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Chair

Mr. Daryl Kramp

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•(0845)

[English]

The Chair (Mr. Daryl Kramp (Prince Edward—Hastings, CPC)): Colleagues, we're going to start.

Good morning to our colleagues, and certainly our witnesses. Ladies and gentlemen, welcome to meeting number 60 of the Standing Committee on Public Safety and National Security. Today we are continuing our study of Bill C-51.

Our witnesses this morning will have up to 10 minutes, as our orders stand, for their opening statements. Hopefully they will be briefer than that, to allow a little bit more time for questions by our members and answers.

I will first welcome David Harris, director of the international intelligence program, INSIGNIS Strategic Research. We have as well, as an individual, Zarqa Nawaz. Thank you so much. Also as an individual, we have Ray Boisvert, president and chief executive officer, I-Sec Integrated Strategies.

We will go right at it, so we will not waste any time whatsoever.

Mr. Harris, you're up, sir.

Mr. David Harris (Director, International Intelligence Program, INSIGNIS Strategic Research, As an Individual): Thank you very much, Mr. Chair and committee members.

I'm David Harris, a lawyer and director of the international intelligence program of INSIGNIS Strategic Research Inc. I have had about three decades' experience in intelligence affairs, including service as an intervenor counsel before the Air India inquiry and Iacobucci internal inquiry, subjects that have arisen, of course, in the course of your considerations.

Canada's security situation is deteriorating. Conventional military and hostile intelligence challenges are manifest, and terror's reach into Canada should have been apparent years before October's terror murders galvanized the public. Canada's position is complicated vastly by an enormous per capita immigration rate approaching 300,000 per annum—half a million if we include so-called temporary visa holders—many from jurisdictions where we have little access for screening purposes.

Bill C-51 is a partial response to our security predicament. It attempts to come to grips with issues of information sharing, aviation security, terrorist propaganda, and disruption operations. The government deserves our support for the effort, but adjustments may be necessary. Proposed CSIS disruption measures, a necessary tool, could benefit from more consideration and perhaps extensive

review approaches. Terrorism advocacy provisions must be consistent with free expression guarantees in the charter. The proposed Criminal Code subsection 83.221(1) should be clarified. Review mechanisms connected to the admirable objective of facilitating information sharing within government should be reinforced. Having said all this, we should find some reassurance in the fact that government activity is subject, of course, to the Constitution.

Before proceeding in detail, I am obliged to clarify matters arising from a recent committee session. I learned later, to my surprise, that I was named there by a member as the source of information upon which was based a question to a witness, the representative of the National Council of Canadian Muslims—NCCM. The NCCM representative responded by saying that the questions were "McCarthyesque". Clarification will be important to the committee's truth-seeking function, and the relevance of these comments in national security terms will become readily apparent. My remarks on this subject are simply my personal opinion on a matter of pressing public interest based on my having followed this group's progress across about 15 years.

The NCCM was founded in 2000 as the Canadian Council on American-Islamic Relations, CAIR-CAN, the Canadian chapter of the Washington, D.C.-based, Saudi-funded Council on American-Islamic Relations, CAIR. This Canadian chapter was founded by Dr. Sheema Khan, with the assistance of Mr. Faisal Kutty and others. In 2003, as CAIR-CAN founding chair, Dr. Khan swore an affidavit asserting that CAIR-CAN was under the direction and control of the U.S. mother organization. By about 2004, several significant former U.S. CAIR personalities and other associates had been convicted of terrorism-related offences, CAIR's former national civil liberties coordinator among them. For a period during her CAIR-CAN chairmanship, Dr. Khan sat on the U.S. CAIR organization's board. According to a 2006 *National Post* report, CAIR-CAN contributed payments to the Washington office from CAIR-CAN revenue.

In 2007, the U.S. Department of Justice designated the CAIR mother group—

Mr. Randall Garrison (Esquimalt—Juan de Fuca, NDP): A point of order.

The Chair: Mr. Garrison.

Mr. Randall Garrison: Mr. Chair, the witness has been invited here before us to testify on Bill C-51 rather than on the background of other witnesses whom we have already heard. So I would ask the chair to remind the witness of the question of relevance to the matter before us.

•(0850)

The Chair: The chair would do that, but the chair would also acknowledge that the witness has an opportunity to respond to previous testimony that has been given relative either to statements he made or did not make. But I would certainly encourage the witness to try to stay as close as possible to Bill C-51, with regard to the purpose and intent of the bill, obviously. But you certainly have the right to defend yourself against allegations and/or improprieties, as you deem fit, that would cast either a negative or positive light on testimony that has been given at this committee.

So, carry on, sir.

Mr. David Harris: Thank you, Mr. Chair.

In 2007, the U.S. Department of Justice designated the CAIR mother group an “unindicted co-conspirator” in the successful U.S. Holy Land Foundation terrorist funding prosecution. When CAIR challenged the justice department designation in U.S. district court, the court upheld the designation, ruling that “[The] Government has produced ample evidence to establish the associations of CAIR... with Hamas.” Hamas is a terrorist entity under Canadian and U.S. law. The FBI ended outreach dealings with the CAIR mother organization in 2008, and the relevance of this to outreach and aspects involving counter-radicalization relative to the legislation will become increasingly relevant.

In 2013, CAIR-CAN, the Canadian chapter, changed its name to the present National Council of Canadian Muslims, NCCM. Some argued that this was an attempt to divert attention from its CAIR U.S. connection. If so, this has been undermined by the NCCM name change statement, indicating that NCCM and CAIR-CAN remain the same organization, despite the name change. The NCCM news release stating this appears to have been removed from the NCCM/CAIR-CAN website, but I'd be pleased to furnish the committee with a copy.

Several high-level NCCM officials and staff from the CAIR-CAN days remain in comparable positions in NCCM. Detractors assert that NCCM/CAIR-CAN has failed to condemn publicly and by name the U.S. mother organization for its radical connections and the terror convicts related to that U.S. organization. Some note a possible NCCM/CAIR-CAN disinclination to reveal financial books and other records likely to explain its involvement with CAIR in Washington, and other links. Others have expressed concern about the organization's alleged tendency to spread an exaggerated and divisive victimhood narrative at a time when many worry about alienating Muslim youth.

NCCM/CAIR-CAN's civil liberties bona fides have been doubted by some as the result of CAIR-CAN's part in the 2000s in what has been claimed to have been a “libel lawfare” campaign by it and its mother group to silence media questions about them, with multiple libel lawsuits. Please see Dr. Daniel Pipes' analysis titled “CAIR's Growing Litigiousness”. It appears that a public relations backlash forced NCCM/CAIR-CAN and CAIR to dismiss their own libel lawsuits and give up on “lawfare”, at least at that time. As reported in *Maclean's*, I was one of those commentators and civil liberties defenders who was sued in libel, fought to defend the responsible exercise of section 2 of the charter—free expression and journalistic

freedom—and forced CAIR-CAN/NCCM to shut down its own suit without apology or payment.

In 2014, NCCM/CAIR-CAN and the Islamic Social Services Association, ISSA—the latter led by NCCM/CAIR-CAN board member Shahina Siddiqui—prepared a so-called counter-radicalization handbook, “United Against Terrorism”. But the RCMP, which had contributed a chapter to this, withdrew its support for the project, owing to “adversarial” aspects of parts of the text. There were also criticisms of the handbook's selection of recommended Islamic scholars, some of whom were said to be among this continent's most radical.

One of several examples is Dr. Jamal Badawi, an Egyptian-born Canadian who has been described as an international Muslim Brotherhood leader, is a U.S. unindicted co-conspirator and has reportedly advocated for physical punishment of wives and for polygamy. Badawi spent years as a CAIR-CAN era official. The handbook also recommended Siraj Wahhaj, who appeared on the U.S. government list of 1993 World Trade Center bombing unindicted co-conspirators and reportedly has made extreme statements. Recommender Imam Zaid Shakir was condemned for his ideology by U.S. moderate leader Dr. Zuhdi Jasser, who has appeared before this committee and the Anti-Defamation League.

Despite the RCMP's withdrawal from the project, I recently heard that the handbook continues to be distributed at home and abroad with the RCMP's name on the cover—a disturbing situation.

So, to the present, I trust that this personal review of the record will cast a clarifying light on the NCCM's allegation before this committee that close questioning of the organization amounts to “McCarthyesque” conduct. Perhaps my analysis might assist the committee and Canadians, in general, in weighing pertinent testimony.

I look forward to questions.

Thank you.

•(0855)

The Chair: Fine. Thank you very much, Mr. Harris.

We will go to Ms. Nawaz. You have the floor.

Ms. Zarqa Nawaz (Author, As an Individual): Thank you. Good morning, Mr. Chair, and members of the committee. It's my pleasure to be here today. I'd like to thank you for allowing me to participate in this very important discussion on Bill C-51, but no one can thank you more than my two sons, because this is parent-teacher conference time in Regina, Saskatchewan, and my boys got an unexpected reprieve. I'd like to reassure the committee that as soon as I get back home, I will be rescheduling that appointment with their teachers. I'm not here today to burden you with my domestic drama as a parent, but to talk to you about my feelings about Bill C-51.

I'm concerned about the negative rhetoric surrounding Bill C-51 and how this government sees the place of Muslims in Canada. Let me tell you a bit about my own experience, although you've probably all guessed by now that I'm not a lawyer or an academic. I'm primarily known in Canada as the creator of the TV series *Little Mosque on the Prairie* and now the author of *Laughing All the Way to the Mosque*, which is a memoir of my experiences growing up as a Muslim in Canada. I've spent a lot of time thinking, writing, and creating work about being a Canadian of Muslim faith.

A few weeks ago I was in France speaking to my French editor in a café in Paris. She asked me why I kept referring to myself as a Canadian. The question caught me off guard. I asked her what she meant. She said she's never met a Muslim who had such fierce loyalty to her country, and wanted to know how Canada had generated such passion in its citizens. The question caught me off guard. I didn't realize I was exuding so much Canadian fervour; it was almost un-Canadian. To be honest I had never considered why I loved Canada so much. I wasn't even born in Canada.

I was born in Liverpool, England, where my father was a civil engineer working on the Mersey Tunnels. I was five years old when the Canadian recruiters tried to convince my father to move his family to Canada and the promise of a better life there. He already had a good life and a good job in England, but there was something about their incredible zeal for wanting him to consider Canada as his country. My mother had enough of England's rainy weather, which was aggravating her asthma, so she voted "yes". Excluding the first nations, who are the only indigenous people in this great land, our family like every other Canadian family that is here today left our home and moved to Canada. We joined the rich history of Muslim migration, which started at Canada's founding in 1867. Back then Muslims were farmers and fur traders who settled in western Canada, primarily Alberta, where the first mosque was built in 1938 and is now located at the museum of Fort Edmonton Park, where I had the honour of visiting a few months ago.

We settled in Brampton, Ontario. My father was employed as part of a team of engineers that built the CN Tower in Toronto in the 1980s. Growing up I was acutely aware that my family and I were part of the 250,000 immigrants that Canada needed to let in every year to maintain a healthy tax base if we were to survive as a nation. Even as a child I would find myself worrying about the Minister of Immigration and the Minister of Revenue. Did they stay up late at night wringing their hands in worry? Did they fantasize about adding fertility drugs to Canada's water supply to help grow our tax base? Like a lot of Canadians who took their kids to church, synagogue, or temple, my parents took us to the mosque to learn about Islam. We went to a mosque in Toronto that is a converted church, so in my mind mosques were basically churches with pews removed. To this day I'm never comfortable in a mosque unless it has a choir balcony and stained glass windows with crosses in them. It was Canadian culture and mosque culture that fused in my brain as a child.

Then in the 1990s I started to wear a hijab. I was one of the first waves of Muslim women in Canada to do so. The teachers at school were a little worried about my new-found religious zeal, but for the most part I was ignored and allowed to practise my faith as I chose. In those days no one cared what you wore as long as you weren't infringing on anyone's rights. You could stand in the citizenship

ceremony wearing a papal hat or a niqab studded with diamonds, for all the Minister of Immigration cared at the time—although the Minister of Revenue would be very interested in where those diamonds had come from and if they had been taxed accordingly.

Human rights, pluralism, democracy, and feminism mixed into my cultural and religious upbringing. I watched the documentary *Half the Kingdom*, made by Canadian-Jewish feminists about sexism in the synagogue, and thought that if Jewish women could proudly champion their faith while still criticizing patriarchal practices within it, then so could I. I followed in their footsteps and made the documentary *Me and the Mosque* about similar practices in my community. Two years later I pitched a television series at the Banff Television Festival about a Toronto lawyer who gives up his lucrative Bay Street law career to become a penniless imam of an impoverished mosque that was renting space in an even more impoverished church. A mosque in a church has been the single most defining feature of my life growing up as a Canadian.

● (0900)

Little Mosque on the Prairie then became the most unlikely TV hit ever to hit Canadian airwaves. The entire world paid attention when the show aired. *Little Mosque* was forged from my experience growing up, seeing my faith through the lens of Canadian human rights and the struggle of Islamophobia outside my community and the struggles of patriarchy within it.

Little Mosque currently airs in over 60 markets around the world. Over the years I've had reporters from other countries watch the show with fascination. What I came to learn later was that this show was reflecting the essence of Canada and the success of multiculturalism. We are a country that has invited people from all races, ethnicities, and faith groups, and we have built a society that values each person's right to practise their way of life in the way they choose and still be a vibrant part of the Canadian fabric. In other words, the world was fascinated by what Canada got right and what so many other countries got wrong.

We are a country of immigrants, from the Chinese to the South Asians to the Ukrainians to the Italians, who literally built Canada from the ground up, with each wave of newcomers building upon the success of the last wave. Success for each group has meant success for everyone.

People ask me if being Muslim has held me back in Canada, but I always answer that I've always felt cherished and loved by my country. Even after 9/11, in Regina, Saskatchewan, an elderly woman grabbed my hand while I was shopping and said, "Don't blame yourself for what happened; you are not responsible". Those feelings of affection and belonging got me through very difficult days when I felt the world would turn on my community for a crime committed by a group of violent extremists who claimed to represent my faith.

But in the last few months my husband and I have started to worry about what this government's negative rhetoric about Muslims in Canada is costing us. I worry that certain sentiments are starting to tear at the very fabric of our nation. I worry about what a child whose mother wears a niqab will be feeling as he listens to his Prime Minister talk about her in such disrespectful language.

Malala Yousafzai, who received a Nobel Peace Prize and honorary Canadian citizenship, also has a mother who wears a niqab. Would she be welcome here?

This isn't who we are as Canadians. It goes against our basic belief in Canadian values. It feeds straight into the rhetoric of international extremists who want Muslims to feel alienated from society, to feel as though we're not wanted and don't belong here.

To prevent feelings of alienation, mosques across the country are urging their members to ignore these Islamophobic sentiments and to continue to be engaged members of society, to participate, to contribute, to volunteer, to play our part in making Canada safe and secure. We, as citizens, will cooperate with the RCMP and our police forces, and with the laws currently in place. An engaged citizenry is and always has been the best defence against terrorism and radicalization to criminal violence.

As a community, we are doing everything in our power to combat the feelings that we have suddenly become a problem in Canada, but I am worried. I am a mother. I have four children, two daughters. One is studying in France and doesn't call home nearly enough. The other is a lifeguard and swimming instructor. She got a concussion the other week while playing rugby for the University of Regina team and won't listen to her parents about maybe taking a break so her brain will heal properly.

I have two boys in Campbell High School who play video games way too much, and who need to do a much better job of cleaning the bathrooms at home. One just turned 16, which means that I have to go through the rite of passage that every parent dreads—risk my life on Canadian highways as I teach him how to drive.

My husband works as a psychiatrist, specializing in children and adolescents, with the mental health services for the City of Regina. His father settled in Regina, Saskatchewan, over 40 years ago as an ear, nose, and throat surgeon. He founded the first mosque in Saskatchewan, where my kids learned their dreaded Arabic lessons every weekend.

My husband and I worry about the cost of sending four kids to university, two of which are already there. We worry about what will happen to the economy of our western provinces because of lower oil prices. We worry about the thousands of aboriginal women who have been murdered, and whose crimes have never been solved. I

worry that domestic assault kills more women in Canada per year than all the police and firefighters combined. I worry about not recycling enough, and adding to the plastic island that's forming somewhere in the Pacific. And I worry about what Bill C-51 will do to our country.

A healthy, vibrant, and engaged Muslim community is the best defence against terrorism and radicalization towards criminal violence, and Bill C-51 undermines that. Increased marginalization and hysteria against Muslims are not the answer. What we really need is to work with each other at all different levels of society with mutual respect and cooperation. We need mosques to be more engaged with the social safety net of their communities so we can more easily bring help to the most vulnerable among us.

● (0905)

Muslims have contributed much to this great country and will continue to be a vital force in the coming elections, but the sense of belonging is also a vital ingredient for a civil society to succeed. It is what's missing in Europe. What I saw there was a broken Muslim population that knows it is not wanted or accepted. I grew up as an empowered Canadian citizen who loves her country and loves her faith, and has never been asked to choose between them—and that is what I told my French editor.

Thank you very much.

The Chair: Thank you very much, Ms. Nawaz.

If it's any comfort, I can assure you this committee has heard significant testimony with regard to the significant gap between Muslim, Islam, and Islamism. It's a dramatic difference, and I thank you for bringing your perspective here today.

We will now go to Mr. Boisvert, please.

Mr. Ray Boisvert (President and Chief Executive Officer, I-Sec Integrated Strategies, As an Individual): Thank you, Mr. Chairman.

[Translation]

Thank you very much for giving me an opportunity to speak to Bill C-51.

[English]

Almost three years ago, I left CSIS as the assistant director of intelligence. This was after almost three decades of work as an intelligence officer, a manager, and a senior executive of the service.

[Translation]

Over those 30 years, I witnessed first-hand the service's growth and its adaptation to constantly emerging threats during that tumultuous period.

[English]

In the earliest of days, after I joined CSIS in 1984, it was really all about the Cold War. It was about hunting spies or looking for alleged subversives. Concomitantly, it also involved homeland-based terrorism, such as that which was represented through the Armenian and Sikh extremism events in the 1980s.

In that first decade, I also witnessed the advent of Shia Hezbollah violence against the west, particularly in places such as Lebanon, and subsequently the emergence of right-wing militia groups in the U.S. and white supremacists in Canada during the 1990s, and of course throughout Europe today. Then, I had a front-row seat for the emergence of a new form of political/religious terror linked to Sunni extremism, that of al Qaeda, with its multiple permutations, be they the AQ, or al Qaeda, affiliates, or the current perversion known now as the Islamic State.

[Translation]

Over the course of my long career in national security—including my role as leader of the main group in charge of counterterrorism at CSIS—I never saw threats of the intensity we are facing globally today. Indeed, we have never faced such diverse, serious and complex threats.

[English]

Although I will focus my comments on counterterrorism, I would be remiss if I did not draw to the attention of the committee members the fact that the current threat environment is so much more than al Qaeda and the Islamic State, or homegrown radicalization as such. At the top of mind is cyber, from the substantive impact it continues to have on our future prosperity, through the theft of intellectual property, to the targeting of our critical infrastructure. That, in my estimation, is not yet properly defended.

[Translation]

As we can see with some of the current hot issues—like Ukraine—we also have to deal with the resurgence of a major Soviet-style threat. There is nothing harmless about the low-intensity hybrid warfare the totalitarian Russian regime is waging on the west. I would even go as far as to add that it is probably the most overlooked and underestimated of all the risks we are facing.

● (0910)

[English]

The issue of nuclear proliferation is once again a cause for deep concern, as it involves a potential renewed race to acquire weapons in the Middle East to match those of Israel's capability or Iran's aspirations. What of China rising, be its foreign interference, its ongoing military transformation, or its newly declared investments in an aggressive, multi-sector cyber-espionage program?

My point in underlining all of these is to suggest that enhancements proposed in Bill C-51, particularly those affecting the CSIS Act, should not be viewed as just being exclusive benefits to the country's counterterrorism programs.

[Translation]

I don't think the global climate has been this threatening since the years of turmoil leading up to the First World War. Therefore, I feel that now is the perfect time to make significant changes to Canada's security legislation. I am convinced that our country must be able to clearly understand the challenges and to respond effectively on multiple fronts.

[English]

Now, allow me to return to the principal matter of the growing threat of terrorism in the 21st century. It will no doubt be a long-term struggle to defeat this new terrorism variant. As a preventative measure, let me say that we must not allow this to be viewed or articulated as a challenge involving a specific religion, as it is not. Based on my professional experience, I can say that it is a struggle against a political/religious ideology that has all the DNA of fascist movements through history that have typically filled a social and economic void. However, it is a battleground where a combination of social investment, diplomacy, law enforcement, intelligence operations, and military capability will be necessary for us to succeed.

[Translation]

However, it is even more important to avoid counterproductive measures and not to let extremists win the public opinion battle by convincing people that we really are in the midst of a war between the west and Islam.

[English]

Whereas history and context matter, so do facts. As recently noted in a Department of Homeland Security, DHS, report, between 2007 and 2010 approximately 200 attacks linked to AQ and ISIS occurred worldwide. Available statistics for 2013 from DHS show that 600 such attacks linked to the same organizations have occurred.

[Translation]

Of course, there is nothing encouraging about Al Qaeda-linked attacks tripling in number. The tragic murder of 23 people in Tunis—most of them European tourists—is another striking example of how difficult it is to ensure the security of any society in the face of this kind of blind terror.

[English]

While at CSIS during the past decade, I can attest to the fact that we had recognized the age of globalization that applied to terrorism in equal measure to that of communications, manufacturing, and the services industry. You should be aware, therefore, that we had purposely evolved our operational doctrine to meet that reality. The new approach, in essence, was to engage threat wherever it may emerge. This was seen as essential and has proved to be successful in thwarting a number of threats targeting Canadians at home and abroad.

[Translation]

Despite those successes, only rarely could I indirectly provide Canadians with a high level of protection during my time in one the highest positions of responsibility in the fight against international terrorism. You may be wondering why, but the answer is simple. With each passing day, new situations emerge and scenarios take shape that have no precedent; the problems that arise as a result are never easy to resolve. Those posing the threats to us learn and innovate at the same pace as we do.

[English]

Similar to biologists struggling to contain drug-resistant bacteria, individuals and entities that cause harm were learning and adapting to this new threat environment. Threat actors went to school, as they say, via trial transcripts, news reports, procedural disclosures, or through stolen tradecraft secrets such as those allegedly delivered to the world by Edward Snowden. The ongoing challenge to secure this country is also due to the strategic shift of most terror organizations, moving from complex plots intended to deliver large scale atrocities to small, often individualized types of attacks, known broadly as lone actors.

[Translation]

As a result, the likelihood of detecting attacks and the window of opportunity between an attack being planned and then launched have decreased steadily over the past five years. The response times are increasingly short, and opportunities for thwarting the assailants' plans are more and more limited.

Finally, while I was with CSIS, I often worried that our tool kit was highly restricted by the Canadian Security Intelligence Service Act.

[English]

Disclosure rules of the day thwarted the flow of potential intelligence leads. Other impediments hampered the transfer of CSIS intelligence into viable evidence for the RCMP.

Most importantly, however, was the reality that the 1984 CSIS Act, created for a Cold War-era threat involving investigations that took years of slowly collected detail, was suddenly a living anachronism. Being limited to only "collect, analyze and report" on threats to national security, as set out currently in section 12 of the act, instantly jammed our ability to intercede with creative, low-cost, low-impact interdiction efforts. In other words, threat diminishment activities.

• (0915)

[Translation]

To be able to substantiate your study, you should know that many ideas have been received on how security agencies or organizations from around the world are managing to effectively counter threats to society or to a group of countries that share certain values.

Simply put, I would say that security is as much an art as it is an exact science, and probably more of an art than anything else.

[English]

Anti-terrorism is about weighing risks. It is not, as some may hope, predicting the future. Although with the advent of ever-improving advanced analytics, analysts and enforcement teams are shifting that dynamic. Counterterrorism work is multifaceted. It is about early detection, the assessment of its potential to strike, the allocation of resources around it, and weighing the many legal and policy considerations that may apply.

In addition, and where the risk management piece really applies in counterterrorism, is that the teams engaged in that area must continuously re-evaluate their targets in a process that constantly

challenges their judgments on every case. This is done almost every day of every week.

In my estimation we have been both good and lucky. The former, of course, is almost always the byproduct of hard work and smart action. My fear, however, is that without some radical transformation of the enabling anti-terrorism framework, Canada will fall behind and our luck will run out again.

[Translation]

Critics have so far convinced a substantial segment of the population that our measures are dangerous and useless. I disagree with that point of view and I reject the "slippery slope" argument, as my 30 years of field experience have shown me that core Canadian values—such as the respect for human rights—are much less threatened than our interests, which are exposed to all sorts of malicious acts.

[English]

The Chair: Mr. Boisvert, would you wrap up, please, sir.

Mr. Ray Boisvert: Certainly.

Since the creation of CSIS as a service, it has been subject to considerable review, and I might add that it is considered by its peers as a class-leading organization because of that review, and not despite it. Therefore, I strongly believe that in the age of accountability we are in, agencies and their leadership teams must be held to account.

They must explain what they are doing, why it is necessary and, if possible, generally speaking, when and where it is being done on behalf of Canadians. In addition, but only in the rarest and most guarded circumstances, they may also have to talk a little about how they do that.

The Chair: I'm sorry, Mr. Boisvert, but you're well over your time. I'm going to have to cut you off here. I'm very sorry, sir, but we are certainly eating into the time for Q and A.

Mr. Ray Boisvert: I have covered the basis of my presentation.

The Chair: You're fine here now?

Mr. Ray Boisvert: I am.

The Chair: Thank you very kindly.

We will now go to the rounds of questioning.

We'll start off with Mr. Falk, please.

Mr. Ted Falk (Provencher, CPC): Thank you, Mr. Chairman, and thank you to our witnesses for coming here this morning. I've had a pleasant visit already this morning with Ms. Nawaz. She told me she isn't the actress my notes say she is, but the creator of the TV series.

Mr. Harris and Mr. Boisvert, I want to thank you for your work in protecting Canada in the different security organizations you have actively participated in.

Mr. Harris, I also want to thank you for your clarifying comments regarding testimony by a previous witness from NCCM, and also the clarification you provided about CAIR. I'm a little surprised at the intolerance demonstrated by my NDP colleagues on the other side of the table in truth-seeking and fact-finding, while at the same time showing a great deal of tolerance toward a witness who made a personal attack on a parliamentarian. It strikes me as very odd. So I want to thank you for the clarification you provided here this morning.

We've listened to a lot of testimony from people from the Muslim community, and one of the comments we heard yesterday from Dr. Zuhdi Jasser, the president of the American Islamic Forum for Democracy, struck me. I wrote it down because I thought it was noteworthy, and I just want to repeat it. He said that "...not all Muslims are Islamists, all radical Islamists are Muslim".

That's interesting. We've heard testimony at this committee from a lot of people from the Muslim community who say that this bill does not reach far enough, and they are very concerned about radicalization, especially of the youth within their community, and concerned that is not at all representative of the Muslim community as a whole.

When I look at our bill, the bill isn't a bill about race, or culture, or religion. The bill is about anti-terrorism, and the bill itself doesn't define any of those things.

Based on your experience in the security organizations you've been involved in with CSIS, could you provide a little more commentary on the disruption powers this bill provides for?

Mr. Harris, I'd like to begin with you.

• (0920)

Mr. David Harris: Thank you very much, sir.

I think the disruption powers, as described, are necessary. As I indicated earlier, they offer, low-cost alternatives, as Mr. Boisvert beautifully phrased it. These can be very important in moving decisively when there may be a risk situation developing.

I couldn't help but reflect upon the death of Warrant Officer Patrice Vincent in St-Jean-sur-Richelieu. The perpetrator was, as you may recall, Mr. Chairman, the subject of fairly extensive efforts that were apparently to no avail. I think the RCMP brought in some Muslims who were attempting to assist in the situation, maybe an imam, and so on. In the end, we saw what the result was. Maybe this would have been unavoidable even with certain disruption possibilities; maybe there would have been peace bond options under the new legislation. It's very difficult to say.

When it does come to issues like disruption, however, it would be very important that the system be capable of following the execution of disruption exercises and operations, as authorized by federal warrant, as I think we're contemplating in this legislation. It's not entirely clear to me that we necessarily have all of that back-end emphasis in hand yet, but I would be optimistic that it can be properly shaped.

Mr. Ted Falk: Good. Thank you, Mr. Harris.

Mr. Boisvert, you talked about all kinds of different threats. You talked about cyber-threats and acting effectively. Do you see the measures in Bill C-51 as addressing the threats that you've alluded to?

Mr. Ray Boisvert: The potential is clearly there, because some of the state actors, some of the countries that support international terrorism, are also some of the most important threats around proliferation of weapons of mass destruction, for example, and chemical weapons and other conventional weapons.

There is also ultimately the idea that with more capability, along the lines of more opportunities to be creative around the investigative efforts that CSIS would undertake, that could be very transformative. As I mentioned in my comments, CSIS was created at the time when we were in the Cold War. We were focused on counter-espionage operations—long term. Quite often an intelligence officer would arrive from the Soviet Union and we would take four years to decide whether or not that person was truly an intelligence officer. In today's threat environment, sometimes you have weeks, sometimes days, sometimes hours. Sometimes that threat could be very, very thin to notice on the threat scale.

As a result, the current mandate of CSIS is simply to collect intelligence, analyze, and give advice. In a case where we have to bring in a law enforcement agency such as the RCMP or CBSA, the efforts to try to take that intelligence and move it into useable evidence is a very long, detailed process. I was involved in it in the Toronto 18 investigation and in subsequent terrorism-related charges. I worked with the RCMP as the director general of counterterrorism. I can tell you it is a very complex choreography.

This bill will give CSIS a chance to more directly deal with threats without having to engage in that choreography.

Mr. Ted Falk: On a more timely basis....

Mr. Ray Boisvert: Yes.

Mr. Ted Falk: You also mentioned cyber-threats, and I'd like you to expand a little bit on those, without talking about operational issues that are privy to. Could you discuss the significance and the seriousness of the cyber-threats that are out there, as well as maybe talk a little bit about social media threats? We've heard a lot about social media being one of the tools used by extremists to radicalize individuals.

• (0925)

The Chair: I'm sorry, Mr. Boisvert, but we only have about 30 seconds for a response.

Mr. Ray Boisvert: You know that's very difficult for me.

The Chair: I realize that, sir.

Mr. Ray Boisvert: Cyber-threats are one of those issues that's probably best addressed in terms of the issue of radicalization, because I really think that's apropos for Bill C-51.

Getting at the messages of hate is very, very important. I don't blame the Internet for radicalization, but I see it as being a very important vector for all that activity. The problem is that it's transglobal, it's amorphous, it is ubiquitous. The Internet is everywhere.

The bill will help to some degree when the content is stored within Canada. I think it will be a very effective tool to get that material off the Internet. When servers are parked in other parts of the world, in other jurisdictions, it would be very, very difficult. Then it will come down to perhaps some other active measures to get at that data—maybe take down that server—but then there's the complexity of action.

The Chair: Thank you very much.

Now to Mr. Rousseau, *s'il vous plaît*.

[*Translation*]

Mr. Jean Rousseau (Compton—Stanstead, NDP): Thank you very much.

I want to thank you for joining us and to let you know that it's an honour to hear from you, Ms. Nawaz.

It's really enlightening to hear you talk about family, social and environmental values shared by so many Canadians from coast to coast to coast. That's a perfect example of the multicultural Canada that many political, economic and cultural stakeholders have been dreaming of for decades.

We have heard from a number of witnesses since the attacks in Saint-Jean-sur-Richelieu and here, on Parliament Hill. One of the key points raised was that radicalization had to be countered. It does appear that combatting radicalization is crucial to eradicating many of the problems associated with certain individuals.

You are a leader in your community. What is the current situation in your Muslim community in Saskatchewan? What tools do you need to help your community combat radicalization?

[*English*]

Ms. Zarqa Nawaz: Thank you. It's interesting that you asked that question.

In fact, today is Thursday, so on Saturday, Sunday, and Monday we will be holding a three-day event in our mosque in Saskatchewan.

One day, Saturday, is reserved for inviting non-Muslim members of our community, government, social services, the universities, and the school system to come and talk to us about their concerns about the Muslim community. We are providing them with a one-day full workshop in terms of educational components about the needs of the Muslim community and how we can both work together to cooperate and meet each other. We've organized a full-day workshop on Saturday.

On Sunday, we are holding a town hall for the Muslim community where we can get people to talk openly and honestly about any concerns that anybody, parents or community members, are having about their children. If anybody is hearing anything or is concerned or is worried about issues, we want them to have a safe space where they can talk and feel that they are being listened to. Our imam will

be there; members of our community will be there. We are engaging our community in dialogue so that if there are people who are feeling unsafe or would like to talk about it, there will be space for that.

On Monday, we will be holding a press conference for the media, where we will have members of the RCMP, the Regina city police, the imam, the president of the Islamic association—who happens to be my brother-in-law—and the president of the Muslim students' association. The key members of the Muslim community together will be answering questions from the media about what Muslims in Saskatchewan are doing to make sure that our youth are not being radicalized and what actions we're doing to prevent that.

To me, these are the types of actions that Muslims are engaging in across the country that are valuable and more useful in terms of making our community feel like they are an integrated and vital part of the Canadian mosaic.

● (0930)

[*Translation*]

Mr. Jean Rousseau: Are you in contact with other mosques across Canada? Do you know whether there will be any similar initiatives? My understanding is that practically all aspects of your community will be represented. Even the RCMP will be attending. So a lot of stakeholders will be discussing the situation openly.

Do you know whether other initiatives will be launched elsewhere in Canada?

[*English*]

Ms. Zarqa Nawaz: Yes, these initiatives are taking place in almost every mosque in every province across the country, and we are aware of all of them and are helping each other do these activities. This idea actually came to me from other communities who were doing that. We had never held these types of activities in Regina before. So we are coming forward and making sure that this dialogue and cooperation and instruction is happening and that we maintain an open forum of communication.

My husband is a psychiatrist, as I have mentioned, and he will be at the town hall as a panel member asking community members to talk to him if they have concerns about any things that are happening. We have noticed over the years a larger group of converts coming to our community than we've ever had before. They tend to come from communities that are more vulnerable. This is something new for us that we have not had to deal with in the past. They feel like they're trying to look for some purpose or for some meaning. Our mosques were not set up as social service entities. They were set up as places where our kids learned Arabic on the weekend and learned Islam.

Suddenly having this new group of people enter our communities is posing challenges, so what we are trying to do is to form social service community networks within our mosque system so that we can network with the wider social service networks in our provinces and our cities so that we can prevent tragedies such as we saw with the Ottawa shooter. He had gone to a Canadian mosque and the mosque had recognized that there was a problem and had to change the locks to prevent him from disrupting the community. We realize that it was the best that mosque could have done at the time, and I do not blame the mosque, but we need to be more proactive. So if that ever happens to us again, we need to find those vulnerable individuals more help so these tragedies don't occur in the future.

The Chair: Thank you very much, Mr. Rousseau, but we're out of time. It goes so fast I realize.

Ms. James, you have the floor.

Ms. Roxanne James (Scarborough Centre, CPC): Thank you, Mr. Chair, and welcome to all of our witnesses.

I'm going to start with you, Mr. Boisvert, and some of your testimony. You've indicated that you have 30 years of experience. On this side of the table, we brought in a number of witnesses who have decades of experience dealing with terrorism, intelligence gathering, law enforcement, people who are really on the ground dealing with these various types of issues. The common thread we've heard from all of these witnesses is that the threat is real, that it's evolved. You've described it as so intense around the world, serious and complex.

You also noted that critics say this bill is dangerous and useless. I'm just trying to put into perspective, not their credibility but the fact that what we're dealing with is terrorism and that we are providing necessary tools to our national security agencies for gaps that have been identified in current legislation, things that have been identified that have become very clear after recent attacks around the world. We only have to turn on the six o'clock news to see more people who are trying to travel overseas, families being torn apart, another terror attack happening here, and people being killed in other countries around the world.

We had a witness in, Inspector Irwin, who talked very specifically about different sections of this bill. Moreover, he described the existing sections of the Criminal Code as being too restrictive today and said that we absolutely needed the new measures in Bill C-51. He talked about the information-sharing aspects as being absolutely crucial for law enforcement to deal with the threats we face today. He also talked about the importance of having safeguards and said in fact that this bill provides adequate safeguards.

We've had a number of individuals come in from different civil liberties groups, one of whom was the British Columbia Civil Liberties Association, who are saying that the sky is falling, that this is simply going to target protesters. We heard those same arguments back at the time of the original CSIS Act 30 years ago. The BC Civil Liberties Association was around then too, with the same arguments. With the original Anti-terrorism Act, we heard the same attitude that the sky is falling. The sky didn't fall in 1984; it didn't fall in 2001; it will not fall again in 2015, at least not from this bill.

I just wanted to speak to you specifically about the CSIS disruption abilities and the requirement to get judicial authorization

and approval. Right in the bill it clearly describes, with regard to the application, the criteria that are required. There's been some misinformation that someone can just simply walk off the street, get someone to sign a piece of paper, and off they go and widespread mass hysteria is going to happen. But it's very clear that there are a number of points, reasonable grounds, that the warrant requires. The measures to be taken have to be reasonable and proportional; the identity of the persons have to be disclosed, if known; the persons or classes of persons to whom the warrant is proposed have to be disclosed; and a general description of the place, the period not exceeding a number of days, has to be provided, and so on.

We've had at least two witnesses come in here, and perhaps they didn't fully read the bill and maybe did not fully understand it...but the judge has the ability to review that information and say no. Also, right within this bill, it says that the judge can apply any terms and conditions that the judge considers advisable in the public interest. So there are safeguards in there that the judge can place on a CSIS agent for whatever activities they're going to undertake.

Could you please go into that and explain that judicial process and how it's required and how the safeguards are there, and how it's really going to give the tools necessary for CSIS to be able to disrupt threats. As you said, things happen very quickly now. It's not like 30 years ago where you could build a case over long periods of time.

Thank you.

● (0935)

Mr. Ray Boisvert: Certainly.

I take great offence to the common comment that's been made around the idea of the slippery slope and that now anybody who had an issue they'd like to protest will now become a target of the security establishment. I think you should not, as a group of individuals, flatter yourself to that degree. We never had enough time, when I was the director general of counterterrorism or as the assistant director of intelligence, to do more than the top crust of those in the layer of the red, high-risk, high probability zone. That meant that we had no time to even consider looking at any lesser evils that were emerging out there. I hate to think about what my former colleagues are facing today.

The second part is that lawful advocacy, protest, and dissent is implicitly and explicitly protected in the CSIS Act currently, and it's not changing with the new legislation. In fact there are some pieces in there that reinforce that particular requirement.

Lastly and specifically to your question on section 21, the warrant process is the most onerous warrant process of its kind, in my estimation, around the world and that's the current warrant process. The enhancements being proposed will add layers of requirements, giving direction to the judiciary and giving those who are composing the warrant—whether they be the officers working at CSIS, and the legal teams at the Department of Justice, and the public safety minister's office—to hit a new threshold that will be even more complicated and difficult. Unlike law enforcement sometimes, where you can get a warrant after about three or four pages on an affidavit or an information to seek, CSIS warrants typically go on for hundreds of pages per target, explaining the rationale and making the case to be able to obtain those powers that allowed us, at the time I worked at CSIS, to lawfully intercept some of these communications, for example. I am still encouraged that this will not change. My sense from reading the legislation is that those safeguards are protected and are further enhanced.

Ms. Roxanne James: Thank you.

The Chair: You have about 30 seconds.

Ms. Roxanne James: Thank you.

I have a quick question for Mr. Harris, and thank you as well for being here. In your opening remarks you talked about Bill C-51. We've had a number of witnesses come in to talk about the evolving threat. We had a witness in here yesterday who said this has been going on for decades. The witness spoke very candidly.

● (0940)

The Chair: You're running out of time.

Ms. Roxanne James: She was a Muslim woman as well, and said that since 2000 she's been raising the red flag. Do you think that Canada is too late? She compared us to countries around the world that are experiencing even more difficult situations with terrorism. Do you think Canada is too late coming to the table to try to deal with this at this point or do you think we're headed for something worse if we stand here and do nothing?

The Chair: I'm sorry, but our time has well expired. You do not have time for a response.

We will simply go to Mr. Easter, please.

Hon. Wayne Easter (Malpeque, Lib.): Thank you, Mr. Chair.

Thank you to all the witnesses for your presentations.

Ms. Nawaz, I want to recognize your efforts that you outlined in a response to a question to Mr. Rousseau, working with your mosque in your community, drawing other people in to build understanding, and trying to undermine some of those fears out there. I'm increasingly concerned by what I see in Canada, the ramping up, the inflaming, the fear factor, and the driving of wedges. That's not the Canada that I know and love, and that's a concern.

Let me turn to Mr. Boisvert. You said that you support this bill. The toolbox available to Canadians under the 1984 act was created at the time of the Cold War, and I agree with you there. The problem as I see it with this bill is that government, for whatever reason, is bringing certain sections of the bill up to 2015 times, if I could say that, but is failing to bring up the other side of the equation, which is

a proper balance to address some of the concerns out there in the activist community. Lawful dissent, etc., is a concern.

Do you see anything that can be done on the other side to bring that balance? You'd know well with your experience in CSIS that you must have the community on side. What I can't understand, as a former minister, is why the government is so resistant to having oversight. The last thing you want as a minister is to have something happen under your watch that paints you in a bad light. Oversight is the greatest protection not only for Canadians, but for a minister as well.

I'm strongly advocating oversight, parliamentary oversight. The Canadian Bar Association went a little further than me on that. What are your views on that? We need to bring up both sides.

Mr. Ray Boisvert: Clearly on the issue of what Canadians feel about the threat of terror, our polling numbers are consistent. It's a top priority issue for them. However, there is also some deep concern about this legislation. I don't think anybody should kid themselves. I'm clearly an advocate, as a former practitioner, of very important enhancements in the legislation that will make us far safer. As I said in my opening comments, we cannot identify this with any particular group, and of course there should be no stigma attached to any of this. It's about political and religious ideology.

Being a practitioner who appreciates a fuller and more complementary tool box is one thing, but like you, I also recognize and am in favour of commensurate levels of increased review. After working 30 years in that business, I don't think any of the seniors that I left CSIS with in the last few years would disagree with me that we were a better organization because of review, not in spite of it, as I said in my comments, and we were very exceptional. I think we were very well respected by our peer group because of that. The reason we were better is that we knew that everything we did would eventually, at some point, face some form of review by somebody, whether the Inspector General or SIRC. Knowing that keeps the mind very sharp.

At one point, 86% of our young officers in the counterterrorism branch had less than two years of service. It was a very young cohort. They were extremely talented, bright, and engaged, but they needed very clear rules regarding how to work on things. Our continuing issue of rigour, rigour, rigour drove them crazy. Why do we have rigour? It is because of review.

As for oversight, that's a slightly different issue. I'm not against parliamentary oversight. I think in this age of accountability, the leadership of organizations, whether the RCMP, CSE, or CSIS, should appear in front of parliamentarians and explain to Canadians what they're doing and why they're doing it. I think doing that will grow the consistency of support, and I think that is a favourable outcome for everybody.

• (0945)

Hon. Wayne Easter: I think the—

The Chair: Be very brief, Mr. Easter.

Hon. Wayne Easter: One of the difficulties, as you know, is that the government already cancelled the Inspector General, so that body is not there. However, with parliamentary oversight, we'd be talking about something similar to what our Five Eyes partners have, in which an all-party committee of parliamentarians would have access to classified information, so we could keep a sharper eye, from a political perspective, on what's happening.

You did talk about warrants—

The Chair: Be very brief. We're running out of time.

Hon. Wayne Easter: —from judges. Several witnesses have come to us and basically said that's that not enough and that the oversight of judicial review ends when the warrant walks out the door. Do you have any comment on that?

Mr. Ray Boisvert: Certainly in comparison to warrants for law enforcement, the mechanisms are different. Part VI Criminal Code warrants have different requirements for reporting back—even disclosing to the person under investigation that they were the subject of a warranted activity. Those requirements are absent in national security warrants for very good reasons that we don't have enough time to go through, but there is no doubt that there is not the same accountability. However, rest assured, as we've seen with a couple of warrants that are referred to as DIFTs—domestic interception of foreign telecommunications—for targets involving a CSIS and CSE collaborative effort, the Federal Court went back and made a very clear pronouncement that it was not pleased with one part of that activity. So there is opportunity and there are some forms of review.

The Chair: Thank you very much.

Our time has now expired. I would certainly thank our witnesses at this time. I hope you have had, if not an enjoyable time, certainly an interesting time here today, and we certainly appreciate your comments and your counsel.

We will now suspend for two minutes.

• (0945)

(Pause)

• (0950)

The Chair: Colleagues, we are now back in session for our second hour of testimony and questions and answers.

The chair will briefly introduce the witnesses we have before us today. From the Heritage Foundation, we have Mr. Steven Bucci, director of the Allison Center for Foreign and National Security Policy. From the Centre for Israel and Jewish Affairs, we have David Cape, chair, and Shimons Fogel, chief executive officer. From the Canadian Muslim Lawyers Association, we have Ziyaad Mia, chair of the advocacy and research committee, and Mueed Peerbhoy, vice-chair of the legal advocacy committee.

Apologies if I did not pronounce your names exactly as they should be, and please feel free—

Mr. Ziyaad Mia (Member, Legal Advocacy Committee, Canadian Muslim Lawyers Association): I am not the chair of

the committee, nor the vice-chair. I'm a member of the committee. I don't want to take credit for—

The Chair: Fine, thank you very much. The chair stands corrected.

As is tradition, each group will give up to 10 minutes of testimony. The chair and the committee would appreciate if you could shorten that as much as possible in order to give us more time for questions and answers.

Without any further ado, we'll lead off with Mr. Bucci.

Carry on, sir.

Dr. Steven Bucci (Director, Allison Center for Foreign and National Security Policy, Heritage Foundation): Mr. Chairman and members, thank you for inviting us to address the committee. I am Dr. Steven Bucci, the director of the Allison Center for Foreign and National Security Policy at the Heritage Foundation. This is David Inerra, my lead analyst for homeland security issues. The Heritage Foundation is a non-profit and non-partisan think tank in Washington, D.C., and what we're about to provide is our own opinions and should not be construed as official policy of the Heritage Foundation.

I'm humbled to be asked to comment on Canadian Bill C-51, Anti-terrorism Act, 2015. A Canadian friend kiddingly said, "Ah, you're coming up here to explain our law to us." Clearly that's not our intent. The U.S. has gone through exactly this sort of debate, and we hope to give some additional illumination of these issues based on the American experience. Canada is our closest ally, friend, and partner. I recognize that and I earnestly seek to add to that bond.

I'm going to address a few general issues, then my colleague will touch on some more specifics. The threat of terrorism is real and unfortunately, despite our best efforts, that threat has grown. Today that threat is from radical Islamist extremists. Tomorrow it could be from others. But the key is that it's not hype; it's real. Canada sadly found that out last year during the attacks in Quebec and here in Ottawa.

The challenge we face is that this particular enemy is coming after our peoples solely because they resent our freedom and tolerance, but they are very good at leveraging those same issues to their advantage against us. This threat comes from a very small, misguided part of the Islamic community, but even the small minority puts us at risk and must be prepared for.

Security issues like the ones raised in Bill C-51 are particularly tough for pluralistic democracies such as ours. Our leaders in both countries, regardless of political orientation, are responsible for the physical protection of our people and interests but must also always protect our cherished civil liberties and constitutional rights. Any and every law we enact must achieve a balance between these two pillars. Too far in one direction and our citizens bleed and die. Too far in the other and the spirits of our nations die. Neither is acceptable. But even that is not enough. There must be strong oversight today and long-term auditing and monitoring to ensure that a well-intentioned law today is not misused sometime in the future.

My review of Bill C-51 leads me to conclude that this is just that sort of good faith attempt to achieve a balance between greater physical protection without loss of civil liberties. In the various sections, there's a judicious expansion of info-sharing and law enforcement authorities but in each there are also provisions for recourse and appeals. There is transparency and openness. It uses the minimum secrecy needed for effective security, and there is a wide use of warrants and judicial oversight. In short, this bill seems to balance security and liberty.

Before I turn the microphone over to David, I would also like to mention something. In the U.S. right after 9/11, we went through the same sort of epiphany that your country has so recently gone through. We tried to do a balancing act between these two pillars. Over time, we involved two different presidencies of widely different politics and attitudes, multiple congresses with leadership trading hands between the parties, and the entire federal judiciary, all involved in different sorts of oversight and decision making. A line of balance was drawn.

However, after the Edward Snowden releases, it became clear that at least a non-trivial number of American citizens didn't really like where that line had been drawn. In the United States now, we're sorting out how to re-wicker that and achieve that balance. I only raise this, not because Bill C-51 has similar programs to the ones that were problematic in the United States, but to encourage as much transparency in your process as possible. The transparency will give you the effectiveness without having the fight down the road. Canada and Canadians deserve that, and in the end it will benefit your great people who are our brothers and sisters.

I'd like to ask my colleague David to take the rest of our time.

• (0955)

Mr. David Inserra (Lead, Homeland Security Policy and North America, Heritage Foundation): Thanks, Steve.

The Chair: You have two minutes, sir. Oh, sorry, I confused your time with our questioning time. You actually have closer to five minutes.

Mr. David Inserra: Members of the committee, it's my honour to be here today. As Steve mentioned, I'll take the remaining time to go over some of the specifics and use the U.S.'s recent experience to shine some light on specific policies.

My understanding of the bill is that it would enable most government institutions of Canada to share information for security purposes with those institutions that have law enforcement or security responsibilities. So, this is not the collection of additional data or additional programs, but this is merely breaking down the

barriers between government organizations so that security organizations can access lawfully obtained information that is already in the government's possession. This policy makes eminently good sense and is similar to U.S. efforts following 9/11 to break down the silos of information, to ensure that security personnel have the best information available to them. Canada seems to have a robust set of privacy laws that govern the storage, use, and sharing of information, and oversight by a privacy commissioner and other review committees, somewhat analogous to the way the U.S. has installed privacy officers throughout government agencies. It's important that this new level of sharing be overseen by the privacy commissioner and the appropriate review commissions to ensure that sharing is done in accordance with the law.

Next, Bill C-51 tries to build on passenger protect, the Canadian no-fly list. Currently, the is authorized to deny transportation or require extra screening of any individual who is believed to be a threat to aviation security. Bill C-51 would expand this authority and also be used to stop or screen individuals who seek to fly somewhere else to engage in terrorism. In the U.S., we have a similar system with no-fly and selectee watch lists, but it is primarily focused on aviation security, not preventing terrorist travel. Bill C-51 seeks to combat such travel, and given the widespread concern about terrorists travelling to Syria and other locations in the world to commit terrorist acts, this addition is wise.

Additionally, Bill C-51 provides clear avenues for administrative and judicial recourse, an important thing since the appeals process for the U.S. No Fly list was found unconstitutional this past summer because of how difficult the process was to use. Bill C-51 would also make it easier for Canadian officials to stop terrorists before they strike. Bill C-51 would make it illegal to advocate for terrorism, and it would allow terrorist propaganda to be seized with judicial adjudication. The bill would also make it easier for law enforcement to seek an arrest warrant or conditions of recognizance against a suspected terrorist if such actions would "likely...prevent the carrying out of the terrorist activity."

• (1000)

The Chair: Mr. Inserra, I'm very sorry, but we have a call to vote in the House.

Oh, that is just simply the House opening. The chair stands corrected again; thank goodness.

Mr. David Inserra: Bill C-51 is looking to increase the ability of law enforcement to stop terrorists before they strike, as I was mentioning. This includes expanding the ability to require various sureties and conditions of recognizance, including the surrender of one's passport and the requirement to remain in a given geographic area, similar to the way it could be used in a law enforcement sense now. Since these actions would be done with judicial oversight and approval, these reforms seem to balance the need for security with the need for due process and civil rights.

Since multiple sections of this bill would make it more difficult for radicalized individuals to travel, you should also consider how the government and civil society can deradicalize or prevent the further radicalization of individuals who are no longer allowed to leave Canada.

Finally, Bill C-51 not only provides CSIS with the authority to collect and analyze intelligence on threats to Canada, but it also allows it to "take measures, within or outside Canada, to reduce the threat". Such actions are subject to judicial oversight and approval as well as review by the Security Intelligence Review Committee. Some have suggested that more oversight is needed. This is, perhaps, one of the most significant changes in the law, as it seems to me to reverse the decision Canada made following the McDonald commission to split intelligence from security actions. In the U.S. experience, adding a new and different responsibility to an organization can be a challenge. For example, the FBI is the primary organization dedicated to counterterrorism investigations. Following 9/11, it was required to increase its intelligence capabilities, resulting in the creation of a national security branch under the directorate of intelligence. The FBI has a certain culture, a culture of special agents and law enforcement that drives it to investigate past wrongdoing, build a case, and seek a conviction. Intelligence, however, looks at threats that could be coming down the line and seeks to use unclear pieces of intelligence to prevent threats and gain additional intelligence. It's the difference between an analyst and an agent. Right now, the agent culture is still very dominant at the FBI. This isn't to say the FBI hasn't made great strides. It has. It's important to recognize that adding a new responsibility to CSIS will not necessarily be easy or quick, even though it may be necessary and important.

Overall, we found this bill to have sound principles and policies. This bill seeks to better share information and prevent the commission of terrorism. We hope that our testimony in providing the U.S. experience will inform your work on this bill.

The Chair: Thank you very much.

I appreciate the courtesy and the pickup in tempo, so thank you.

We'll now go to the Centre for Israel and Jewish Affairs.

You have the floor, Mr. Cape.

Mr. David Cape (Chair, Centre for Israel and Jewish Affairs): Thank you very much, Mr. Chair.

I was in Washington on Monday and Tuesday with the World Jewish Congress, so our American friends are here. I want to say that at Congress and numerous meetings we had with legislators, they pointed out that Canada was a beacon leading the legislative approach to promoting safety from terrorism in society. It certainly

felt good as a Canadian to be in the U.S., and thank you for being here with us.

I am pleased to be here today, along with Shimon Fogel, to speak on behalf of the Centre for Israel and Jewish Affairs, the advocacy arm of the Jewish Federations of Canada.

Jews are consistently targeted by hate and bias-related crimes in Canada at a rate higher than any other identifiable group. While this ancient toxic hatred is not unique to our country, it is rightly constrained to the margins of liberal democratic societies such as ours. However, anti-Semitism is increasingly manifesting in brutal acts of terrorism inspired by warped Islamist ideology, as we've all seen in the recent tragic events in Belgium, France, and Denmark. When terrorists strike, it is often against the Jewish community. There is a significant justified fear among many Canadian Jews that what has taken place in European cities is equally possible here.

I'm sure you're all familiar with the recent video posted by al Shabaab calling for an attack on the West Edmonton Mall. Some of you may be surprised to learn why this particular target was selected, as opposed to, say, the Rideau Centre. The West Edmonton Mall was chosen specifically because its owners are Jewish, a fact that understandably heightens anxiety in our community.

[*Translation*]

We are grateful that the current government and its predecessors have taken significant steps to protect Canadians from terrorist violence. The communities at risk security infrastructure program and the Justice for Victims of Terrorism Act are recent, integral initiatives that have helped make our lives safer.

Our vibrant community is diverse, full of divergent points of view, and represented across the political spectrum. There is, however, a significant consensus in support of additional measures to counter terrorism in general, and in support of Bill C-51 in particular.

● (1005)

[*English*]

I'm going to concentrate my remarks on four aspects of the bill that we have found through our community consultations to have particular resonance.

The first element of Bill C-51 that I would like to discuss is the provision for the seizure of terrorist propaganda. This seizure would empower the courts to order the removal or seizure of vicious material often encouraging the murder of Jews. Removing this heinous propaganda, particularly from the Internet, would limit its capacity to radicalize Canadians and inspire attacks.

Again, at our recent meetings of the World Jewish Congress, we had members from Europe, and I must say they live in fear. They fear all that terrorist promoting on the Internet, the jihadi terrorist websites, is really out of control and needs to be removed. They speculate or wonder why we're able to remove heinous criminal things like pedophilia from the Internet, but not terrorist rantings.

Our community is committed to promoting civil liberty and free expression, but neither can be absolute. While the seizure of terrorist propaganda would place limits on acceptable speech, it is in our view a legitimate and appropriate restriction, demonstrably justified in a free and democratic society.

[Translation]

We have seen increasingly numerous examples of attacks that are inspired by the messages of terrorist groups, but that are not the result of direct calls for specific actions. The seizure of terrorist propaganda would address this trend, and contribute to efforts to counter radicalization in Canada.

[English]

The second element is the criminalization of the advocacy or promotion of terrorism. This is an important complement to the seizure of terrorist propaganda. Existing criminal laws on incitement are very specific and require an incident that will likely cause a breach of the peace. Radicalization is a cumulative phenomenon, with no single input necessarily leading directly to an attack.

[Translation]

As we have seen, individuals are increasingly perpetrating terrorist attacks on their own initiative, not due to any single call for action. This provision addresses these limitations and enables the arrest of those fuelling extremist violence. Some critics have argued that this provision is too broad. However, terrorist recruiters and plotters have likely already taken note of the limitations of existing legislation and adjusted their approach accordingly. This enables them to continue encouraging attacks while technically remaining on the right side of the law.

[English]

Recently, a founding member of al Qaeda turned MI-5 double agent, Aimen Dean, recounted to the BBC his experience skirting U. K. laws prohibiting incitement to terrorism. He was free to give theological justification promoting al Qaeda's actions without violating the law. But he noted, "You can't specifically urge someone to go. You can't specifically call for an attack. You have to be clever about how you phrase your words." The appeal by al Shabaab was deemed by the RCMP to be "a very general comment. It wasn't a specific threat."

Bill C-51 would make general calls for terrorism offences a criminal offence, making it more difficult for individuals or groups to encourage attacks against Canadians. It would deny to those who are intent on inspiring, radicalizing, or recruiting Canadians to commit acts of terror a legal way to be clever but dangerous with their words.

While the seizure of terrorist propaganda and the criminalization of advocacy or promotion of terrorism are important tools, they are not by themselves sufficient to confront the twin scourges of

terrorism and radicalization. We recommend the establishment of a parallel national de-radicalization program focused on marginalizing violent extremism within affected communities. Such a program could work with both communities targeted like ours by terrorism and those grappling with radicalization. Our community stands ready to do its part in the endeavour to ensure that the Canada we love stays safe for all its residents.

This program would complement C-51 and would help communities battling radicalization to empower moderate voices and de-legitimize hate. Combined, Bill C-51 and a national de-radicalization program could go a long way toward preventing individuals from choosing the path of terrorism in the first place.

The third element I wish to discuss is oversight. CSIS's expanding role is an important modernization that will further enable the disruption of terrorism before Canadian lives are in peril. However, just as Canadians stand to benefit from a more robust counter-terrorism that emphasizes prevention, a concurrent and measured increase in the review of CSIS's activities is necessary.

SIRC has done a good job with a limited mandate and even more limited resources. Both should be expanded.

● (1010)

[Translation]

Oversight of CSIS was one of the most cited issues noted during our community consultations. Unfortunately, due to the limitations of time, I am not able to speak about all seven of our specific, concrete recommendations.

I will mention two and invite you to refer to the written brief we have submitted to the committee, which describes all of our proposals in detail.

[English]

We believe that SIRC's mandate should be strengthened to enable review of CSIS's activities across government agencies. This would render all CSIS operations accountable to the same degree. We also believe that the chair of SIRC should be an officer of Parliament, required to provide regular reports to Parliament on its review activities.

The fourth and final element of Bill C-51 that I wish to discuss is privacy. We support empowering government departments to share information more effectively for security purposes. However, some of the language in the proposed security of Canada information sharing act could be adjusted to establish sufficient limitations and safeguards to ensure that intrusion into the privacy of Canadians is not abused.

Specifically, we recommend that the bill be amended to constrain information sharing to threats to the security of Canada as defined in the CSIS Act and that the scope of sharing stop short of “to any person, for any purpose” set out in proposed section 6.

Additionally, the committee should consider updates to the Privacy Act to make government institutions more accountable going forward.

Before I conclude, I would like to suggest one more item for your consideration. Marc Garneau's private member's Bill C-510 is currently before Parliament and has been endorsed by all parties. This important legislation would extend hate crime penalties beyond houses of worship to schools and community centres. I encourage the members of this committee to consider dropping the zero in its number and including the contents of Bill C-510 as an amendment to Bill C-51. Barring that, I hope you will work to ensure that Mr. Garneau's private member's bill passes quickly.

In conclusion, Bill C-51 contains important measures that will help to counter radicalization and prevent terrorist attacks. While we believe there are areas for improvement, this legislation is necessary and beneficial to update Canada's anti-terrorism tool kit.

[*Translation*]

Thank you.

[*English*]

The Chair: Thank you very much.

We will now hear from the Canadian Muslim Lawyers Association representatives.

Mr. Ziyaad Mia: Good morning. Thank you, Mr. Chair.

Members of the committee, thank you for the invitation. It's a pleasure to be here. I've been before many committees, including this one, in the past. The Canadian Muslim Lawyers Association has testified before committees on national security and human rights matters in the past, and we're happy to do so today.

My name is Ziyaad Mia. I'm a member of our Legal Advocacy Committee. With me is Mr. Mueed Peerbhoy. He is the vice-chair of that committee.

We want to thank Professors Roach and Forcese for their work, which I think is a contribution to the study of this bill and has been a public service that has been very helpful not only to our organization but to many others as well.

We share your concerns about national security and also about rights. We don't think they are mutually exclusive. As the Canadian Muslim Lawyers Association—some of you on the committee have seen me before—we're not opposed to taking reasonable and proactive measures to deal with threats to the security of Canada, including terrorism as well as crime in terms of the criminal law. But we think that when we do those things, they need to meet a number of criteria.

I'll give you three main criteria: the measures need to be demonstrably justified; consistent with the rule of law and the charter of rights; and if this bill in particular is about terrorism, it actually needs to make us safer.

Bill C-51 is fundamentally flawed. It does not meet these criteria. It is a Faustian bargain—a trade with the devil, if you will—whereby we are trading our rights to gain a false sense of security. We shouldn't be trading rights to get security; we should be getting both. Indeed, we'll be less safe, as you've heard from many witnesses, including Mr. Boisvert, who said they are overworked at CSIS. We'll be chasing red herrings—chasing people who shouldn't be chased, harvesting information that shouldn't be harvested—while the real terrorists and the real threats might slip through the cracks and hurt all of us. It doesn't make us safer at the end of the day.

I've sent my written submissions in to the committee. I think they're being translated, and unfortunately I can't give you a unilingual copy. You will get them at some point soon. I'm going to talk about a few things today. The written submissions go into much more detail, so I encourage you to please look at them, if you get a chance. They are available on our website as well.

The information sharing piece especially troubles me. It's quite complex. I have also taken a minute to do up a little chart for all of you in the submission, and it's available here, if you want it today, just to get a handle on how information flows. Bill C-51 raises many unanswered questions. In the submission, I think I list about 40 or 50 questions. To me as a lawyer, it constitutes a big question mark. I don't know—it's not clear, essentially. So I'll ask you to look at those, please.

Bill C-51 has been styled and marketed as a bill about terrorism. In fact, it's the “Anti-terrorism Act 2015”. But it is not a bill about anti-terrorism. This is a broad national security bill that creates a bit of a nanny state. Professor Forcese called it the largest national security bill he has seen.

I'll walk through a few of the provisions, knowing that my time is limited, and I will invite your questions for discussion.

Let me talk about the information sharing portions.

Anyone in intelligence will tell you that finding a terrorist is finding a needle in a haystack. Information sharing is so vague and broadly drafted that we are adding about 16 truckloads of hay. Those of you from the prairies—I know that if Ms. Nawaz were here.... I'll tell you, it's probably not a good idea to add more hay to that hay pile to look for that needle. We need to get at the needle and not add more hay, and SCISA is doing that. It creates a whole-of-government information sharing regime with no supervision or control, absolutely none.

This is a recipe for disaster, as we know from the Arar affair. In fact, I think Bill C-51's information sharing is actually anti-Arar. Professors Roach and Forcese say that it has Arar amnesia. It allows for information sharing and manipulation across multiple points in government and has distributed decision points across government. You know that, when people are making decisions across government, it can lead to trouble, because there is no consistency and there are no meaningful safeguards.

Bill C-51 creates the foundation for big data gathering and analysis. It is not simply the information, but the manipulation, sharing, and predictive analysis that is the issue. Ed Snowden talked about that.

The broad information sharing also extends to sharing with foreign governments, those with questionable human rights records. We could be sharing information on Canadians with governments such as Egypt and Saudi Arabia.

●(1015)

We know the risks according to Snowden of what happens when we share information broadly and we do big data analytics.

In today's world all of you have a smart phone in your pocket and you know that if you make a horrible tweet, you can't reel it back. When we make a mistake in security information sharing and we share my information or yours with a Saudi regime and there's a mistake in it, you can't reel that back, you can't pull that back. We can fix it here, but once that information is out, you can't get it back.

We've heard from many people that we shouldn't be worried about Bill C-51 because if you're not a terrorist, what do you have to worry about? Consider what types of non-violent activity...this is the lawful protest and dissent exemption.

The criminal code doesn't include the word "lawful", so there is an inconsistency in the law. Why does one act have "lawful" included and another doesn't? Unlawful doesn't mean criminal, terrorist activity. You and I both agree that we need to get those people who do those sorts of things and we need to prosecute.

We just celebrated this month the 50th anniversary of Dr. King's Selma march in the civil rights movement. I encourage you to look at this. They were arrested. Dr. King, Reverend Abernathy, and student leaders were all arrested. For what? Illegal activity, unlawful assembly, and illegal marching. King was a Gandhian. I'm a South African by birth and Gandhi spent a lot of time there. Gandhi was arrested for the same things. King and Gandhi were involved in illegal, unlawful activities, but they were non-violent.

The problem is that we're dragging people into the national security dragnet. Yes, if someone trespasses charge, them for trespassing, but they shouldn't be dragged into the national security dragnet. That's the problem. Then their information may end up somewhere else.

We've been told by many that there is oversight—what are you talking about? They say there is oversight in this bill because there is judicial oversight. It's either incorrect or disingenuous because section 9 of the proposed security of Canada information sharing act gives the government immunity from negligent harms done from

information sharing. That breeds impunity. The future Arars won't even have the recourse he had.

Let's talk a bit about CSIS and the reduction of threats to the security of Canada. These are new unprecedented police powers. This essentially undoes everything the McDonald commission told us about. It takes us back to the pre-McDonald commission era. The whole point of having the McDonald commission was to separate intelligence and police work because of the mistakes and abuses that had happened, the illegal activities by the RCMP security service in Quebec against sovereignists and others. We will repeat those mistakes again. People may not have liked sovereignists, but they had a legal right to do what they were doing and to say what they were saying. I don't agree with it, but they have that right so they shouldn't be abused by the police. We're opening a can of worms here by doing that.

Unfortunately, it will also strengthen silos. I think, Mr. Boisvert, referred to this a bit, that CSIS will try to do things on its own. That I have a problem with because if we're trying to integrate—and I think there should be some integration and sharing of information—and if we're giving CSIS these disruption powers, what we're doing is giving them police powers. You know what institutional mindsets will say. They will say, "Why do we need to call the RCMP? We'll just finish the job ourselves". What they should be doing is intelligence gathering, building the case, and then flipping it to the RCMP for enforcement and trial, which builds confidence. We saw the Toronto 18 and the VIA Rail trial. That was an open and public case that builds confidence and was built on evidence. That is what we need.

I'll talk a little bit about CSIS's law-breaking warrants, which is what I call them. They're open ended. Courts are said to be a protection in this case, but they're not. This happens in complete secret *ex parte* hearings. There is no ongoing supervision from that judge, and worse, it turns the role of the judiciary completely upside down. This is not the role of judges in our system. Security certificate judges have said that they're uncomfortable with secret processes. This takes them further and conscripts them into the illegal acts and dirty business that CSIS will engage in.

To say that judges are the oversight... The other issue that's troubling in that case is that CSIS has a track record—I'm not making this stuff up here—of misleading courts and misleading the Security Intelligence Review Committee, whose last report says so, and breaching constitutional rights. That's all on the record, its lack of candour with the courts.

I'll wrap up, Mr. Chair. I'll quickly say the secrecy in the no-fly list is very problematic; it's a Kafkaesque approach. Mr. Inserra said the U.S. no-fly list was struck down, again for that opaque process. This is going to fail, I think, on the same grounds.

• (1020)

With regard to criminalizing expression, I'm 110% in support of what the Prime Minister said about *Charlie Hebdo* and support for free speech, but we can't criminalize speech that's not close to criminality at home. I agree, and am also offended by speech that's hateful and anti-Semitic, but it needs to be close to criminality. We live in a liberal democracy. We allow vulgar and offensive and unpatriotic speech to prevail if it's not criminal.

I will wrap up by telling you that we're recommending not moving forward with this bill. We recommend that we first fix the national security operations and put some supervision in. Look at the Arar inquiry and other inquiries that have told us to do that—

The Chair: Sir, you're well over time. I'm sorry.

Mr. Ziyaad Mia: Okay.

We look forward to a respectful discussion.

The Chair: Thank you very much. We thank you for your contributions.

We will now go to a round of questioning. They'll be reduced to five minutes.

Ms. James, you're up first.

Ms. Roxanne James: I will be passing my time to Mr. Norlock.

The Chair: Mr. Norlock.

Mr. Rick Norlock (Northumberland—Quinte West, CPC): Thank you very much, Mr. Chair.

I was hoping to have Ms. Nawaz here, but since this is televised, I'm sure she'll be able to see my comments.

When we talk about how someone's dressed, I need to let folks know that I received a Roman Catholic education from grades 1 to 13, mainly by nuns who wore similar garb. I also spoke to priests who told me that they removed their Roman Catholic collar when they were in Quebec because of some of the discrimination they felt. In that particular area there was a movement afoot to secularize society, especially in those areas. I was taught by a lay teacher who told me that she went to a school in the Upper Ottawa Valley, a separate school. The kids, when they walked home from school, had run-ins with the Protestant kids because they went to a separate school and not a public school.

My children were raised in a family where, at the dinner table, we made sure we didn't discriminate. When I hear comments across the table from other people, other politicians, who hint that this act has something to do with discrimination because of the way people look, I would point out that nowhere in it does it describe that. Canadians need to know, my constituents need to know, that when it comes to bigotry and discrimination, it's an equal opportunity evil. It sees no colour, it sees no race. This act has nothing to do with that. And if anyone says that, I would say there are motivations behind it.

We hear from lawyers. Lawyers will take up the cause for people because they believe in it. Some lawyers are saying this is discrimination and it's bad. Other lawyers have come before this committee and said....

So you're entitled to your opinion, but that does not necessarily make it correct. That's why we have a democracy. That's why we are here today. Please do not look at this and say, "Well, since the government of the day brought it in, they must be discriminatory against me", or against any particular.... Nowhere in this act does it say so.

I just wanted to get that out of the way. I mean, I can describe discrimination: everybody in my family looks like me and everybody I'm talking about looks like me. I mentioned to another witness last night about the IRA, which was a terrorist organization trying to raise money in Canada, that today it would be classed as a terrorist organization. This has absolutely nothing to do with the colour of someone's skin, with the country they come from, but everything to do with who they are and what they want to do that is illegal. We're dealing specifically with terrorism here.

Mr. Bucci, having looked over your resumé, I think you're very well placed to discuss the need for reliable information to be received by the right people and at the right time. The first part of this legislation is about encouraging information that is relevant to national security, and that it be shared with national security agencies. In today's day and age, this is obviously critical.

Could you share your thoughts on the need for information sharing?

• (1025)

Dr. Steven Bucci: We learned very quickly that the lack of information sharing provides fundamental insecurity. We're not talking about gathering new information. As my colleague mentioned, it's information already resident, collected legally by different parts of the Canadian government. The inability to share that information is crazy.

Everybody always says, "Big data, my God, it's Big Brother coming in 1984." You know, I'm sorry; big data is here. It operates on everything we do and it gives you an advantage.

Should there be oversight? Do you need to watch this stuff? Yes. But to try to say that we're not going to do it, and let's just put it aside, is a fool's errand. That information needs to be shared. We have the capability to share it accurately, to go through the multiple haystacks and find the needle, if we have the right amount of hay there. If you don't have all the hay in the stack, you're going to miss the needle. You do need to do that.

I agree; you have to do the information sharing. It's absolutely essential. You do need to make sure that the wrong information doesn't get in the wrong hands. But I think, reading this bill, it's people who own it legally, and they share it with people who have the authority to act on it for these specific issues, not helter-skelter for anything they want to.

The Chair: Thank you very much.

I'm sorry, but your time is up, Mr. Norlock.

We will now go to Mr. Garrison, please, for five minutes.

Mr. Randall Garrison: Thank you very much, Mr. Chair.

I'd like to thank all the witnesses for appearing this morning. It was an interesting perspective from the Heritage Foundation from the U.S. I appreciate the testimony you gave this morning.

I also want to say that I have the written brief from CIJA. You have some very specific recommendations that we have not heard from other witnesses, in particular where you have recommended that the chair of SIRC be an officer of Parliament and provide regular reports to Parliament. I think that's a very practical and very important recommendation, so I thank you for bringing that to us.

I also want to say that I do understand the concerns you've expressed as a community that is very often subject to hate crimes and hate propaganda.

As I only have five minutes I'm going to restrict my questioning. I'm going to go to Mr. Mia from the Muslim Lawyers Association.

Could you talk a little bit about the connection between the purposes of this bill and the powers that are in it? Do you see a connection between the purposes as they're laid out and the powers?

• (1030)

Mr. Ziyaad Mia: Thank you, Mr. Garrison.

As I mentioned in my opening, the title of the bill is the Anti-terrorism Act, 2015, which would lead someone to believe that this is about terrorism. Certainly, if you look at the backgrounders on government websites that are promoting the legislation, and the public discussion by the Prime Minister and others, it's that this is about terrorism, a particular type of terrorism that we're going to challenge. That's fair enough, if that's what it's about, but when I downloaded and looked at it, it's certainly not about that topic.

Let's take for an example what I call SCISA, the security of Canada information sharing act. The definitional section, that's the foundational authority of that act, is about undermining the security of Canada, and then it has a long list, I think of about nine or ten items. Don't quote me on the number, but it's a long list. One of those items is terrorism, which, again, boggles my mind because terrorism is not a crime in the Criminal Code. It's terrorist activity and terrorist offences. I don't know, but there's a mismatch there. If lawyers at Justice are hearing that, you might want to clean that up because there's a mismatch. There's no such thing as terrorism as a crime.

That's an unlimited list. It's including all those things. There could be other things. So my question is who adds to that list? It's so broad ranging that, again, it could capture unlawful but peaceful activities. So if you're protesting and walking down a road, yes, you may be trespassing and need to be charged with that but you don't need to be dragged into the national security dragnet. That's the concern. It becomes a broad national security bill about undermining the security of Canada.

Then if you look at clause 5, all of government can share all of its information in this pool of 17 agencies. As Mr. Bucci said, big data's

here. Yes, it is. This is lawful information the Government of Canada has and they'll be sharing it with these 17 agencies. But my disagreement with Mr. Bucci, respectfully, is that it's not just that, but the mandate. How did they first collect that information? Now they're sharing it for another purpose.

Secondly, big data is not a bogeyman and, yes, businesses do it. But when governments do it, it can be dangerous. Ed Snowden has told us that. It's the derivative work when you take pieces of disparate information, and work them through algorithms into predictive analysis. President Obama said that metadata is nothing. If you know a little bit about your phone, metadata is something. It's disingenuous to say it's existing information. It's derivative information as well.

So clause 6 totally disconnects the act. Clause 6 regarding information sharing, I believe, is unconstitutional on its face. It says that you can share that information with anyone for any purpose—not for terrorism, not for undermining the security of Canada, but for any purpose. I want to know what those purposes are. Any logical law-making would say the purpose needs to connect to the powers.

This goes on. In the bill, CSIS's powers are about threats to the security of Canada, not about terrorism.

Mr. Randall Garrison: We're about to run out of time. On the question of sharing, who do you see this bill allowing sharing with, both in terms of information and the no-fly list? Is this with foreign entities and private businesses? Is that allowed?

Mr. Ziyaad Mia: Clause 6 in SCISA 6 says that government can share with anyone for any purpose the information that's in that pool. Because the Minister of Transport and Minister of Public Safety have the no-fly list info, the way I see it, if you look at the chart, that can feed into the SCISA bubble, which is so broad, and then because of clause 6 and the 17 can leave the country.

The Chair: Thank you.

Now Ms. Ablonczy, you have five minutes, please.

Hon. Diane Ablonczy (Calgary—Nose Hill, CPC): Thank you.

Mr. Bucci, I guess you could say you're an outsider and you're not caught up in the politics of our country.

It's always interesting to me that those who oppose this bill say things like, of course they're against terrorism, that they want to fight terrorism, but not with this bill, and who then go into a great deal of fearmongering, as you've just heard. They say it could do this or that, that it's unconstitutional, that it's going to abrogate rights, and that Canadians don't really know whom to believe.

You're an outsider and you've studied these issues for many years and have dealt with them and led efforts in this regard. What's your take on this approach to combatting terrorism and the jihadist threat here in Canada?

• (1035)

Dr. Steven Bucci: I think it's quite obvious that the writers of the bill understood this was going to be a thorny issue. They're not foolish. You recognize in a democracy that we have these kinds of healthy debates, and we need to. We should always be ready to protect our constitutional liberties.

As conservatives we have a problem with this, because we like security, we want the security guys and gals to have everything they need, but we're really kind of big on civil liberties and individual rights. We don't ever want to lose them.

This is a tough thing. If it were that easy, you wouldn't have to take it to the House of Commons to write the law; everybody would just do it.

I think this is a good faith effort to do that.

Is it perfect? Probably not, it's made by humans.

Will it change over time as incidents or cases come up because somebody gets policed who shouldn't have and the cases go through the judicial review process and eventually get thrown out and you adjust the law? Absolutely, that will happen.

As I said, we're going through that now in the United States. I would expect that over time you will do that here in Canada. I think this is a good adjustment to your existing laws, that it will give you more security, while showing incredible respect for the civil liberties of your people. As you go forward, I think that anything that's left undone will get worked out.

Hon. Diane Ablonczy: We've heard this morning that this bill is not about terrorism. Will you comment on that?

Dr. Steven Bucci: I would respectfully disagree with my colleague. I think it's everything about terrorism. As someone in the executive branch in our Department of Defense and as a soldier, an army Green Beret, who fought terrorism at the operational level, tactical level, and the strategic level, I believe you have to do the things that are mentioned here to some degree, or you're going to lose.

I, for one, don't want to see Canada lose that battle any more than I want my country to lose it. We're in this together and we don't want to see that happen, because the people we're fighting, particularly right now, are pretty heinous individuals and we can't afford to let them win.

Hon. Diane Ablonczy: I agree with that, and you probably are familiar with a recent article in *The Atlantic* called "What ISIS Really Wants". It talks about their foreign policy, which it describes as an "offensive jihad, the forcible expansion into countries that are ruled by non-Muslims.", etc. I won't go into the whole article.

I'd like you to comment on that, because we really need to understand exactly what we're trying to protect ourselves and our country from.

Dr. Steven Bucci: Again, as I mentioned, this is a very small slice of the Islamic world, a tiny one, thank goodness, but they believe with all their heart that in the declaration of the caliphate they're going to take over the world.

In America before 9/11, we didn't believe al Qaeda when they said they were at war with us. It finally took 9/11 for us to realize that they actually meant it. We need to take ISIS at its word that they want to expand this caliphate around the world, they'll do anything they need to do that, including killing everyone in this room.

We need to recognize that and adjust our policies to it, always respectful of our rights and liberties, always protecting the things that make our countries unique, but we do have to take measures that protect ourselves because these guys are serious, it's real, and they're bad people.

Hon. Diane Ablonczy: Thank you.

The Chair: You have about 30 seconds.

Hon. Diane Ablonczy: Mr. Cape, I wonder if you'd comment on the questions that I've just addressed to Mr. Bucci.

Mr. David Cape: I think the bill addresses many of the concerns that our community faces with anti-Semitism, and our community all around the world has just been the subject of these terrorist attacks.

Again, I was with someone who, like me, is the president of his community. In Denmark, he took on leadership in a community to help build it and now he's got armed guards guarding children's schools, because one lone gunman that they knew about came in and shot the place up, killing a security guard. They're living in fear, but their governments aren't moving like our government is and I think that's making a big difference here, and we as Canadians are fortunate for it.

The Chair: Thank you very much.

Now we would like to welcome Mr. Vaughan, who's replacing Mr. Easter. You have the floor, sir.

Mr. Adam Vaughan (Trinity—Spadina, Lib.): I have a quick question for Mr. Bucci. Your country enshrines the right of citizens to bear arms, in part out of a revolutionary experience, in order to protect the liberties of individuals, and your constitution is framed with the opening phrase, "We the people...". You mention civilian oversight. In your country that would be congressional oversight, that is, civilians to whom oversight is delegated. Why is that so important for public safety?

• (1040)

Dr. Steven Bucci: I think it's because there are humans in all of those organizations that have been mentioned, and as noted, they occasionally screw up. Whether they do it with malice or they do it by accident, it doesn't matter. If they violate the law, there needs to be some process in place that recognizes that possibility and can adjust to it.

Mr. Adam Vaughan: If this bill fails to strengthen or enhance civilian oversight or parliamentary oversight, would it be a failure, in your perspective?

Dr. Steven Bucci: It would be a danger, not necessarily a failure, because I think these things evolve.

Mr. Adam Vaughan: A danger to whom?

Dr. Steven Bucci: A danger to the civil liberties piece. You need some sort of oversight.

Mr. Adam Vaughan: A danger to citizens.

Dr. Steven Bucci: You need some sort of oversight, yes, sir.

Mr. Adam Vaughan: I note that Mr. Cape agrees with that perspective. Is that true?

Mr. David Cape: With what perspective?

Mr. Adam Vaughan: That parliamentary oversight is critical.

Mr. David Cape: Yes, and our proposal was that there should be improvements of oversight.

Mr. Adam Vaughan: What would it say about Parliament if it failed to listen to your advice?

Mr. David Cape: I think you guys are going to make the right decisions for Canadians and come up with the best set of structures that are going to protect us, hopefully while moving the ball forward and down the field in the oversight of the anti-terror authorities.

Mr. Adam Vaughan: Mr. Mia, are you aware of any testimony or any submission—I know you've been watching this closely—that has recommended reducing oversight or recommended the status quo as a preferred option?

Mr. Ziyaad Mia: I can't recall anyone recommending reduced oversight, but I think a lot of witnesses I've seen have certainly said that we need oversight of the security services.

Mr. Adam Vaughan: The other common denominator in testimony, from both government witnesses and opposition witnesses, is the need for prevention strategies. You didn't comment on that. I'm curious what prevention strategies you think would be most effective in preventing the problem, which is far more effective than dealing with it in its aftermath.

Mr. Ziyaad Mia: I think it's a package, obviously, that you need. You need interdiction. You need intelligence and law enforcement interdiction to prevent or prosecute if something's happened. Certainly, however, what you do not want to do is to get there. You do not want to get to the need to interdict nor prosecute. You want to prevent. Prevention really requires intelligence, as we've heard from Mr. Boisvert.

Mr. Bucci is from the U.S. military, and he can tell you that intelligence can go bad. You were involved with Secretary Rumsfeld

and the Iraq war, and that was an intelligence failure. Intelligence can be bad, but what we need to do is to focus on good intelligence.

A big piece of the puzzle, if we're talking about how wide the threat is, as Mr. Boisvert said.... Jihadi terrorism, as it's being called, the label on it, is a legitimate and real threat, but if that's the case, we need to engage with those communities where those risks are going to come up. Just like how, for gangs, you need to work with troubled youth in those communities, the mainstream Muslim community needs to be a real partner in this. I don't think some of that is happening.

I know that the RCMP has done some work. CSIS has done some work. We need to be really encouraging that. In all honesty, I don't think anyone's trying to play a game here. We're just trying to say that with the mainstream community, we may have disagreements, but we really want to have productive and cooperative engagement, really. I don't think anyone has a secret agenda. There may be some rotten apples in every community. Yes, there are probably some youth, the psychopathic one or two, and then there are some who, in a gang, are going there for belonging or whatever misguided.... You need to get the psychopaths into the system and prosecute them. You need to get those other youth realigned and moved into society as productive members of society.

We're missing that piece. This is not an anti-terrorism bill per se; this is a national security bill. It's built on interdiction and surveillance. What we need is not a bill. As a lawyer, I'll tell you that law is not the solution to everything. What we need are operational issues, to improve national security and oversight, making that better; and we need effective community engagement so that everybody is part of the solution and we're not dividing the country.

The Chair: Thank you very much.

I'm sorry, Mr. Vaughan, but the time is now up.

On behalf of the committee, I would certainly like to thank Mr. Peerbhoy, Mr. Mia, Mr. Bucci, Mr. Inserra, Mr. Cape, and Mr. Fogel. Thank you so much for your contributions today. I can assure you that they are most helpful in shaping the direction and the decisions of this committee. Thank you very kindly for coming today.

The meeting is adjourned.

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