals with individuals who are participating in an unlawful assembly or in a riot. This isn't going to apply every day on the streets. I want to make that very clear. I hope that's been made clear. I think it's important that is clear. It's not intended to apply every day on the streets. It's not intended to apply to individuals who are legitimately at a peaceful public gathering of any type. It's only intended to deal with individuals who are participating in an unlawful assembly or a riot.

As I mentioned, there are provisions for lawful excuse. Certainly medical bandages, as I said, and religious head coverings, are a couple of good examples of that. What this is intended to do is to deal with individuals who are participating in an unlawful assembly or a riot. By this very definition, this means that there is now tumultuous activity taking place. This is, as I've stated a number of times, comprised of things like objects being thrown through windows, vehicles being lit on fire, innocent individuals being assaulted. When that kind of activity is taking place, those who are there for peaceful purposes generally are looking to flee the scene, to leave the area. I certainly think that would be what most reasonable individuals would do.

• (1155)

[Translation]

**Mr. Raymond Côté:** Mr. Richards, sorry for interrupting, but I just saw a demonstration in my riding. A philosophy teacher at the Limoilou CEGEP, someone I know personally, wanted to teach a class on dissidence. She wanted to illustrate the demands that could be made. Seventy-nine people were stopped by police, including one student who was clearly anti-strike. It was in the context of the student strike movement. Unfortunately, these things happen, and we have also seen this in Toronto.

Wearing a mask can be interpreted in many ways. I'm thinking of things like the Anonymous movement where people wear a typical mask to send a message. Couldn't we ultimately fear that your bill criminalizes a person expressing an opinion?

[English]

**Mr. Blake Richards:** Well, I believe those kinds of expressions of opinion or legitimate public demonstrations are actually protected by this piece of legislation. I think it's very important to point that out. They're protected by this piece of legislation because what it does is it targets those individuals who would come to any kind of legitimate public gathering, whether it be a demonstration or otherwise, looking to use the fact that there's a large gathering to engage in criminal activity. These are the types of individuals, as I mentioned earlier, who come prepared with these tool kits, including disguises and other tools, to cause mayhem and damage.

That puts a stain on the demonstration or the gathering, and I think their message gets lost in the fact that now there's property being damaged and destroyed. I think that's really unfortunate, because I

think it's important that we have the ability to demonstrate peacefully in this country. It's a democratic country, and we all should have that right. But when individuals like this come and become involved in this kind of situation, take advantage of the situation, they take away from the message that the individuals are there to try to demonstrate.

So to your point, I think it actually is a very strong tool in terms of protecting the rights of individuals to make legitimate points in peaceful demonstrations.

[Translation]

**Mr. Raymond Côté:** Do I still have some time left? No? Thank you, Mr. Chair.

[English]

**The Chair:** We're done. Thank you, Mr. Richards.

Now, we have a fill-in clerk, who's done an excellent job, and she's pointed out to me that this clock is out by five minutes. It is now 12 noon, which means we're at the time allotted for our first session. I appreciate that.

We'll suspend for about five minutes until we get the video conference arranged and the next witnesses before us.

• \_\_\_\_\_ (Pause) \_\_\_\_\_

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• (1205)

**The Chair:** We'll call the meeting back to order.

We're pleased today to have Chief Jamie Graham from the Victoria Police Department, and by video conference, Mr. Charles Gauthier, the executive director of the Downtown Vancouver Business Improvement Association.

Welcome, Mr. Gauthier and Chief Graham.

Can you hear us okay, Mr. Gauthier?

**Mr. Charles Gauthier (Executive Director, Downtown Vancouver Business Improvement Association):** I can, thank you.

**The Chair:** I think you received correspondence from the clerk indicating that you could make an opening address of up to 10 minutes.

Mr. Gauthier, if you would like to start, go ahead. I'll let you know when you're at nine minutes so that we don't run over.

**Mr. Charles Gauthier:** Okay. Thank you.

Good afternoon. Thank you for this opportunity to address you. As the speaker said, my name is Charles Gauthier. I'm the executive director of the Downtown Vancouver Business Improvement Association, a role I've had for 20 years.

The DVVIA was established in 1990 and represents more than 8,000 businesses within a ninety-block area of downtown Vancouver's peninsula. Some 145,000 employees work downtown, and more than 80,000 people live downtown.

I'm presenting today in my capacity as executive director of the association, in support of private member's Bill C-309, An Act to amend the Criminal Code (concealment of identity).

The DVBIA board of directors voted unanimously at its January 24, 2012, meeting in support of the bill, because it will provide law enforcement officials with an additional tool to arrest individuals who wear a mask or disguise with the intent of committing unlawful acts and seeking to avoid identification. We believe this amendment to the Criminal Code will also serve as a deterrent to would-be rioters.

Vancouver has a rich history of peaceful protests, but it also has a dark side: riots that have cost millions of dollars in property damage and traumatized employees, residence, and business owners.

During my tenure at the DVBIA I have witnessed two riots and a peaceful march that turned into a brief but expensive spree of vandalism and property damage. I do not have a full and complete memory of the June 14, 1994, riot that took place after the Vancouver Canucks lost to the New York Rangers in game seven of the Stanley Cup finals. What I do remember, however, is the pain and suffering our members and their employees endured for months afterwards.

Fast forward to the 2010 Winter Olympics, hosted by Vancouver and Whistler. As most of you will likely recall, there was a peaceful protest of thousands of people leading up to the opening ceremonies at B.C. Place Stadium. However, amongst the peaceful protesters was a group of individuals known as Black Bloc, who conceal their identities by dressing in black clothing head to toe. They infiltrate peaceful protests and use the crowd as a shield. Given the right opportunity, with their identity concealed they engage in unlawful acts such as assaulting individuals, committing acts of vandalism, and damaging public and private property. To avoid arrest they scurry like cowards into dark corners, shed their disguise, and then blend in with lawful citizens again.

On this first day of the Winter Olympics, Black Bloc was unable to leave its mark. This was likely due to the size of the crowd and the strong police presence. But on the following day, during a much smaller peaceful demonstration with less police presence, Black Bloc members went on a short but expensive spree of smashing in windows and spray-painting facades of banks, retail outlets, and office buildings, while also terrorizing employees and passersby. Video images of the unlawful acts were captured, including images of the cowards shedding their disguises in laneways.

This was the turning point for the balance of the Winter Games. Public sentiment turned against all types of protest, peaceful or otherwise. There were a few peaceful protests, but they were very small in comparison with those of the opening day ceremonies. Unfortunately, peaceful protesters were taunted and chastised by passersby. Thankfully what people remember most about the games is the friendly crowds that met and celebrated our athletes' victories in the streets of downtown Vancouver.

With the success of the 2010 Winter Games and a renewed confidence that we could celebrate responsibly in public spaces, the city of Vancouver welcomed thousands of people downtown during the Vancouver Canucks 2011 Stanley Cup run to watch the games on a number of large screens in the public realm. West Georgia Street, a major downtown artery, was closed to vehicular traffic to host upwards of 50,000 people each and every night during the playoffs.

As you know, just as game seven of the Stanley Cup finals was coming to an end, a riot started. I was at home watching the game. I thought about heading downtown when news about the riot was announced, but I was advised by many not to. During the course of the evening I watched the event unfold on television. I also responded to calls from the media and City of Vancouver staff, who were on the scene to board up businesses after the police had regained control of the situation after three hours.

The next day I surveyed the damage with my staff, board members, and elected officials. I met with our members who were impacted by the riot. The carnage was extensive. Sixty businesses in the DVBIA area had some type of property damage. Twenty of these businesses had been looted. Estimates of the damages have been reported in the \$3 million to \$4 million range. The Vancouver Police Department has labelled the night of the riot as the largest crime spree in Vancouver's history, with over 15,000 criminal acts identified.

•(1210)

Employees who were working that night were traumatized by the rampage. Here are some examples of what happened that night.

Department store employees fought off crazed looters by deploying fire extinguishers. The owner of a coffee shop and her employees sought refuge in the restroom while the interior of the business was being destroyed. Employees of another retailer feared that their building was on fire and panic set in. In fact, vehicles parked immediately outside the building were on fire and the smoke entered the building. Employees of another business were prepared to fend off the looters with baseball bats if they breached the doors. Thankfully, the would-be looters left.

Almost 11 months later, and with only one riot conviction, our members are disillusioned and skeptical about the effectiveness of our criminal justice system. There is evidence that on that night there was a core group of instigators who came prepared to incite a riot. They had weapons, incendiaries, and masks and disguises to conceal their identities. The Vancouver Police Department estimates there were hundreds of people masked in various stages or types of masking. It took weeks of computer time to get the exact numbers.

The investigation has cost the Vancouver Police Department hundreds of thousands of dollars to process the video to try to associate the pictures of masked persons to the video of them earlier in the evening without masks. An investigation of a masked offender takes the police hundreds of hours to, in effect, get the mask off.

One retail establishment hit particularly hard by the riot has video showing masked looters coming through its front doors in waves. It is unlikely that the rioters and looters who wore masks or disguises will ever be caught. As a result, they will continue to engage in criminal acts of this nature until our laws change.

As our country's lawmakers you can begin the process of rebuilding the public's confidence in our laws by supporting private member's bill C-309 and giving notice to would-be looters, rioters, and criminals that donning a mask, disguise, or other facial covering will be met with the full force of the law. Any and all efforts to further strengthen the laws of our country to mitigate any unlawful public gatherings and demonstrations are welcomed by our association and our members. Our collective wish is that citizens across our country can gather, protest, and celebrate responsibly and lawfully in our public spaces without fear of riots or other unlawful acts occurring.

Thank you.

**The Chair:** Thank you, Mr. Gauthier.

Chief Constable Graham, do you have an opening address?

**Chief Jamie Graham (Chief Constable, Victoria Police Department):** Thank you. I do, Mr. MacKenzie.

Hello, Charles.

**Mr. Charles Gauthier:** Hi, Jamie.

**Chief Jamie Graham:** I'm very pleased to be given this opportunity to share my perspective on Bill C-309. In short, I think this is a progressive, measured, and responsible step towards giving the police agencies the legislative tools we need to uphold the law and maintain public safety.

Having served in the RCMP, as chief constable of the Vancouver Police, and now as chief of the Victoria Police Department, I have personally experienced situations, during my 43-year career, in which this legislation would have been helpful.

Civil disturbances happen from time to time, and I'm sure they will continue to occur. But what is most concerning is when these disturbances become something worse, something more nefarious. Often the disturbance deteriorates into a violent riot because of the actions of a very few people. Indeed, over the past few decades a common pattern has emerged relating to how and why riots occur.

Typically, at a certain point people within protests or assemblies don masks and other facial coverings and begin vandalizing property, hurling objects, and sometimes assaulting police officers and bystanders. Property damage is often significant, and more importantly, people can be hurt or killed. Police agencies are deployed to restore order, but the identification of those committing criminal acts is always a challenge. This is doubly difficult when they wear masks to conceal their identities.

This strategy has been adopted on a global basis among like-minded protesters, who use the same tactics of concealing their identity, committing unlawful acts, and then shedding masks and facial coverings to blend in with the larger group of lawful citizens. In my experience, these ringleaders disguise themselves so that they can conduct their illegal activities in anonymity and with impunity. This legislation would change that in Canada.

It's important to remember that we would not be alone in taking steps to counter these rioting tactics. Many other jurisdictions have implemented legislation that prohibits or limits the use of facial disguises during protests.

New York State recently had its legislation upheld by the courts, which held that the 1965 anti-mask law furthers the important governmental interest of deterring violence and facilitating the apprehension of wrongdoers who seek to hide their identity.

Similarly, the United Kingdom and France passed legislation in 2001 and 2009 respectively to address similar concerns.

I also think it's important to address some of the criticism that exists on this subject. This falls under two broad topics. The first is the criticism that there's already legislation in effect that makes "disguising with intent" an offence under the Criminal Code. The challenge with this offence is that it demands an almost unattainable standard for effective, proactive policing—it requires the crown to prove the intention to commit one or more specific indictable offences. Although that would allow for the arrest of a masked person who participates in a riot once it has started, it does very little to prevent the riot from occurring in the first place.

In contrast, Bill C-309, by creating a specific offence for wearing a mask while taking part in a riot or unlawful assembly, could allow for a pre-emptive arrest under the "about to commit" sections of the Criminal Code when an agitator "masks up", as we call it. This would help provide proactive arrest authority to remove these instigators before things get out of control.

The second criticism I've been hearing is that there are concerns regarding the wearing of facial coverings for religious or cultural reasons. I firmly believe that this important factor is adequately addressed in the bill itself. It specifically exempts persons with a lawful excuse for having their faces covered, which would clearly apply to the wearing of religious coverings.

I hope my comments today adequately explain my support of this proposed legislation. I do so unequivocally. I firmly believe that this law would have a tremendous deterrent effect on those considering violence as part of an assembly. I also believe it would better enable the police to prevent riots before they occur, which is the desired outcome for police agencies, business owners, governments, and most importantly, the public that we all serve.

Thank you.

•(1215)

**The Chair:** Thank you, Chief.

Madame Boivin.

[*Translation*]

**Ms. Françoise Boivin:** Thank you, Mr. Chair.

I'd like to thank both our witnesses for their presentations.

Chief Graham, I have a quick question. Are you here as a representative of the Victoria police force or as an individual?

[*English*]

**Chief Jamie Graham:** I am simply here at the request of Mr. Richards and this committee to give evidence.

**Ms. Françoise Boivin:** Okay, but you're not there as a representative of a group. You're there as chief of the Victoria Police?

**Chief Jamie Graham:** Yes.

**Ms. Françoise Boivin:** That's okay. That's not a deterrent or anything; it's still very valuable.

[*Translation*]

After reading the bill of my colleague Blake Richards, I'm not sure it would help us attain the objectives that you also just spoke to us about. Chief Graham, I don't think you're telling us that people can never take part in a peaceful demonstration without sometimes having something on their face that makes it absolutely impossible to recognize them. If someone wears a Vancouver Canucks mask to celebrate a Vancouver Canucks victory, I wouldn't be able to recognize them. That person might not have any harmful intentions. In fact, that person is simply a fan of the team and wants to express it. I don't think you're saying that we can never do this. It's just in the context of a riot and unlawful assembly. Are we agreed on that?

● (1220)

[*English*]

**Chief Jamie Graham:** We agree.

[*Translation*]

**Ms. Françoise Boivin:** Very good.

I am very concerned about public safety. I see what's going on in Quebec right now. I saw what happened in Toronto and in Vancouver, and there will probably always be these kinds of things. I understand that, allowing people to express themselves and assemble peacefully becomes a challenge when things get out of hand and the situation becomes difficult to control.

How do you think this bill will be more helpful than section 351 of the Criminal Code? I'm having difficulty seeing how this could be the case. How will you make the distinction? If these legislative measures existed, could you have made more arrests in Vancouver? I'm not getting it. It isn't clear. How is it possible, since you weren't able to catch the members of the Black Bloc? When we see them in action, we take them, remove them from the crowd and arrest them. These would be good arrests because we know what these people are doing. If we weren't even able to arrest them, how will we be able to assess a person who is protesting peacefully, perhaps with a scarf over the face or in a V for Vendetta mask because he or she wants to make a point and so on?

[*English*]

**Chief Jamie Graham:** You've posed about five different questions. I'll try to cover them.

You ask a lot of these brave young police officers who we put in harm's way to protect us during assemblies. It is not a desirable job for the police. Next to domestic violence calls, these are the calls we don't particularly like to go to.

There are very specific tactics used to try to dissuade riotous behaviour. We'll do whatever you ask us to do. I provide training and equipment to the officers. The government provides the legislative tools.

I am simply suggesting this is one additional tool that I think will be extremely helpful for helping us, first, to deter people who have evil intent, who go to peaceful demonstrations and want to trigger those demonstrations to the next level.

You could leave here today, walk down the street with a mask, and you're quite right, you commit no offence. But the moment you pick up a brick or you pick up a Molotov cocktail or marbles to cripple police horses, my thought is that you commit an offence.

Your colleague might be alongside you with a knapsack full of marbles, full of ink-filled eggs, full of 10 or 15 scarves and masks to provide to his colleagues. This would make that an offence under the preventive measures that we enjoy under the Criminal Code.

Every tool that you can give the police I support. The issue that hasn't been talked about a lot when you talk about the police is issues of discretion. Police officers have the right to use discretion no matter what they face and they do it pretty well on a daily basis. When we see offences take place during riots, traditionally the officers don't intervene immediately because the crowd is so large and the police numbers are usually so small that it's simply dangerous. So they rely on technical expertise, film, personal observations, to gather evidence afterwards to make the necessary arrests.

These kinds of provisions would help deter people, in my view, from that participation in the next level where assemblies become unlawful or riotous.

**The Chair:** Thank you.

Mr. Goguen.

**Mr. Robert Goguen:** Thank you, Chief.

I wonder if you could expand a little bit on how this will give you the additional tool to deter and de-escalate. How will it help with the public safety? Can you expand on that a bit? Perhaps you've used up your time explaining that, but is there anything more you can add to that?

● (1225)

**Chief Jamie Graham:** Most groups who protest, certainly in Vancouver and Victoria, come to the police. We have meetings ahead of time. We set boundaries and guidelines. The huge majority of them are peaceful.

This would simply send a message. We would do proactive marketing, if and when this legislation is passed, to explain to people that these are the rules by which we allow protests. We adopt, as most departments do now, an "adopt a protester" method. When protestors show up and mask up, we assign an officer to walk with them—so they're side by side—until they can gather the impunity of a larger crowd, and that helps. We would simply use this kind of a tool to proactively market and advertise the fact that what they're about to think about is unlawful.

**Mr. Robert Goguen:** It's almost a well-known protocol as to what the behaviour could be.

**Chief Jamie Graham:** We usually take out ads. We rely on our media to explain the rules behind it, when we know there's going to be a large protest—and we know ahead of time. Vancouver has hundreds and hundreds of protests per year. Because we're the provincial capital in Victoria, we enjoy a large number, too. This kind of legislation on the books would have certainly a calming effect on our business community and would send a very clear message to those who are up to unlawful behaviour. It would send them a clear message that what they're thinking about doing is unlawful and we'll be there to make arrests.

**Mr. Robert Goguen:** A lot has been said about the slowness in laying the charges in the most recent riot. Had this bill been in place, do you think it would have been helpful in bringing the perpetrators to justice more quickly?

**Chief Jamie Graham:** I think so, but I wouldn't.... There are a number of reasons the charges were slow in coming.

**Mr. Robert Goguen:** It's not a criticism.

**Chief Jamie Graham:** No.

B.C. has a unique charge approval system to get people before the courts, not like other provinces have. It's simply different. But any tool, especially a tool like this, would have been extremely helpful had it been in place prior to the Vancouver incident.

**Mr. Robert Goguen:** Thank you.

**The Chair:** You still have three minutes.

**Mr. Robert Goguen:** I'd like to ask Mr. Gauthier a question.

You talked about the damage to businesses. Do you have an estimate of the amount of time it took businesses to get up and going again, and what kind of economic loss they would have incurred as a result of the riots? Do you have data on that?

**Mr. Charles Gauthier:** Unfortunately, I don't, but I have a couple of anecdotes. We know that some businesses took literally months before they were able to reopen, because their businesses had been trashed in the interior. For example, a coffee shop near the epicentre of where the riots started was literally closed down for a number of months before it could reopen, as a result of the riot. So there are some individual situations that I'm familiar with, but unfortunately, I don't have an aggregate number for you.

**Mr. Robert Goguen:** Of course in tandem with that, some municipal authorities had to take some steps, and I guess, undergo some expenditures to clear up behind the riot, as well. Do you have any sense of the time taken to clear up the streets in a suitable fashion? There was disruption; there's no doubt about it.

**Mr. Charles Gauthier:** I'm not aware of what the municipal costs were, but I can assure you that our organization literally had to shift gears. We spent literally the next couple of months working—we still are working—with a number of the riot victims who are dealing with the trauma they suffered as a result. We're linking them to the resources that are available.

There's a restorative justice event that's happening next week. We're working with a local group focused on restorative justice, in terms of trying to find a way to help the victims. Obviously, without being overly critical, the criminal justice system has been slow in terms of dealing with rioters. So they're becoming very disillusioned and frustrated by this.

Certainly, as the Canucks were in round one of the playoffs and didn't get beyond that, the stress levels had gone up significantly among our members. They were concerned about the repeat of a riot, including up until last week when the Canucks were eliminated in the playoffs.

**Mr. Robert Goguen:** What do you think would have happened had they won?

You don't have to answer that.

**Mr. Charles Gauthier:** I'm sorry?

**Mr. Robert Goguen:** I was going to ask you what would have happened had they won. You don't have to answer that.

**Mr. Charles Gauthier:** Okay.

**The Chair:** Mr. Cotler.

**Hon. Irwin Cotler:** Thank you, Mr. Chairman.

I also want to welcome our witnesses.

I have a question for Mr. Graham. The present subsection 351(2) of the Criminal Code sets out the offence now of disguise with intent. It effectively states that any person:

...who, with intent to commit an indictable offence, has his face masked or coloured or is otherwise disguised is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years.

And as the annotation in *Martin's Annual Criminal Code* states, the crown must prove this intention.

You seemed to, in your remarks, express concern—and I would put it the other way, justification—for this present legislation on the grounds that the crown is required to prove intent. What is wrong with that? Why shouldn't the crown be required to prove intent? Shouldn't that be the normal process with respect to criminal prosecution?

● (1230)

**Chief Jamie Graham:** You're asking me to comment in areas where I lack that depth of knowledge. I would ask you to pose those kinds of questions to a crown prosecutor. But I know from practical experience, working a hold-up detail for many years, that trying to get charges laid against people wearing a disguise is difficult, because the level of intent that's required by a crown prosecutor to proceed is, in my view, unreasonably high.

**Hon. Irwin Cotler:** To follow up on your remarks, basically what you're saying is that the particular prospective legislation before us would allow—in your words, if I recall them correctly—for what you called a pre-emptive arrest.

**Chief Jamie Graham:** That's right.

**Hon. Irwin Cotler:** Now, would that pre-emptive arrest not still require the same burden with respect to intention?

**Chief Jamie Graham:** No. If this excellent legislation is passed, it won't.

**Hon. Irwin Cotler:** So we would remove that burden with regard to the intention to commit an offence.

**Chief Jamie Graham:** As I said, I'm not sure what the legal scholars will finally decide. All I can suggest is that if we come across an individual about to enter into a riotous situation with a backpack full of masks and implements to create a riot, then it would give us the authority to detain, arrest, and prosecute.

**Hon. Irwin Cotler:** This brings up a question that was put by my colleague, Craig Scott, and that is the whole question of a transitional situation. Supposing somebody comes to participate in a lawful assembly masked, and in the evolution of that lawful assembly it then moves into an unlawful assembly.

**Chief Jamie Graham:** Yes, I listened to those questions. Those are good questions and are things that we've thought about continually. I have enough faith in the prosecutorial system and the police use of discretion and good, God-given common sense, that wouldn't allow us to include in those prosecutions people who are there for religious purposes.

Notwithstanding that, if you're there for religious purposes, or because of weather, or because of your medical condition, once you pick up a brick or you engage in unlawful behaviour, you waive your right to have your face covered.

**Hon. Irwin Cotler:** If you picked up a brick, under the present legislation wouldn't you be liable right now? That's under the present legislation, without the need for new legislation.

**Chief Jamie Graham:** Once again it depends on the circumstances. As was the case I outlined earlier, with the observations of officers who saw people getting prepared to engage in this kind of behaviour, with masks, who are weaving their way in and out of lawful assemblies, and we know what they're about to do through other means, this would give us the grounds to certainly detain those kinds of offenders.

**Hon. Irwin Cotler:** What you're seeing as the main value here, if I can put it back, is the notion of the capacity for pre-emptive arrest, which in your view doesn't exist under the present law.

**Chief Jamie Graham:** No, no. I think the strongest rationale, as put forward by Mr. Richards, was certainly the deterrent value and the example this would send to people who are thinking about engaging in a riot. There would be a deterrent effect so that they would not engage.

I think there are a number of other benefits to this that will simply make for a more peaceful demonstration.

**Hon. Irwin Cotler:** Thank you, Mr. Chair.

**The Chair:** Thank you, Mr. Cotler.

Ms. Findlay.

**Ms. Kerry-Lynne D. Findlay:** Thank you, Mr. Chair.

Chief, it's good to see you here.

Are you aware of other jurisdictions that have legislation dealing with those wearing masks during an unlawful assembly or a riot? Do you know how that has assisted law enforcement in those other jurisdictions?

**Chief Jamie Graham:** As I mentioned in my remarks, I'm aware of New York State and other American jurisdictions. France and the United Kingdom have laws that deal with people who wear masks during assemblies and gatherings.

**Ms. Kerry-Lynne D. Findlay:** Could you speak to difficulties police have had in identifying those engaged in criminal behaviour who have been disguised?

**Chief Jamie Graham:** It's almost a common sense application of the law. You require identity. The courts in Canada require a pretty strict interpretation of identity to successfully prosecute. I know the efforts and the time the Vancouver police have put into identifying the rioters so far is staggering. The cost is staggering.

This kind of legislation would allow us ahead of time to send a very strong deterrent message to those individuals who are contemplating wearing a mask that their conduct will be observed and preventive arrests could be made.

In the midst of an unlawful assembly, it's extremely difficult to commit resources to actually enter a riotous crowd to take people into custody. You simply don't have enough officers, and that goes against the basic tactics of crowd dispersal we've all been trained in. The officers we send to attend these kinds of riots don't ask for much from Parliament. They only ask for the tools and the legislation to help them do their jobs as well as possible.

There's no group more committed to human rights and to lawful protest than the police. I have countless letters from organized groups in Vancouver thanking us, after protests, for the way the police engaged with the crowd to make it lawful. If they were here, many would condemn bad behaviour also, because it takes away from the legitimate message that comes with lawful assemblies.

● (1235)

**Ms. Kerry-Lynne D. Findlay:** I agree with that, and of course lawful assemblies and protests are parts of our national fabric, and this wouldn't be the country it is and we wouldn't have the freedoms we enjoy without them.

You mentioned that B.C. has a unique charge approval system. Would I be correct in surmising that part of the issue over the slowness of charges, etc. really does come down to the steps needed in terms of identification to move forward with prosecution?

**Chief Jamie Graham:** I would say that the slowness and the thoroughness that our prosecutors require before a charge is laid are some of the reasons. They require a complete court brief before a charge is even contemplated. So it's a slow process. Our prosecutors are some of the best in the country. It's just that the policy they're required to work under is difficult.

**Ms. Kerry-Lynne D. Findlay:** Thank you.

Mr. Gauthier, it's good to see you again.

After the riot in Vancouver, there were many citizens who went downtown. In fact, my husband was one of them. He took his tool box and a broom and other things he thought might help. They went down to try to show some solidarity with law-abiding citizens and with business owners and others in cleaning up the city. However, I know there were many business owners who were left to try to do this on their own. There's only so much in terms of actual municipal resources to help. Do you have some examples of business owners cleaning up by themselves, trying to recover from the damage that was done, and the time that took for them?



**Mr. Charles Gauthier:** There are countless examples of businesses that were on their own to clean up or that had to contract the services of companies to help them with that. Certainly it was very gratifying to see citizens coming out the day after, and we're certainly appreciative of all their efforts. Those were focused primarily on the first day afterwards, but many of the businesses were left on their own to basically handle the crisis in the days that ensued.

We worked with a number of different agencies to establish a restoration fund with contributions from three or four corporate citizens, corporate organizations in Vancouver. That money was used to pay the deductibles that those businesses had to pay on their insurance, and those who didn't have sufficient insurance were able to apply for the funds and to use those to offset costs related to the riot and the damage.

**The Chair:** Mr. Scott.

**Mr. Craig Scott:** Thank you, Mr. Chair.

Thank you, Chief Constable Graham for coming and Mr. Gauthier for being here virtually.

The first question is a quick yes or no, or just that with a little elaboration.

Chief Constable, do you know whether the Canadian Association of Chiefs of Police or the Canadian Police Association has taken any position on this bill?

**Chief Jamie Graham:** I presented a slightly different version of this bill last year. I think it was looked at by their law amendments committee, but I don't think there's been a formal recommendation on it yet. Certainly the chiefs of the bigger departments who I know personally wholeheartedly support where the bill is going.

• (1240)

**Mr. Craig Scott:** Okay, thank you.

I'll just state one general concern I have, which is that a specific amendment for a specific problem, from my point of view, should be as specific as possible, especially when there are implications for cherished charter rights and especially when, on the face of it, there is already a provision in the code that seems to address the core examples that Mr. Richards has been giving. So I'm very much hoping that this committee will look closely at whether there's just too much ambiguity. Discretion is valuable and I understand prosecutorial and police discretion is part of our justice system. As much guidance as possible is also valuable, so that's where I'm coming from.

I'm just wondering if I could simply ask three very quick questions. If you could just take note of what they are and then answer them, that would be great, because otherwise we risk my not getting to my key questions.

The first one is the transitional issue that's been brought up, a situation where a person has no reasonable opportunity to disperse. There's not been enough time, maybe kettling or something like that has been used and they can't even get out, or they simply didn't know. It's too big a demonstration or word didn't get to them. From your point of view, if you were an officer on the scene, would you count that kind of situation as a lawful excuse, where people just

can't get out after a protest has become either an unlawful assembly or a riot?

The second one.... A person with religious facial covering is one of the examples that keeps getting brought up. Nobody's disputing that it's perfectly lawful. The question I have is this. After a protest has become an unlawful assembly or even a riot—somewhere along the line it's a riot—if that person stays and is wearing a face veil, for example, does that constitute an ongoing lawful excuse? Or has that become unlawful?

The third question is on anonymity. There's some kind of assumption that anonymity is, almost by definition, the problem here—the deliberate anonymity. But I'll give you two examples. Some people worry about state agencies gathering information during lawful assemblies—photography, for example. In our own history we've had documented examples of security services doing that. So sometimes they will actually deliberately be anonymous for that reason. It's a marginal case, but it's a case. Something a little bit more common, I think, is diasporic residents or citizens of this country who are protesting against a repressive regime and know that it does engage in surveillance of peaceful protests, who deliberately want to disguise themselves. Would you agree that both or either of these are examples of lawful excuse?

The fourth one is the question of somebody wearing a mask, putting it on. Or maybe they're just grabbing their scarf, putting it on after something has become a riot and has turned into something where there's tear gas. Is that a lawful excuse?

**The Chair:** Unfortunately, it hasn't left a lot of time.

**Chief Jamie Graham:** I was going to say yes, no, yes, yes, but I can't do that.

Of all your question areas, I think the one that requires further discussion is a person who would protest and want to have his face covered because he knows that there may be a foreign government that will cause harm to his relatives in his home country. That's the value of lawful excuse. That would certainly get my attention and I doubt very much that somebody would be prosecuted. However, you waive that right once you actually participate in the riot. This is where the police discretion comes in. I can't imagine a woman with a religious covering or facial covering, first off, participating in a riot where they condone that. That would certainly fall into areas of discretion where we wouldn't prosecute, once again, unless they were involved in the riot itself.

I guess the issue I would make is that we all make choices in our lives. I choose to be at a riot. I choose to participate. I choose not to go home when things start to turn ugly. We are all responsible for our conduct and our actions. I think choices have to be made by people who attend these kinds of events. I'll let it go at that.

The majority of your questions would want to be addressed by a legal scholar or a crown prosecutor.

**The Chair:** Thank you.

Mr. Woodworth.

**Mr. Stephen Woodworth:** Thank you very much, Mr. Chair, and my thanks to the witnesses for being with us here today.

I'll begin with Mr. Gauthier. Can you just give me an idea of what policy process you have in your association in order to adopt the kind of position that you're here to advocate today on their behalf?

• (1245)

**Mr. Charles Gauthier:** Two of our committees looked at the bill, and we had a number of people on one of the committees who had backgrounds in either security or police enforcement. We then presented a position paper to the board of directors, and the board of directors discussed it and unanimously approved it back in January.

**Mr. Stephen Woodworth:** I'm glad you mentioned the word "unanimously". It answers the next question I was going to ask, which was how supportive your association was. You've told us that it was unanimously supportive, so I appreciate that.

Could you just remind me again how many members overall there are in the Downtown Vancouver Business Improvement Association?

**Mr. Charles Gauthier:** There are 8,000 members, and they are business members. They are property owners and business tenants.

**Mr. Stephen Woodworth:** May I assume that you've probably spoken to quite a number of them about this particular piece of legislation?

**Mr. Charles Gauthier:** Yes. We actually hosted a breakfast here in Vancouver that Mr. Richards attended. He had an opportunity to elaborate on the bill and answer questions from our members. That was an event to which we invited primarily the businesses that had been impacted by the riot, but it was certainly open to others as well.

**Mr. Stephen Woodworth:** Very good. How many people, or what percentage of your membership, have expressed disapproval or disagreement with Mr. Richard's bill, if any?

**Mr. Charles Gauthier:** We had no members express dissatisfaction with the position taken by the board of directors.

We do make a habit of communicating the policy positions the organization takes to our membership through the newsletter, and we communicate our positions to the media, as well, which then gets out to the broader public.

**Mr. Stephen Woodworth:** Excellent. Thank you.

I'd like to turn my attention to Chief Graham for a moment and just ask you to get at one of the questions the opposition raises from time to time. That is that the existing provisions of the code are adequate to deal with the kind of problem Mr. Richard's bill addresses.

I know that you have already spoken about the necessity, in subsection 351(2), of proving specific criminal intent. But can you tell me, if you are able, what other gaps the police experience in trying to enforce the existing provisions of the code in the kind of riot situation or unlawful assembly situation that occurred, for example, in Vancouver?

**Chief Jamie Graham:** There are a wide variety of circumstances that might be of interest. The difficulty in a riot or unlawful assembly is the protection of the officers who are there to protect the public. You know, we're given a certain amount of tools to try our very best to do that, but in reality, many times the officers are simply required

to observe and to then take action when appropriate, unless lives are at risk. Then they'll gain entry. It's sort of difficult.

But the bar that's put in place in that subsection, the intent section, is extremely high. It has been my personal experience that to gain a conviction, or to even get a charge laid for that particular section, is very difficult. You almost have to have, as an example, the offender running from the bank with a nylon stocking on, with the money in one hand and a pistol in the other. That's the kind of requirement it takes. That kind of difficulty does little to help officers who are facing people who are involved in riots.

When the officers maintain a line in front of protesters, you have to imagine what happens. Many of them will come right up in front of the officers' faces screaming obscenities and yelling and screaming with their faces covered. They commit an offence, but you don't know who they are. If you take action, the fight breaks out instantly. So you have to rely on tools. If they don't have masks on, and this kind of unlawful assembly is under way, we think we could certainly take action later on.

**Mr. Stephen Woodworth:** You could take action after the fact, when circumstances are less volatile. Is that it?

• (1250)

**Chief Jamie Graham:** That's true, yes.

**Mr. Stephen Woodworth:** Do I have any time, Mr. Chair?

**The Chair:** You're out of time, sir.

We'll go to Mr. Jacob.

[Translation]

**Mr. Pierre Jacob:** Thank you, Mr. Chair.

My first question is for Chief Graham. Among the issues that have been raised, there's the fact that the police don't always disclose their identity during demonstrations or riots. Would the new offences apply to them? If so, should there be a specific exception for peace officers?

[English]

**Chief Jamie Graham:** I think the exemption for officers in these kinds of cases is covered in existing Criminal Code sections.

I don't put a lot of faith in the argument that this kind of law would apply to police officers. Officers either working on emergency response teams or in these kinds of situations have their faces covered for a very legitimate reason, and it's because of the counter-surveillance and proactivity by organized criminals and gangs on the officers who are identified and their families. So, in certain cases, they keep anonymous for a very legitimate reason.

[Translation]

**Mr. Pierre Jacob:** I have a second question. In law, what are the differences between legitimate demonstrations, violations of the peace, unlawful assemblies and riots? Do you think the legislation needs to be clarified with respect to these differences?

[English]

**Chief Jamie Graham:** I would simply encourage the committee to seek that kind of answer from a legal scholar; I am not.

I will simply use the common sense approach that was used by your colleague, I think, when describing the escalation of a gathering to a public disturbance, to an unlawful assembly, or to a riot. I will simply use the common sense definition, from my perspective, that this law applies to unlawful assemblies and riots.

[Translation]

**Mr. Pierre Jacob:** I have another question. I asked it already, but I'll ask it again. If someone wears a gas mask during a legitimate demonstration, should a riot break out and tear gas be used, would that person be subject to the new offences?

[English]

**Chief Jamie Graham:** It depends on the circumstances surrounding one's wearing a gas mask. If one shows up at a lawful demonstration with a gas mask, it sends a message that perhaps one is expecting further trouble. So at this stage you couldn't answer that, but in the middle of a riotous situation or an assembly, that certainly could be an offence under this bill.

[Translation]

**Mr. Pierre Jacob:** Do you think the new offences would only target people who try to conceal their identity to avoid being detected by the authorities responsible for enforcing the act? Would a person who tries to hide his or her identity from another rioter or even the media be subject to that offence?

[English]

**Chief Jamie Graham:** I'm not sure, but I don't think the legislators should have a lot of sympathy if the defence for wearing a mask is that one doesn't want to appear on camera or be captured by photography. Everywhere a police officer goes nowadays....

I'll give you my own example. Every time I am downtown and step out of a car, I am continuously being filmed by people with cellphone cameras. It's the reality of the way we live. But giving any consideration to a person who is participating in an unlawful assembly with their face covered because they don't want to appear on camera doesn't carry a lot of weight with me.

[Translation]

**Mr. Pierre Jacob:** Thank you, Mr. Chair.

[English]

**The Chair:** Thank you.

Mr. Seeback, as I pointed out before, the clock is out a bit, so you have about three minutes.

**Mr. Kyle Seeback (Brampton West, CPC):** Great, thank you.

Mr. Gauthier, have you had the opportunity to discuss with any other business associations whether or not they would consider this legislation and be supportive of it?

**Mr. Charles Gauthier:** No, I haven't had discussions with other organizations, primarily because we were the organization that literally dealt with the aftermath of the riot. It impacted our members, and frankly, when we do that, the other organizations—I don't know if the Board of Trade took a position—understand that we were sort of on the front line in dealing with our members. I'm not aware of whether or not they support the bill.

But again, we did this independently, and it's not uncommon to do that. In the city of Vancouver there are a number of different business organizations that exist.

• (1255)

**Mr. Kyle Seeback:** Thanks.

Chief, we've heard a little bit about whether or not we're going to need some clarity with respect to unlawful assembly and riot, and how we sort of parse those differences. Do you think there is any need for additional clarity as the law stands, or do you think that's something we might want to look at in conjunction with this legislation?

**Chief Jamie Graham:** I like the way the bill is drafted now, to include unlawful assemblies and riots. I personally don't think it needs further clarification.

If I could jump on the answer from my colleague, the Downtown Victoria Business Association simply verbally has agreed with the position that Charles has put forward.

**Mr. Kyle Seeback:** Great.

Under the Criminal Code, wearing a mask or disguise with intent to commit an indictable offence, so that currently exists.

I know you talked about that briefly today, but explain to me why this is so much better than the existing laws, because it seems like that might have some sort of coverage.

**Chief Jamie Graham:** There are occasions when officers, patrolling a crowd prior to an unlawful assembly or as one is about to erupt, will come across individuals with masks, large groups of masks, for no legitimate reason. There is that fine line between encouraging someone not to wear a mask to then their engaging in an unlawful act where you can act.

But you can use certain provisions of the Criminal Code to prevent offences. If officers were to come across a knapsack, which happened in Vancouver, full of masks—well known, he was part of a group—ink-filled eggs, marbles, all the tools of a riotous individual, the officers would be permitted to act where they couldn't under existing law, in my view.

**Mr. Kyle Seeback:** Very good.

Thank you.

**The Chair:** Thank you, Mr. Seeback.

I'd like to thank Mr. Gauthier for being with us, and Chief Graham.

I would just give a little plug for all of the crown attorneys across the country. They all do a great job. I appreciate that the ones in British Columbia do it differently, but I think they all do a great job.

Those of you who are visited by members of the Canadian association of police will find out today that they're talking about six hours for paperwork with regard to impaired drivers. It's something we all need to be cognizant of. The paperwork is starting to overwhelm, I think, the policing community.

Thank you again, all of you, for being here.

With that, the meeting is adjourned.

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