



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Public Safety and National Security

SECU • NUMBER 098 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Thursday, February 15, 2018

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Chair

The Honourable John McKay

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• (1100)

[English]

The Chair (Hon. John McKay (Scarborough—Guildwood, Lib.)): Ladies and gentlemen, let's bring this meeting to order. This is the 98th meeting of the Standing Committee on Public Safety and National Security.

On behalf of the committee, I want to welcome our witnesses, Lieutenant-General Michael Day and Scott Newark. I've talked to both of them, and I believe General Day will speak for 10 minutes, and then Mr. Newark will.

Without further ado, General Day.

Lieutenant-General (Retired) Michael Day (As an Individual): Thank you very much, ladies and gentlemen. I appreciate the opportunity to speak in front of this committee.

First, let me say how encouraged I am that Canada, in the space of just a handful of years, has had two bills on national security. Content notwithstanding, the actual debate we're having helps improve...including the choices that we will be deliberately making as a country to either diminish or enhance our security, and I accept that there's a trade-off.

I come at this issue not just from my time in uniform in our special forces community, but also having been the senior uniformed officer responsible for international security in the Department of National Defence as well as being the chief strategic planner. Subsequent to my retirement, I have remained involved in this area, specifically working in the high-tech sector as well as in academia.

As part of the broader issue, I would wish to have my opening comments focused on three specific challenges. First of all is the trade-off between privacy and security, between the charter and the reasonable measures to protect Canadians. This is not, from my perspective obviously, a binary issue, or one that should be looked at as absolutes, but rather a dynamic relationship that should remain constantly under review. We should embrace that tension as opposed to pretending it doesn't exist, with a conversation being seen to have value in and of itself.

Second, there are the unavoidable challenges that are presented with dealing with intelligence and admissible evidence, quality information. This includes the provision of a coherent picture to policy makers. No policy or law will be able to solve this conundrum, however, better processes and deliberate case-by-case choices can be made to better inform our way ahead. I believe those

are lacking. I believe this starts with a more coherent, joined up, centrally directed intelligence construct, which is mirrored in other countries, but quite frankly, not fully realized here in Canada. I'll address this a little later. Although this will be debated by many, the gap can be simply defined by the lack of one accountable minister—who is not the Prime Minister—in one department, responsible for the synthesis of a national perspective. The current construct through PCO lacks both authority and reach but most certainly process. The consequences are that we have government officials, both elected and unelected, who are not privy to a complete whole-of-government intelligence assessment, and vulnerabilities ensue as a consequence.

Lastly, we have a cultural blindness as a consequence of the quality of life that we all enjoy. To be sure, that's a double-edged sword, but the willingness to think of others, that they might share our values, our practices, essentially our way of life, is foolhardy. I vacillate, of course, between despair and admiration at this ability to ignore the realities of the world as I've experienced it. I won't be proposing any solution to that issue.

In this first instance, I would want to see a process that is able to flex and contract on a case-by-case basis. I do recognize there are embedded processes within the Government of Canada machinery. I believe them to be inadequate. This space should be defined by a non-political entity, likely expanding on the current judicial processes we have at the moment. In particular, I believe this must be informed by certain rules that trade off the automaticity of an action being appropriate or not with a deliberate set of decisions. Although there are some basic constructs that allow for warrants for certain actions, I don't believe this receives the attention or the expertise that is warranted in a holistic sense. We have a great judiciary, we have a great rule of law, and I believe the solution is in this space.

Lastly, in this area I consider it to be the requirement for whatever process adopted to remain in camera so as to protect that information, which leads me to my second point. By necessity, there's an overlap between various members of the security and intelligence community here in the machinery of government. We need better coordination, not merely information. Too often, even post-Maher, there remain gaps between how information and intelligence are managed in this domain. As an aside, I think it is tremendously important to distinguish between the two—information and intelligence. Although various individuals claim we are addressing this, I would remind this committee, as I'm sure you know, that this claim has been repeated by various officials in various governments for decades now. No good solutions have been reached, in my opinion.

When making this body of knowledge prosecutable, we need to do better. Although recognizing the hue and cry that will result, in some instances, it may mean, or continue to mean, a court process that is not transparent to the general public. These are the types of trade-offs that I believe are necessary. It's not a good solution. In fact, it may be a bad solution, but it's not the worst solution. In fact, it may be the best of a number of bad solutions. We are living in the worst solution, which is that we don't appear to address it at all. Implementation of independent monitors, etc., or any additional process may be considered as part of that solutions space.

With regard to electronic surveillance and security, I admit to an incredulity at either the inability or naïveté of Canadians in general, and quite frankly, the government in particular, accepting that there must be rules and policies surrounding these activities. It has shocked me. Over the last four or five years, I've worked a lot in the cyber domain. It's shocking to me how little effect successive governments have had in addressing the cyber-threats that this country faces on a daily basis. The vulnerability of our energy grid, the financial sector, among others, and the lack of a government-wide set of policies and legislation to enforce compliance leads me to believe that we are living in a country that is now fully compromised by foreign actors at the state and non-state level.

A voluntary system will not work, as a vulnerability by one is a vulnerability to all, in fact. The CSE legal mandate is a good and useful step, but it's only part of the picture. I am a strong believer that mass surveillance metadata, not individual surveillance or collecting individual information, and the power of directed and non-directed machine learning are critical to embrace and to better understand the space in which we are working. Lacking this, we will fall further behind.

Turning briefly to accountability and functionality in the government, I would cite the most recent report by the U.S. director of national intelligence, which is a significantly different role than the proposed commissioner of the intelligence, whose mandate falls well outside of my area of expertise and understanding, although it does appear to me to be a very good step. Although the current intelligent assessment secretariat fulfills some of the functionality of DNI, it falls short. Focused on the provision of intelligence to the Prime Minister and given its position in the Privy Council Office, it lacks the appropriate authorities to direct, as well as the degree of ministerial accountability needed. We have no minister responsible

for this and no such equivalent director of intelligence. There is no mandate and therefore, the function is not served.

It seems to me that much of the public debate on the bill in question, C-59, is about legal mandates, compliance, oversight, and governance. I don't wish to imply that this isn't needed, let alone value added, but rather suggest that the necessity of this conversation should not be mistaken for sufficiency. By itself, the debate on those issues is insufficient.

In a rapidly changing world, an equal amount of discussion should be given to the efficacy of the security and intelligence agencies and supporting departments, how well they work together, how rapidly they are able to, not just respond in the moment, but adjust to changing threats, etc.

As a criticism, I could argue that one would say the jealous safeguarding of mandates authorities—or more crudely put, turf battles—will be argued by any number of officials who will come in front of this committee. I would posit that you would be fooling yourself to believe that those turf battles aren't actively fought on a daily basis and therefore, inhibit a fuller, broader understanding of the threats that we face and the actions that we can take in response. However, I was strongly and tremendously encouraged to see Ms. Rennie Marcoux appointed as the executive director of the committee proposed. She is a true intelligence professional, but this is a separate function, and I do not mislead myself into believing that replaces the proposed DNI, which I would support. This is a gap that needs attention.

Furthermore, not being in government at the moment, I do remain uninformed about how the interaction between that commission and PCO, the assistant secretary of security intelligence, and the national security advisor will all work together, reminding ourselves that the PCO answers only to the PMO and there's no accountable minister, let alone mandate, and therefore, no real authority besides that which is practised, but not enforced.

● (1105)

In addressing the oversight committee I believe I noted with concern that in some instances the committee—and I stand to be corrected on this—would not have access to certain intelligence. I think I've read that in some of the critiques. To be very clear, for lack of a better term, I believe that to be admittedly stupid. The committee should have access to any and all documentation seen and used by the intelligence committee regardless of the originator controls. Anything less makes a mockery of oversight. Decisions will be made. Actions will be initiated based on that foreign-based intelligence.

There is a need to continue to force the interaction most especially between the intelligence and security agencies and associated departments. I'm convinced that Bill C-59 is a good step forward, but it needs to be enlarged in processes and interactions, and an accountable minister appointed.

I'd be more than happy to talk about threats and other processes during our Q and A.

Thank you very much.

• (1110)

The Chair: Thank you, General Day.

Mr. Newark.

Mr. Scott Newark (Policy Analyst, As an Individual): Thank you very much, Mr. Chair. It's good to see you again.

I'd like to thank the committee for the invitation to appear before you with respect to this very important Bill C-59. I've had the opportunity to follow some of the proceedings and to read some of the transcripts, and it's very encouraging to see the depth and substance of the questions asked of the individual witnesses who are appearing, including with different perspectives.

I've had a long history, and I was thinking about it before I came here today. It's been almost 30 years, I guess, since I first testified before a parliamentary committee. I was a crown prosecutor from Alberta, and as I put it, I got tired of tripping over the mistakes of the parole system in my courtroom, and realized that the only way to try to change it was to change the laws. That meant coming to Ottawa, because we were dealing with federal correctional legislation. I was appearing before parliamentary committees where I exposed what had happened in a couple of cases.

The important work of the legislative branch struck me then, and it has remained with me throughout. That sometimes gets overlooked, and depending on how things are being handled at the executive branch of government, the really important and critical analysis that committees can do is quite significant. A bill like this is a very good example of that, because you can have different opinions about things on different subjects, but you have the ability to ask questions and to try to elicit information to analyze whether or not the intended results are going to be achieved by the legislation in the way that it's drafted or if other things need to be done. That is particularly true, I think, in relation to legislation like Bill C-59, which is obviously pretty complex legislation and deals with a whole lot of subjects.

In fairness, the discussion itself has raised issues that are not contained in Bill C-59. I think a very encouraging sign was the way that the government sent the bill here in advance of second reading so that you could have input and suggestions on other subjects. I have some suggestions to make on things like that. I must admit, though, that I would suggest that it probably is a better idea, simply from a procedural perspective, to confine your recommendations to the specifics of the bill, and perhaps, in an ancillary report, make suggestions on other subjects rather than adding huge new amendments to sections and opening up different issues that are not specifically contained in Bill C-59. There's so much of value in Bill C-59 that it's a good idea to move it forward.

My presentation today will touch on essentially three aspects. The first is just to take some examples of things that I think are notable and quite important in Bill C-59. I also have a couple of comments on things, and one in particular I have a problem with, but I suppose, to put it in a larger sense, they're just ones where I would suggest you may want to ask some questions and make sure you understand that what you are anticipating is the case is, in fact, the case. Then, because the minister has invited suggestions on other issues, if we have time—and probably not in the opening statement, but during questions and answers—I have some suggestions on other issues that I think might be of interest.

Let me just give you a little bit of background as well on my personal experience in this, because it impacts on the insights. As I mentioned, I was a crown prosecutor in Alberta. Ultimately, because of one of the cases I was involved in, in 1992 I became the executive officer of the Canadian Police Association. This is the rank-and-file police officers, the unions. We were involved very heavily from 1992 to 1998 in criminal justice reform, policy advocacy. It was from that, in particular, and my work as a crown prosecutor, that I got the sense of the importance of learning from front-line operational insights how you can then shape legislative or policy tools so as to achieve desired outcomes.

Also, not everything needs to be done by legislation. There are frequently instances—and I was struck by this as I was watching some of the evidence from some of the witnesses that you've had—where we don't necessarily need new laws. We need to enforce the ones we already have, and we need to make sure that the tools are in place to use them appropriately. There are some examples of that, I think, in Bill C-59 specifically.

I ended up working with the Ontario government in 1998 as an order in council appointment. That government had intended to achieve some criminal justice reforms, and they weren't getting it done, so they wanted some people with some understanding of the justice system.

• (1115)

After 9/11, I was appointed as the special security adviser on counterterrorism because of some work I had previously been involved in. I had significant interactions with Americans in relation to that. In the old days, it was the Combined Forces Special Enforcement Unit, which became INSET. I had a role, essentially, in being the provincial representative in some of the discussions, and I saw the inter-agency interactions, or lack thereof, and the impact that potentially had.

Since then, I'm actually one of the guys who did the review that led to the arming of the border officers. I still do work with the union on policy stuff. I also do some stuff with security technology committees. The value of that is that you get an understanding of some of the operational insights and what is necessary to achieve the intended outcomes.

I should add, I suppose, the final thing. Last year, I accepted a position at Simon Fraser University as an adjunct professor. I know you'll be shocked to hear that. It's for a course they offer, a master's program, the Terrorism, Risk, and Security Studies program. The course I teach is balancing civil liberties and public safety and security. To go on from a point that the general made, I think the case is that these are not either-or situations. We are fully capable of doing both, and there is a balance involved in this. As a general principle, it is a very good idea, when you're looking at what is proposed in legislation, especially in legislation like this which has national security implications, to keep in mind the general principles of protecting civil rights.

There are two points about that. You'll notice that in "civil rights", "rights" is modified by "civil". In other words, they are rights that exist in the context of a civil society. That has ramifications in the sense, I think, of what citizens are entitled to expect of their government. I don't want government intruding on my privacy, but, at the same time, if government has the capability of accessing relevant information and acting on someone who is a threat to me and my family, I expect, under my civil right, that, in fact, government will do what it needs to do to extend that protection.

The other side of that—and I know, Monsieur Dubé asked many questions about this, as did other members of the committee—is the importance of looking at it generally, at what is proposed, to see that there is, in effect, oversight initially and, as well, appropriate review so that the balancing can take place. In my opinion, and more accurately in my experience, having the executive branch reporting to itself for authorization is something that should raise a red flag. There are provisions within the act that ultimately address that, although there are some that raise some questions about it.

In the very brief time left, let me just say that I think that among the important things in the legislation are the extensive use of preambles and definitions about the importance of privacy and what we would generally call civil rights in consideration of why we're doing things. That, I think, was a deficiency in Bill C-51. I can tell you that it is critically important in today's charter world to make sure that is included so that the courts can consider whether or not what was being done by legislative authority in fact took into account the charter issues. A rule of statutory interpretation is "thou shalt consider the preamble in a statute when actually drafting it".

With one minute left, I think probably the most important operational aspect of this bill is the proactive cyber-activity authorized to CSE. That is a reality of the world in which we live. We are totally cyber-dependent, which also means we have enormous cyber-vulnerabilities. Cybersecurity, in effect, has been an afterthought. This is a step; it is not the complete answer. I do some work in the cyber field as well, and that is something that I think is extremely important.

The one issue I would raise, in closing, which I have a concern about specifically, is in relation to the change in what I think is the evidentiary threshold in the terrorism propaganda offence. I can get into that in more detail, but my concern is, essentially, that it may be making it, for no good reason, no justifiable reason that I can see, harder to use that section, which has extreme relevance now in the changing domestic terrorism environment in which we are living.

I look forward to answering any questions and, hopefully, touching on the other subjects.

• (1120)

The Chair: Thank you, Mr. Newark. You were elegant in your submission.

Mr. Scott Newark: Thank you.

The Chair: Mr. Fragiskatos, seven minutes please.

Mr. Peter Fragiskatos (London North Centre, Lib.): Thank you to both of you for being here today.

I'm glad, Mr. Newark, you ended on the point about the CSE because that's where I want to begin, in terms of offensive cyber-capability. We've heard a number of witnesses testify in favour of this. There have been several witnesses who have raised real concerns, in particular, the B.C. Civil Liberties Association, OpenMedia, but others as well.

I take your point that in new threat environments, Canada and other democracies need to really adapt. You're familiar, I think, with the Centre for International Governance Innovation in Waterloo. They recently published a piece, and I want to read a quote from it and get both your thoughts.

They say, as follows:

...if the Cold War taught us anything, it is that sometimes the best way to ensure that everyone lives in peace is to ensure that everyone has the ability to destroy one another, otherwise known as the doctrine of mutually assured destruction. Cyber-weapons that have clear offensive uses do just that. They show the world (or at least those that know you have them) that should you be attacked, you can escalate and retaliate in turn.

Is this an apt way of looking at where we find ourselves today in terms of international security?

Mr. Scott Newark: First of all, I think it's important to appreciate that the acronym for mutually assured destruction is MAD, but part of the complexity in that is that the threats are not necessarily from state actors. That's a challenge in itself.

The thing that concerns me the most, frankly, is advanced persistent threats. They're already planted and they're sitting there waiting for the folks in Pyongyang or Beijing to decide that now is the time we're going to do this.

We've changed our systems. I mean, we don't turn on the SCADA operating systems at nuclear power plants anymore by somebody flipping a switch, and it's created a vulnerability. I'm not a techie but I think the capacity to proactively intercept and stop, take down the systems and remove the capability to cause the harm, is an essential component.

Having said that, however, I think it is critically important, given the authority and the power that's there and its ramifications, that this should not simply be one branch of government reporting to another, then signing off and saying that's it. I think this is something, given its importance, that requires some form of independent review and authorization. Although we would want all of these circumstances to be considered exigent, some kind of a review should be done after the fact. I think, just as a general principle, that unless there's a reason not to have that independent oversight, the nature of the authority is such that it requires that balancing effect.

Mr. Peter Fragiskatos: Mr. Day.

LGen (Ret'd) Michael Day: To answer your question, I think it's a ridiculous comparison. Anybody who actually understands MAD and the triad of the nuclear deterrent and second response, etc., understands you're talking about a completely different intellectual construct. Notwithstanding—and I've read the piece, I think it's a decent thought piece and there's a lot of value to it— that comparison is a distraction, at best.

What we're talking about in terms of actually having the capability as a deterrent...I'm not convinced that's the case. The capability by itself really should be designed to prevent certain actions, to mitigate the impact on certain actions, to be able to subsequently respond and recover. In the cyber domain, if you don't have that continuum, then you're incomplete. Missing one stage of that, which includes an offensive capability to proactively understand what the threats are, to deal with them, to prevent them, to mitigate them, then you remain vulnerable.

Mr. Peter Fragiskatos: I would also just quickly point out, Mr. Newark, that you spoke about non-state actors. Daesh has demonstrated a capability, albeit not a very advanced one, to carry out cyber-attacks. That's there, and it's emerged.

• (1125)

Mr. Scott Newark: We're in a changing environment. I don't think there's any doubt about that, and it's one of the things that really struck me about the terrorism propaganda. We know, literally, that the threat environment is changing as they are losing—although not as much as we sometimes think—their actual physical control of territory. They are openly saying what it is. That's one of the things about Islamic terrorism: if you pay attention, they generally tell you what they plan on doing.

Mr. Peter Fragiskatos: I don't mean to cut you off.

You alluded in your remarks to your concern about the speech crime provision in Bill C-51 being modified under Bill C-59. I was reading a piece that you wrote—it might have been for *iPolitics* as a matter of fact, back in the fall—where you pointed to your opposition to this.

Just for the record, under Bill C-51, it was a crime for one to “knowingly advocate or promote the commission of terrorism offences in general”. Under Bill C-59, this has been replaced with something much more common in criminal law: “counselling another person to commit a terrorism” act.

I have read your criticism, so I want to jump immediately to ask you a question about how the offence was phrased in Bill C-51. Take the example of a journalist or a group of protestors who were supporting a group—now the times don't align here but I think you'll

appreciate the example—of anti-apartheid activists, under the ANC and under Mandela. You know very well that, particularly in the early history of their activism against apartheid, they advocated for non-lethal attacks on public infrastructure.

Now if a journalist here in Canada were writing in favour of that kind of an approach—again, the anti-apartheid movement was one of the most important struggles of the 20th century—it's entirely conceivable, and I'm not the only one to use this example, that they could have been charged under the wording in Bill C-51.

To shift now, to pivot to a counselling offence, doesn't this clarify and bring greater understanding to what is permissible and what is not permissible?

Mr. Scott Newark: I don't think so. I don't agree—

The Chair: Unfortunately Mr. Fragiskatos has pretty well used up his entire time asking the question. Possibly we can circle back to that.

Mr. Paul-Hus, you have seven minutes, please.

[*Translation*]

Mr. Pierre Paul-Hus (Charlesbourg—Haute-Saint-Charles, CPC): Thank you, Mr. Chair.

Thank you for being here this morning, gentlemen. Your input is very valuable.

Mr. Newark, this week, public safety officials appeared before this committee with regard to Bill C-59. They said that the bill would create a flexible framework that could respond to emerging threats. Yet the bill says nothing about returning Islamic state fighters. It says nothing about fighting the emerging threats from Russia and China. Nor does it say anything about modernizing our ability to control the funding of terrorism.

Leaving aside the creation of a new review agency and the part-time position of commissioner, and the implementation of the CST and the National Defence Act, the wording of this bill is unnecessarily complex and shows little intent to take the security of Canadians seriously.

Mr. Newark, you talked about the cyber threat and changes in terrorist propaganda. In your opinion, what key feature is missing from the bill?

[*English*]

Mr. Scott Newark: As I say, the biggest one I have questions about is the terrorism propaganda. To circle back and answer, precisely because the proposed definition is section 22 of the Criminal Code—which is counselling another person to commit a criminal offence—the way I read the language of that, in effect that offence is already there.

I guarantee you, sir, that if that wording is used, there will be occasions when defence counsel will come to court when somebody is charged, and ask, “Who was it that he was counselling to commit the offence?” If you don't have another person involved, you aren't able to prove the offence.

That compares to the general notion, which reflects the reality of what we're dealing with now: we know that what would be included in the definition of terrorism propaganda is what is being used in radicalization, recruitment, and facilitation, including and especially in domestic circumstances. That's what we're actually facing.

To your point, though, about the larger issues, I'll go back to what I said before. I actually think there are things in Bill C-59 that help us deal with the reality of returning jihadis. The most important thing is that the government did not change the evidentiary level in section 810.011, the terrorism peace bonds. It's still “may commit”. Had that been raised up to “will commit”, that would have put a much more significant barrier on things.

The other thing that is very important in this bill is the provision that requires annual reporting on the number of peace bonds that are actually used, and also a five-year reporting on the impact of the bill itself. In my experience in government, that tends to bring about accountability. I assure you that if those provisions are included, throughout the different offices of the security branches and agencies there will be whiteboards going up with people writing on them, “Okay, I'm responsible for this. I've actually got to deliver this.” That's a good thing, because I think accountability tends to produce results.

• (1130)

[*Translation*]

Mr. Pierre Paul-Hus: Thank you.

General Day, you were the first Canadian general to command the special forces. You were part of the JTF and the special forces for nearly your entire career.

People often have a naive perception of the jihadi movement. You have been deployed all over the world. With members of the special forces, you have come into contact with those people.

In your opinion, do the Canadians who fight alongside jihadis abroad represent a threat to Canadians? Please tell us your views since you have fought those people.

LGen (Ret'd) Michael Day: Thank you very much for the question.

I will try to answer in French, but I might miss some slight nuances. I will answer the other questions in English.

[*English*]

I would like to briefly address the previous question.

As a practitioner, a focus solely on the legislation by this committee will miss about 80% of the potential gaps you've asked about. The reality is that legislation has to have practices in place and structures in place under those practices to support that. That's the total capability. There's lots of legislation in Canada that is not enacted because it lacks the practices, the structures, the reporting mechanisms, and everything else. I would be very guarded about

focusing solely on gaps in legislation. As the guy on the practitioner side of the house, I would argue that we need to be a little more holistic.

With regard to your specific question, I think it's excellent. Jihadists or religious extremists fall along a pretty broad continuum spanning adventure seekers, malcontents, the disenfranchised, and the truly committed. We will receive back in Canada that complete continuum. Anybody who believes that every individual coming back is either wholly bad or just situationally good, and so on, is fooling themselves.

We will receive those people who went for reasons unrelated to the actual clash between Daesh, ISIS, and so on, and who were turned off by what they saw.

Equally, we will see people coming back here, fully determined to continue to prosecute that conflict. People are fooling themselves. I've dealt with these people around the world. They are committed. You're fooling yourself if you declare otherwise, and you're lying. You should know better.

Mr. Scott Newark: If I could just add to that as well, I very much agree. I don't think some of the communications have been as effective as they could and should have been about this. However, I completely agree with General Day about the nature of the individuals you're dealing with.

It's not going to be one-size-fits-all. Use all the tools in the tool box, which does include things like de-radicalization and rehabilitation. We use that kind of approach in our criminal justice system as well. It's important that we use all the tools in the tool box and not just one.

The Chair: Thank you, Mr. Paul-Hus.

Inter-party harmony has broken out once again in this committee.

Mr. Motz, you have seven minutes.

• (1135)

Mr. Glen Motz (Medicine Hat—Cardston—Warner, CPC): Thank you, Mr. Chair, and thank you to both our guests for being here.

CBSA is not mentioned a lot in this particular bill, and as mentioned, there's nothing at all of substance about our borders in Bill C-51.

We know we've had issues with illegal border crossers, significantly, over the last year. These individuals who cross the border are given hearing dates. The processing time has been cut by 80%. They disappear, and many of them don't show up for their secondary hearings. When you put all these things together, it leaves the impression that our borders are porous and that there are national security issues that exist.

In the context of our border and CBSA, can you offer us any insights on what amendments we should be looking at within this legislation, keeping in mind Mr. Day's comments about a practicality component as well?

Mr. Scott Newark: I provided my opening remarks, and as well, the actual paper that I wrote for the Macdonald-Laurier Institute and a couple of other papers to the committee, so you will have access to that.

I totally agree with respect to border issues not being really included. I don't think that was the intent, frankly, in the drafting of Bill C-59 and fair enough, you use other legislation. But there are so many things that could and need to be done in my opinion. I wondered when you had your last witnesses here including from the RCMP, who had some unusual remarks in my opinion, but they're not so much legal as they are practical.

Do we have a bad guy lookout system in place supported by face recognition biometrics? I know this may come as a surprise but the bad guys use phony ID. Why are our border officers not allowed expressly to be doing enforcement work between ports of entry? It's ridiculous. We need to renegotiate the safe third country agreement.

Let's me clear, obviously you can call it global migration or human smuggling but it's not an accident that these people happened to coincidentally.... More than 50% of them by the way, in these latest waves, were not just people who were Haitians expecting that they were going to leave the United States but people who had actually lawfully obtained visas to come to the United States to illegally enter Canada. That should raise an eyebrow. Why is that? The word is out essentially that it is something that can be done.

What I would suggest is that there are so many issues that are involved in this. It merits a separate study and analysis and not necessarily tacking things on to Bill C-59, because there are enough other things in Bill C-59 that are legitimate but our border security issues I think.... We haven't completed the commitments in the Beyond the Border program or the border integrity technology enhancement program for border surveillance technologies. Those are things that absolutely need to be done.

As I say, the bad guys tell us what they're planning on doing. Remember when this all started and there was a flow of refugees into Europe and they said, we're going to embed our people in amongst them. There was a report out last week from the EU about that fact of those people retuning. That's something we need to pay attention to.

On the final last point just about this, I thought that the Immigration and Refugee Board has done a pretty good job of releasing statistics on the numbers of people who have been ruled inadmissible or timelines and things like that. The one statistic that you don't see is how many people have actually been removed? In our system that's different from being ordered removed.

That's information that is available and it would be a good idea to actually get it because our system in my experience is too bureaucratic and process focused. Process is supposed to serve purpose. If I could add an insight from a career in law enforcement, all too frequently it doesn't, especially in border issues.

You'll see a whole list of recommendations, sir.

Mr. Glen Motz: Mr. Day, you have some comments on that?

LGen (Ret'd) Michael Day: I would simply say or ask the question, is there any legislation that requires CBSA be provided with the complete watch-lists that are accumulated by CSIS, CSE, and RCMP? If lacking that, why isn't there the requirement? How can they perform their function if they don't understand who is being watched as a threat to this country?

Mr. Glen Motz: The answer is pretty binding on that.

Mr. Scott Newark: I'm sorry, if I can just add in, I also sent in a note that I did several years ago out of frustration in dealing with the "we can't share that information because of the Privacy Act" nonsense. The legal authorizations for law enforcement and security purposes for authorization sharing within agencies is significant. Also contained within the Privacy Act, section 8, my favourite section, paragraph 8(2)(m), is the section that says that if the holder of the information decides that the public interest in releasing the information or the truth outweighs the personal information in keeping it, then they have the authority to release it.

• (1140)

LGen (Ret'd) Michael Day: Personally, I would say that's insufficient. It allows them to. It doesn't force them to. Legislation needs the requirement, not just the independent judgment of the agencies to decide what they will or they won't.

Mr. Glen Motz: In the less than a minute and a half that I have left, I am struggling between which questions to ask. I will ask this.

Mr. Day and Mr. Newark, you talked about the barriers of intelligence-gathering evidence and the struggle that we currently have and the challenges it presents to prosecute criminals to begin with, including returning ISIS terrorists.

How would you suggest we deal with this? They are very real concerns and there are limitations currently on protecting Canadians and holding those who are criminal and returning to do harm to us accountable. How do we fix that?

Mr. Scott Newark: Included in my recommendations that I supplied to the committee are some specific recommendations in relation to that.

However, as you know, with the rule in our system—and it does apply now to terrorism cases because it's done through the criminal justice system—the real issue isn't whether or not the evidence is relevant, the issue is whether the evidence is admissible.

That's why I think the aspect of things like preambles, and saying that we've considered the privacy issues, and even after the fact making sure you have review bodies like the committee on Bill C-22 asking why you didn't share this information, are the kinds of things that I think will help us. However, we need to be ready in advance of those people coming back.

When the RCMP, for example, talks about 120 cases, I certainly hope that number is because of actual cases that are created, as opposed to some analyst doing a statistical judgment on what it should be, because we should be ready for this.

The Chair: Thank you.

Mr. Spengemann, you have seven minutes.

Mr. Sven Spengemann (Mississauga—Lakeshore, Lib.): Thank you both for being here.

I want to pick up on the exchange you had with colleagues on the other side regarding the strategic threat setting for this bill. This morning, we had Mr. Fadden in front of the Standing Committee on National Defence, and Mr. Fadden testified last week in front of this committee.

This morning, he said that one of the threat vectors that he's most concerned about—and it echoes your conversation a few moments ago—is the multiplicity of terrorist organizations with considerable reach. You spoke about the 120 returning ISIS fighters, or whatever the number is.

What else is there in the strategic threat setting that Bill C-59 in 2018 seeks to address beyond returning ISIS fighters?

LGen (Ret'd) Michael Day: I could maybe make a couple of comments about the strategic piece. I work with Dick Fadden quite regularly, and I'm aware of his views. I would support them.

We tend to be focused on, quite frankly, not just the smallest numerical threat in terms of the number of foreign fighters, again who fall along a continuum.... Not all of them are true threats, some of them are incredibly significant threats. However, it tends to obfuscate or blind us to the reality of homegrown terrorism and the networks to which they're connected. I am not yet seeing...and quite frankly there continue to be inhibitions or obstacles to associating those two network pieces.

I think we have to recognize the difference and the blurred line now between state and non-state actors, not just in the cyber domain, but quite frankly in the information domain writ large, and the fact that they have a variety of different aims. Some of them are about security, some about gaining advantage, some of them are commercial-industrial, and some are political. Some of them—if we look south of the border and what they're affecting—are merely to disrupt and create chaos.

I am concerned that current legislation, although it is targeted towards a specific area and is necessary, by itself is insufficient.

We need to have a more holistic look. I'm not proposing that they would all be rolled into Bill C-59, but rather there should be a series of actions and legislation that deal with the whole panoply of threats that Canada faces on an ongoing basis.

Mr. Sven Spengemann: Let me give you a couple of examples. One of them is from just over a year ago, and that's the attack in Sainte-Foy in which six Muslim men were shot by a self-radicalized right-wing extremist. I think that's probably the most generic way to describe it.

Yesterday, we had a very tragic mass shooting in Parkland, Florida. There is no indication of any terrorist organization, but an

individual who obviously was very disgruntled, disenfranchised, disconnected from reality in some way, and he shot 17 individuals.

Are those national security questions, or are they questions of local law enforcement?

• (1145)

LGen (Ret'd) Michael Day: If I may, we have to be careful about the use of a label of “a terrorist”. In the United States, they don't like to use it when it's a white male. It seems unfortunate for them, but it's merely a label of convenience. The act itself was designed to terrorize a certain population, etc.. I think you can get really caught up with terrorism. America has a very distinct use of that, and it needs to be foreign based before it's terrorism. Language is important here.

With regard to what happened in Canada, etc., we have to be careful. When you look worldwide, the vast majority of—to use the broad definition—terrorist threats are actually domestically originated and not from outsiders coming in.

That's why I said that the security in Bill C-59 tends to have a colour or a focus, a lean towards this idea that we're protecting a border. I'm not convinced that the borders exist when it comes to that kind of security; hence, my previous comments.

Mr. Sven Spengemann: That's helpful.

Yes, Mr. Newark.

Mr. Scott Newark: Can I just add that it doesn't appear, as you say, that there is any ideological motivation in what happened. It certainly produced a terror response, but unlike, for example, what we were describing with relation to Islamists, it wasn't ideological driven. That's the first point that I would actually make as a distinction.

The other one that really struck me, though, was how a 17-year-old got an AK-47 with all of this ammunition, and people knew about it. Thank God I live in Canada.

Mr. Sven Spengemann: Thank you for that. Time is limited. I want to ask one more brief question.

General Day, on the questions of artificial intelligence and potentially also quantum computing, how confident are you that Bill C-59, in 2018, is a flexible enough framework to address unknown unknowns that may come at us through the cyber domain in those two areas?

LGen (Ret'd) Michael Day: Zero confidence.

Mr. Sven Spengemann: From the perspective of a threat assessment, would you rank AI and quantum computing as potential threat vectors?

LGen (Ret'd) Michael Day: Absolutely, but we need to understand the difference between individual security, personal physical security, economic security, existential security, etc. If we broaden the definition of Canada's national security, they are absolutely likely the largest single emerging vector.

Mr. Sven Spengemann: Thank you very much.

Mr. Chair, it's Mr. Picard's birthday, I'm going to delegate the remaining time to him.

The Chair: It must be quite a birthday because he only has a minute and a half.

Voices: Oh, oh!

Mr. Michel Picard (Montarville, Lib.): Thank you.

Mr. Newark, in your article, “C-59: Building on C-51 Towards a Modern Canadian National Security Regime”, in part 7, with respect to the terrorist definition you say, “Hopefully, the Government will be closely called on to explain its actual purpose in making this change, which will almost certainly handicap the carefully crafted and scenario-relevant tool that is the current [section 83]” regarding promotion and advocating terrorism.

The minister came and explained that the definition under Bill C-59 was so vague and so wide that it was inapplicable. Therefore we decided to modify it in order to be able to apply it because nothing happened under the old definition. What is your view on this comment?

Mr. Scott Newark: As I said at the outset, the definition that is used in Bill C-59 as far as I'm concerned is the same definition used in section 22 of the Criminal Code, which means we're just duplicating something. It's not there. When I look at the wording on this one, I think you will find that both police and prosecutors will come to the conclusion, and certainly defence counsel, and probably judges, that there is a higher evidentiary standard required, targeting more specific action and targeting an identifiable individual. Especially because of the relevance of the promotion of terrorism and radicalization online that we were just talking about, for example, that is a more precise and more applicable definition. Those standards, by the way, are basically the standards that are in place in the sense of the definition of what you have to do on the hate crime sections, section 318 and section 319. For me when I looked at it, I didn't understand why the change was being made, and that always rings an alarm bell for me.

• (1150)

The Chair: Thank you.

Mr. Calkins, welcome to the committee. You have five minutes, please.

Mr. Blaine Calkins (Red Deer—Lacombe, CPC): Thank you. I have two questions that I'm sure will consume the entirety of the five minutes.

The question that I have for you, Mr. Day, is in regard to the turf battles. Do you believe that Bill C-59 creates an environment that will mitigate these turf battles, and if not, what do you suggest?

Mr. Newark, my question for you falls along the line of our knowing what our allies are doing around the world. We've seen the history book play out in advance for them with attacks that have happened in places like the Brussels Jewish museum. We've seen what's happened in Europe in 2014 and 2016. With all the attacks that have happened, Belgium expanded the definition of what constitutes a terrorist offence, and lowered its threshold for conviction in line with the 2014 UN Security Council Resolution 2178 and the 2016 European Union directive on terrorism.

In fact, one of these returnees was identified in Belgium. Once one of these returnees is identified by the Belgium authorities, they are

systematically arrested and presented to an investigating judge. In Germany now, in every case of a returning foreign terrorist fighter, the prosecuting authority opens a criminal investigation immediately.

What are we doing so terribly wrong on this issue of returning foreign fighters that could or should be included in this bill?

I'll let Mr. Day go first, and then Mr. Newark, please.

LGen (Ret'd) Michael Day: I have never seen any legislation during my time, certainly in the last 20 years in service where I had significant dealings here in Ottawa, that has ever forced any true interaction or mitigation of the turf battle. Legislation by itself doesn't do it. The enactment of subsequent processes and structures to support the legislation has the ability to get after that. I have little confidence that there will be a fundamental realignment of the senior public service to allow for those gaps to occur. This will be tremendously unpopular with the deputy's community in this town, but the reality is until you have a deputy with the responsibility for whole-of-government coordination of intelligence and security responding to an accountable minister, there will be no changes.

Mr. Scott Newark: Just on that point, I would also like to add I think either this committee or the C-22 committee could have a really significant role by calling people in and asking why this didn't happen, and the kinds of non-sharing activities you were describing to ask those very kinds of informed questions. Not as a finger-pointing exercise per se, but as a lessons-learned exercise. I have seen this work out when I was with the Ontario government; it produced some positive results. We were able to learn from it, and not repeat the silo kind of activities.

With respect to your question to me, again I will go back to the point that I think we should emphasize in this country using all the tools in the tool box, including criminal prosecution where necessary and appropriate, although keeping in mind how difficult that may be. Think about that. If you're dealing with people who have been detained overseas, the evidence you get from them has to end up being admissible in court. That could be challenging.

The larger issue is our successful integration of people into Canadian society. I think we have done a vastly better job of doing so in Canada and the United States than they have in Europe. When you see instances of organizations or groups doing things that are trying to stop that integration, that should be a red flag. I wrote a piece for the Macdonald-Laurier Institute some years ago about that kind of a strategy, about how you deal with it, and that is one of the points.

In my opinion, we have been very successful in integrating people from different cultures into our society, and we should continue with it.

Mr. Blaine Calkins: Mr. Newark, just to reiterate what you said earlier about the current provisions that Bill C-51 put in place where it is an offence to broadly counsel someone to propagate terrorist propaganda. This means that in a particular case somebody who is propagating terrorist propaganda could unknowingly influence somebody to commit a terrorist act without that person who is propagating the propaganda even knowing that somebody was going to commit the offence.

Let me get to my point. Bill C-59 is proposing that somebody would only be charged if they had counselled somebody, which means that somebody would have to commit the act, and we would have to trace that back to whoever counselled them, whereas the legislation as it currently exists could stop the person from propagating the terrorist activity in the first place, thereby preventing the activity from happening.

Is that a fair assessment?

•(1155)

The Chair: We're going to have to ask them to respond some other way because the time has expired.

Mr. Scott Newark: I will explain later. I think it's more complex.

The Chair: Mr. Picard.

Mr. Michel Picard: Thank you.

[Translation]

I have a short preamble before I ask my question, General Day.

We would like to thank you for your service. As a result of what you experienced, we as Canadian and free citizens do not have to experience the same things. I think that is important and we have to thank you for that.

Would you agree that your experience heightens your perception of danger, whereas the everyday reality of Canadians involves doing groceries, going to work, and taking part in some public events?

They do not understand the proximity of danger as you do. Nonetheless, the experts in your field tend to put forward broader protection measures than those proposed in the bill, it would seem.

LGen (Ret'd) Michael Day: Thank you for your question and comments.

[English]

I think I agree with your underlying point about the exaggeration of threats. We should understand what risk really is in this domain. It's a combination of three separate and distinct elements: the frequency of any occurrence, the likelihood of it, and the consequence of it.

I think any metric that you look at would suggest that foreign-fighter-based terrorism is probably outside the top one hundred threats that Canada faces in terms of life and limb here in Canada. You shouldn't mistake that for a belief on my part that it doesn't need to be addressed, but it should be kept in proportion.

That's why I said, in my opening comments, that in terms of the balance between our security and charter rights and everything else, we should be making deliberate decisions that actually diminish our security, because it's an informed position of risk and threat. You only get there, though, if you have the supporting mechanisms that I've alluded to previously this morning, so that they're informed decisions.

My concern is not about the exaggeration of threat. It's about the ignorance of threat. I'm perfectly comfortable with governments, agencies, law enforcement agencies, etc., deciding not to do something. I'm really uncomfortable when they decide not to do

something because they just don't know, and that's actually the reality, in my opinion.

I would agree with the underlying part of that, which is that there are some individuals who want to exaggerate that for effect because ideologically that fits with them, or it's their policy base, or whatever the case is. I'm certainly not there, but this certainly needs conscious decision-making, acceptance, and weighing of threat based on an informed decision process that's supported by a structure of government that's fully integrated. Those final three steps just are not present.

[Translation]

Mr. Michel Picard: Am I to understand that, in your opinion, Canada's national security agencies do not fully appreciate the reality of the threat that you experienced?

LGen (Ret'd) Michael Day: No, not at all.

[English]

I think what I would say is that each agency, in and of itself... Thank you for asking the question, because none of my criticism is directed at each or any individual agency's ability or capability. I'm not suggesting that within their mandate they don't do a good job.

There are things that I believe could be strengthened in each and all of them, but that isn't an individual criticism. It's the machinery of government. Because each of them has such a separate mandate and because there is no forcing function that brings together a complete picture, that's where the inadequacies and the lack of information come from.

[Translation]

Mr. Michel Picard: I have a quick question for you about the cyber threat.

This is a broad field. You have mentioned a few key themes of the cyber threat. We are interested in this but, since it is so broad, where should we start?

•(1200)

[English]

The Chair: In one minute, please.

LGen (Ret'd) Michael Day: In one minute, then, let me be exhaustive.

There has to be legislation with a forced compliance, a forced standard, and a forced governance system on the major backbone that runs the Canadian economy and security agencies: financial sectors, energy sectors, etc. That's the start point. Of course, the difficulty is in the detail, but in lacking that whole-of-Canada approach we leave open vulnerabilities. We leave them open to interpretation. I am aware that the financial sector would like this to be voluntary. That's ridiculous. They just want to avoid costs. We have to make some hard decisions here.

Mr. Michel Picard: Thank you.

The Chair: Mr. Newark, in light of your extensive appearances before committees over 30 years, I'm going to grant you the last few seconds.

Mr. Scott Newark: Can I just suggest a model of something that's worth looking at? In budget 2017, the government allocated \$72 million to Transport Canada. Lacking a social life, I tend to read these documents.

Voices: Oh, oh!

Mr. Scott Newark: Essentially, it creates a special project on drones and driverless vehicles: to do research on the technology and as well—and this is the important part of it—on how a regulatory framework could be put in place, as has just been mentioned, so that we deal with these subjects in advance. In my opinion, that is an absolutely great model that we could use for cybersecurity generally.

The Chair: Thank you, Mr. Picard.

Thank you to both of our witnesses and thank you for your literally years of work on behalf of our nation.

With that, I'm going to suspend until we re-empanel.

- _____ (Pause) _____
-
- (1205)

The Chair: We are now back in session.

For our final witness today we have the Civilian Review and Complaints Commission for the RCMP with Guy Bujold, Interim Vice-Chairperson; and Joanne Gibb, Director of Research.

You have 10 minutes, and of course you know the drill. I look forward to what you have to say. Thank you.

[Translation]

Mr. Guy Bujold (Interim Vice-Chairperson and Acting Chairperson, Civilian Review and Complaints Commission for the Royal Canadian Mounted Police): Thank you.

Mr. Chair, honourable members, thank you for inviting me here today to speak to you about Bill C-59, An Act respecting national security matters. As you said, Mr. McKay, I am accompanied by Ms. Joanne Gibb, Director of the Research, Policy and Strategic Investigations Unit of the Civilian Review and Complaints Commission for the Royal Canadian Mounted Police.

[English]

I will focus my comments today on part 1 of the bill, which seeks to establish the national security and intelligence review agency, thereby transferring certain powers, duties, and functions from the Civilian Review and Complaints Commission for the RCMP to this new agency.

As the head of the commission, I strongly believe in the importance of civilian oversight and review, whether it is related to national security or, for that matter, related to law enforcement more generally. Independent review fosters positive change and makes organizations better, and I think that's an objective we shouldn't lose sight of when we're talking about these changes. Consequently, the commission supports all of the efforts to enhance the national security review framework.

[Translation]

The trust that Canadians have in their public safety and national security agencies is predicated on accountability and transparency, to the degree possible. Independent review, whether it is by the National Security and Intelligence Committee of Parliamentarians, or by expert civilian bodies such as the Civilian Review and Complaints Commission, the Security Intelligence Review Committee, or the Office of the CSE Commissioner, contributes to the overall accountability framework of the organizations entrusted with keeping Canada safe and secure.

As the government seeks to further strengthen that framework by creating the National Security and Intelligence Review Agency, the commission welcomes the opportunity to work collaboratively with the new review body to ensure that RCMP activities are independently examined.

[English]

Created in 1988, the commission has significant experience and expertise in managing complaints and conducting reviews of the RCMP, whether it is into the RCMP's actions in relation to the G8 or G20 summits, the RCMP seizure of firearms in High River, or policing in northern B.C., to name a few subjects.

The Civilian Review and Complaints Commission for the RCMP, as it is known now, has long been a key element of the RCMP's accountability structure. By independently reviewing complaints, and where necessary making findings and remedial recommendations, the commission strives to bring about constructive change in the RCMP.

[Translation]

Currently, the commission is undertaking a review of the RCMP's implementation of Justice O'Connor's recommendations in relation to the Maher Arar affair. That investigation is ongoing at this time and is expected to be completed before the end of the fiscal year. The commission will then prepare a report outlining any findings and recommendations pertaining to the six sectors examined by Justice O'Connor.

It is my hope that any findings or recommendations made by the commission would guide the new review agency in its future work in relation to the RCMP's national security activities.

[English]

In his 2006 report, Justice O'Connor stressed the importance of a review body being able to "follow the thread". Through Bill C-59, the new national security and intelligence review agency will have the mandate to do just that, providing a more holistic approach to national security review. Justice O'Connor also stressed the need to eliminate silos and for expert review bodies to work more collaboratively. We're hopeful that this will be an outcome of the new legislation and new oversight structures.

Since the mandate of the RCMP is much broader than just national security, I am pleased that Bill C-59 permits the national security and intelligence review agency to provide the Civilian Review and Complaints Commission with information it has obtained from the RCMP if such information relates to the fulfilment of our own mandate. I believe that this is critical to the overall effectiveness of the expert review bodies.

• (1210)

For example, if in the course of a national security review the national security and intelligence review agency becomes aware of a policy issue unrelated to national security, that issue could be flagged to the CRCC for further examination. This is the reality of the world we're living in.

[Translation]

To further illustrate the importance of collaboration and cooperation, I would suggest that if a public complaint was received by the commission that pertained to national security, but also contained allegations related to RCMP member conduct, the two review bodies should be able to collaborate, within their respective statutory mandates, to deal with the complaint. That is the only way that the Canadians who had made a complaint would receive an appropriate response to all their complaints.

Although the legislation requires the complaint to be referred to the National Security and Intelligence Review Agency, the CRCC, as the expert review body in relation to policing and police conduct, could deal with the allegation related to member conduct. This would ensure a consistent approach in reviewing complaints of RCMP on-duty conduct.

[English]

In terms of changes to the commission's mandate relative to Bill C-59, certain elements in the legislation might benefit from further clarification, and that the members of this committee may wish to consider further. Proposed amendments to the RCMP Act require that the Civilian Review and Complaints Commission refuse to deal with a complaint concerning an activity that is closely related to national security and refer any such complaint to the national security and intelligence review agency. That means the CRCC will continue to receive all public complaints related to the RCMP, and thus will remain the point of intake for public complaints. The onus will then be on the CRCC to determine whether the complaint is, in the words of the legislation, "closely related to national security" before deciding on how it will dispose of it.

Absent a definition of national security, however, the commission must make a determination on whether to refer the complaint to the national security and intelligence review agency. Once referred to the national security and intelligence review agency, that agency must receive and investigate the complaint in accordance with section 19 of the new legislation. There is currently no authority, however, for a referral back to the CRCC if the national security and intelligence review agency were to deem, after it had examined a complaint, that it was not a matter closely related to national security. This is a matter that the committee may want to consider further.

[Translation]

Also, while Bill C-59 prohibits the commission from dealing with or investigating complaints closely related to national security, as well as RCMP activity related to national security, there is no prohibition on the commission's chairperson from initiating a complaint related to national security. Further to the RCMP Act, if the chairperson is satisfied that there are reasonable grounds to investigate the conduct of an RCMP member in the performance of any duty or function, the chairperson may initiate a complaint in relation to that conduct. Bill C-59 does not amend subsection 45.59 (1) of the RCMP Act and, as a result, the chairperson could initiate a complaint closely related to national security. I respectfully suggest that the committee may wish to consider whether this is consistent with the intent of the legislation.

[English]

As I indicated at the beginning of my remarks, I believe in the importance of civilian oversight of law enforcement, and we at the Civilian Review and Complaints Commission for the RCMP are fully committed to working with the new national security and intelligence review agency.

In closing, I'd like to thank the committee for allowing me to share my views on the important role of the independent civilian review. I welcome your questions.

• (1215)

The Chair: Thank you, Mr. Bujold.

Mr. Spengemann, you have seven minutes please.

Mr. Sven Spengemann: Thank you both, Mr. Bujold and Ms. Gibb, for being with us today and for sharing your expertise and for your service to the country.

First, I want to circle back to what you mentioned already in your submission, the standard of "closely related to national security". Absent any suggested amendments, how likely do you think it is that the commission would frame a scenario as being closely related to national security and NSIRA would send it back to you saying that it's not? Is that a likely outcome? If so, what would make it likely?

Mr. Guy Bujold: First of all, let me make it clear to the committee that the number of complaints that have a potential for being related to a security matter is very small. When we review the complaints in the commission since 2015, we can identify a half a dozen that might have been related to security matters and that would therefore no longer fall within the purview of the CRCC. That's the first point.

The second point is, I believe that, notwithstanding the fact that there isn't a precise definition, the agencies working together... And that's the construct that I have in my own mind as to how this will all unfold. In real life, we'll be able to identify those areas where there is a possible blurring, if you wish, and those will be resolved.

I still believe, however, that this inability of the CRCC to return something—

Mr. Sven Spengemann: In those very small cases—

Mr. Guy Bujold: —in a number of very small cases.... And whether it warrants an amendment in and of itself, I will leave to the committee to decide, but the lack of that as a provision in the legislation might prove to be an issue at some later date.

Mr. Sven Spengemann: Okay, that's very helpful, thank you.

I have a second technical question and a couple of broader ones within the remaining five minutes. Are there any budgetary or personnel pressures that you see resulting from the proposed changes to accountability and oversight as stipulated in Bill C-59, from the perspective of the commission?

Mr. Guy Bujold: No, certainly not with regard to the commission itself, because, in our case, we're having some work removed from us and, as I say, the amount of work is fairly small.

I think where there's more of a resource implication for us is if we did one of these systemic reviews like the ones I mentioned in my remarks. Those can be quite time consuming and fairly expensive, but again, we are being taken out of that field with regard to security, so it wouldn't....

You may have had testimony to this effect from others. The resource pressures associated with creating the new agency will be something that will require some careful attention. Depending on the model that is put in place—the CRCC can be, we believe, a useful example to use as a guide for the creation of the new agency—the examination of the model will lead to the consideration of the resource implications, and those should be funded adequately, absolutely.

Mr. Sven Spengemann: On the issue of workplace harassment, the commission issued the May 2017 report. I wonder if you could give this committee an update on this very important work as it has unfolded since then. Maybe even circle back to the highlights of the 2017 report, if you wish, but also let us know where that issue falls.

With respect to the argument we just made, it's clearly arguable that this is a national security issue because it affects the RCMP nationally and impacts national security. Is this going to remain your work? If so, to what extent, and to what extent would NSIRA become involved in the question of workplace harassment?

Mr. Guy Bujold: I'll make a few comments, and then I'll ask Ms. Gibb to add her own thoughts to this.

As you correctly point out, this was a significant investigation by the CRCC into harassment in the workplace at the RCMP. I'm not sure that it has a national security dimension to it. We certainly saw it as something much broader than that and therefore examined it using that kind of a frame.

As is the case with all reports that the CRCC does, it is our practice to return to the recommendations and the observations that we had made at the time to determine whether or not there had been movement in the RCMP to deal with any of those recommendations. We are monitoring the way that the report's recommendations have been implemented.

Joanne.

• (1220)

Ms. Joanne Gibb (Director, Research, Policy and Strategic Investigations Unit, Civilian Review and Complaints Commis-

sion for the Royal Canadian Mounted Police): The workplace harassment report was the first time the commission exercised its new mandate further to the amendments that were made in 2014 to the RCMP Act, so we put the report out. There were nine findings and 10 recommendations, including two that were made to the government as opposed to just the RCMP.

My understanding is that there is some work being done within the RCMP and within Public Safety to look at the report, to respond to it, and to answer the recommendations, but we do not at this point have a written response. I am aware that there are some considerations to those recommendations.

Mr. Sven Spengemann: I wanted to broach the question of youth policing in context of the question of potential radicalization of young Canadians or them being vulnerable to radicalization by foreign or even domestic terrorist organizations, both right-wing and others.

Is this work that your commission has intersected with, and if so, how does that play into the question of whether this is a national security issue or something that is dealt with on more local levels within the RCMP structure?

Mr. Guy Bujold: I'm not aware that we've actually dealt with it as a specific subject. In a world where Bill C-59 did not exist, it would be an issue that would be on our list of systemic review issues that we might want to consider looking at in the future. Therefore, in the new context where the new agency is created, they might very well, using their own powers, do a review of that subject. Yes, I think it would be in that case definitely related to national security, certainly the way you framed the question.

Mr. Sven Spengemann: That's helpful.

I think that's my time. Thank you, Mr. Chair.

The Chair: Thank you, Mr. Spengemann.

Mr. Dubé, 14 minutes, please.

[*Translation*]

Mr. Matthew Dubé (Beloeil—Chambly, NDP): Hello.

I am pleased to hear that I have 14 minutes.

Thank you for being here today. I have a number of questions and I would like them to pertain to the bill, but certain issues relate to your organization and the RCMP, broadly speaking, and to the topic under consideration.

My first question relates to the lack of consistency across Canada. There are a lot of questions about the way police action is investigated, in Ontario and Quebec in particular, which have provincial police services. We have even heard that the police services in Toronto, Montreal, and other cities have significant involvement in all kinds of anti-terrorism work. Could the lack of consistency in evaluating police work and handling complaints, in both legal and practical terms, be problematic for these national investigations?

Mr. Guy Bujold: Thank you for your question. It is very interesting and it is something our agency is concerned about, whether in relation to national security or otherwise, and which has been brought to our attention through complaints from members of the public. As you said, it is not just the commission. There are similar organizations in the provinces which are also responsible for reviewing surveillance by various police services.

There is an association of the heads of those organizations. They meet fairly regularly to discuss common issues. As you rightly pointed out, Mr. Dubé, how can we ensure consistency and a standard approach to complaints that have been made about an officer from the Sûreté du Québec, the Ontario Provincial Police, or the RCMP elsewhere in the country, so that the complaint is reviewed in a similar way, regardless of the police service involved. There are conversations between these various groups to make sure that—I will use the English expression—

[English]

if it walks like a duck, it talks like a duck, looks like a duck, therefore we're going to treat it as a duck. We should treat all of them as ducks.

[Translation]

That is how we go about it.

•(1225)

[English]

The Chair: Mr. Dubé, I have had a liberal interpretation of Mr. Spengemann's question on Bill C-59, and I've had a liberal interpretation of your question. Could we somehow or another tie the interaction to Bill C-59 and ask witnesses to bear that in mind when responding to members' questions.

Mr. Matthew Dubé: I appreciate that, Chair. I'm just looking at the way police oversight happens in the context of...I think we've heard witnesses talk about that, but I appreciate that point.

[Translation]

The Anti-terrorism Act, 2015, provided for the sharing of information, further to Justice O'Connor's recommendation that we follow the trail. Has that changed the way you work? I can imagine that information or complaints might hypothetically be forwarded to the RCMP or, conversely, that the RCMP might forward them to CSIS.

You cannot get into the details, of course, but has this changed your approach regarding actions by the RCMP in situations that also involve other agencies?

Mr. Guy Bujold: I will ask Ms. Gibb to provide further information if necessary, but I can say that there are no problems with the sharing of information between the RCMP and the commission at this time, nor do we expect there to be any either when the changes in question come into effect. Under the current act, we have very broad powers to obtain the information we need to conduct investigations.

Mr. Matthew Dubé: I'm sorry, perhaps my question was not clear.

Let's say you receive a complaint related to an action by the RCMP involving the sharing of information as set out in the former Bill C-51 and as amended, in a sense, by the current bill.

What do you do if you follow the trail from the complaint and arrive at the information forwarded by CSIS, for instance, and you find that it is the actions by CSIS that are the object of the complaint?

[English]

Ms. Joanne Gibb: We don't have any public complaints of that nature, but I'll add that our ongoing national security review into Justice O'Connor's recommendations is looking at domestic information sharing as it is currently done by the RCMP.

When that's complete, we should have a better answer for you on whether or not Bill C-51 affected how they share information, but I'm not aware of any public complaints regarding information sharing in that regard.

[Translation]

Mr. Matthew Dubé: As to sharing information with our allies, the example that comes to mind is Operation Hemisphere, I think it was called. We received information from the DEA, the U.S. Drug Enforcement Administration.

When the information comes from another country, does that complicate the commission's work?

Mr. Guy Bujold: No. Actually, we would not receive much information about the review of a complaint.

[English]

Ms. Joanne Gibb: I'll add again, just to promote my investigation, that foreign information sharing is also part of that ongoing review.

[Translation]

Mr. Matthew Dubé: As regards national security, you made recommendations about how to proceed in this context and the need for a stronger definition. If I understand correctly, however, the ideal would be for you to work together rather than passing the buck back and forth.

You conduct parallel investigations, is that correct? How do you see this?

Mr. Guy Bujold: First of all, we want to meet the legal requirement, under the act, to refer cases involving national security to the new agency. However, in an investigation relating to a worrisome national security issue, if we find that an RCMP member did not fulfill their obligations, their conduct would be an issue. In our view, the commission should be able to continue that investigation. That would mean sharing information with the new agency and would allow us both to conduct our investigation to arrive at a conclusion.

•(1230)

Mr. Matthew Dubé: If I understand correctly, in the case of death or serious injury—

Mr. Guy Bujold: That is not our responsibility.

Mr. Matthew Dubé: Is that a change that should be considered to broaden the commission's mandate?

Mr. Guy Bujold: No. The commission does not deal with criminal matters at all. Its role is to determine whether an RCMP member's conduct is in violation of the policies, training, and legislation that dictate their conduct. If there are legal proceedings because of the conduct of an RCMP member, other authorities will become involved.

Mr. Matthew Dubé: You mentioned that you are reviewing Justice O'Connor's recommendations.

Will you publish a report once you have completed that review?

[English]

Ms. Joanne Gibb: Yes, a report will be made public at some point.

[Translation]

Mr. Matthew Dubé: I have one final question. I might then give Mr. Picard some speaking time since it is his birthday.

My question pertains to the Canada Border Services Agency. There is a debate going on right now that you are certainly aware of. There is always some tension between police authority and the territory a certain number of kilometres around customs areas. There have been some incidents, in Windsor in particular. As I recall, someone died following a police chase.

One of the questions raised in the debate of Bill C-59 is the review or surveillance of the Canada Border Services Agency.

Does your mandate include the work the CBSA does in co-operation with the RCMP or is it once again a question of following the trail, national security issues, and information sharing?

Mr. Guy Bujold: I will heed Mr. McKay's warning and limit myself to a few brief remarks.

First, we know full well that the government is considering the need for a body like ours to review complaints about actions by members of that organization.

If such an agency is created, it would be in the public interest for it to have a clear link with the commission to ensure that, in cases where the responsibilities of the RCMP and the CBSA overlap, we can do what we have to do.

Mr. Matthew Dubé: I said that was my last question, but that is not true. I have another one.

I listened to your presentation and looked over your speaking notes. Perhaps I missed something, but do your recommendations include a clear definition of national security?

Mr. Guy Bujold: No, we do not have a particular definition.

Mr. Matthew Dubé: Okay, thank you.

[English]

The Chair: Ms. Dabrusin, you have seven minutes.

Ms. Julie Dabrusin (Toronto—Danforth, Lib.): Thank you. It's been an interesting conversation.

I'm really interested in the role between the two organizations, with NSIRA coming into place.

When I was asking questions of an earlier witness, I talked about how there can be differential impacts to legislation on different communities and different groups. From your experience as a review organization that's already looked at national security issues, do you have any suggestions as to what we should be looking for when developing NSIRA, how to take into account those differential impacts, and what tools we should have in our tool box so that oversight can balance against the differentials?

Mr. Guy Bujold: One could spend a fair amount of time—

Ms. Julie Dabrusin: You have six minutes.

Mr. Guy Bujold: At the heart of it, it would be describing the way we actually do a complaint investigation, what the various processes are that we follow in order to ensure there is consistency in the way we treat it, but also that you have a higher likelihood that the end point of your investigations will be the same when faced with similar situations. We certainly would be more than happy to talk to the people who are setting up NSIRA in order to establish that operational framework around how they do their business.

In terms of the legislative part of it, there are certain elements, again, of our legislation, of the RCMP Act, that could be used, essentially, to model the new agency.

Joanne, do you have any comment?

• (1235)

Ms. Joanne Gibb: It's procedures and how you do your business.

An example is the workplace harassment review. When we were asked to do that by the minister, we looked at what our task was, and then we decided on the best approach and the best people to do it. We knew we wanted to engage members. We knew it was a really sensitive issue. We sought out a former major crime investigator retired from the Ottawa Police Service, a female, who we knew not only had a lot of knowledge of investigations but also would bring the right approach to speaking with the people and engaging in that way. It was very effective in that regard.

I think it's just more how we do our business as opposed to maybe a legislative change.

Ms. Julie Dabrusin: It's something to be mindful of as we organize NSIRA and develop it.

Therefore, you don't see any legislative changes, because there were some suggestions about how the composition may look for that agency, and whether this differential impact should be taken into account. Or it can be something that's completely outside of the legislation. It's just more viewpoints as to how we have our tool box, what we hand them as their procedures and rules on how they operate.

Do you have any question on that, on the composition issue?

Mr. Guy Bujold: Yes, I have one observation. I think members of the committee and the government would want to be very mindful of the governance structure put in place for this organization. The existence of a chair, a vice-chair, members, and who those members are and where they come from is, in my view, a very important consideration in order to ensure the organization can actually deliver the mandate the government wants it to deliver. It's not just a question of hiring good staff. If you don't have the governance structure.... I am talking to people who do governance here all the time. If you don't have that element right, the chances of success, I think, are quite lower.

Ms. Julie Dabrusin: All right. Thank you.

That is all that I have as my questions, but I don't know if Monsieur Picard has any?

Mr. Michel Picard: Yes, thank you.

[Translation]

Is there a problem with security clearances as regards the committee that will review complaints involving national security and your commission, in terms of the information you might share since the complaints will be going back and forth between you?

Mr. Guy Bujold: No, the commission's employees, myself included, have high security clearances that already give us access to the information.

Mr. Michel Picard: When you receive and investigate a civil complaint and when it is clearly recommended to send it to national security, who makes that decision? Does national security let you know that something is its responsibility or do you decide who will take care of the issue in light of facts?

Mr. Guy Bujold: As far as we understand the bill, once a complaint is read, our organization would decide whether to send it to the new agency.

Mr. Michel Picard: Among the challenges that present themselves are lone wolves who make their crime seem like an act of terrorism and a threat to national security. We talked about this with the first panel of witnesses.

When someone commits a crime and decides to shout, "*Allah Akbar*", it does not mean it's a matter of national security. How should we deal with that?

My colleague Mr. Spengemann gave several examples of cases that are not really related to terrorism and have no political overtones, but are indeed crimes.

What acts should be considered as national security problems?

• (1240)

Mr. Guy Bujold: I just want to remind you that the commission does not concern itself with crimes. When a crime is committed, and a victim feels that the RCMP or one of its members misused its powers, a complaint should be sent to us.

Mr. Michel Picard: My question is incomplete; I should have gone further.

An officer who is speaking to a Canadian about the nature of their behaviour or because they have information that leads them to

handle the case more or less delicately—we hope more delicately—could come to that conclusion. That is the issue of lone wolves.

Mr. Guy Bujold: Yes.

[English]

The Chair: Mr. Calkins, please, for five minutes.

Mr. Blaine Calkins: Thank you, Mr. Chair.

My questions for you are going to be very pointed about the Bill C-59 legislation. As it exists right now, if you find something as you are doing an investigation, from a complaint that's sourced either internally or from outside, and it does become the opinion of CRCC that it's a national security matter, currently it goes nowhere. Is that correct?

Mr. Guy Bujold: No. Before this legislation, we would—

Mr. Blaine Calkins: This legislation is not enacted yet.

Mr. Guy Bujold: Right. We would take that complaint and we would investigate it, as we would investigate any other complaint.

Ms. Joanne Gibb: Right, or refer it to the RCMP, for instance.

Mr. Guy Bujold: Or refer it—

Mr. Blaine Calkins: If you found a national security issue, what would you do with it right now? It doesn't go anywhere, correct?

Ms. Joanne Gibb: Like a systemic issue, do you mean?

Mr. Blaine Calkins: No, I'm just asking you about right now, so I guess I should be asking this question: has a matter of national security ever come up in an investigation that you've conducted so far?

Mr. Guy Bujold: Yes. I believe that in my comments I indicated that when we look back on the cases that we have dealt with since 2015, we identified a potential of six cases, six complaints—

Mr. Blaine Calkins: Six complaints.

Mr. Guy Bujold: Not six reviews, but six complaints, which would, under an interpretation of the current legislation, had the new agency existed, require the commission to send them to—

Mr. Blaine Calkins: —to NSIRA, but because NSIRA doesn't exist, they just all stayed internally within your organization. Is that correct?

Mr. Guy Bujold: Yes, we would deal with the complaints.

Mr. Blaine Calkins: Okay. You've said that absent a definition actually in the legislation, it's going to be difficult for your organization to make a determination about the point in the investigation at which you hand over information that could be relevant to NSIRA. Is that correct? Did I understand that correctly?

Mr. Guy Bujold: I said two things. One, the number of cases in which that would come out based on past practice would be very small. Two, we believe, absent a definition, we would be able to deal with those cases through discussions between ourselves and the new agency.

Mr. Blaine Calkins: Right, but it seemed to me as though you were actually making a case to have a definition added to the legislation. Is that true?

Mr. Guy Bujold: We don't believe that any definition would actually be able to create a razor's edge between what is a security and a non-security issue.

Mr. Blaine Calkins: So you weren't making the case for a definition.

Mr. Guy Bujold: No, we are not advocating for a definition.

Mr. Blaine Calkins: Okay. Could you assure this committee that the expertise exists within your organization to make a determination in-house when a matter does cross that national security threshold?

Mr. Guy Bujold: Yes, we believe we do, because, as I said, we've gone back and reviewed the files that we have had over the last years and have come up with a definition that satisfies us that those five or six cases would have been national security matters.

•(1245)

Mr. Blaine Calkins: Are you satisfied that, with the security level you currently have or will have if Bill C-59 is enacted, you will have access to enough intelligence on a national security matter to cross-reference in order to know if you have an investigation ongoing whether it might involve national security, or does the information become self-evident as you conduct the investigations?

Mr. Guy Bujold: As I mentioned in answer to one of the other questions, we have very broad powers to receive information that we need, and internally we have both the capacity and the security classifications that would allow us to do the work that we need to do with that information.

Mr. Blaine Calkins: In your opening remarks I heard you say that a concern you had was that there was no referral back to your organization should NSIRA make a determination that it does not cross or meet whatever their threshold is for a national security issue. Would you be advocating to request a legislative change in Bill C-59 to make sure that issue is brought back to your organization? I'm assuming from your comments that when an investigation does cross that national security threshold, in your organization's opinion, and you send it on—or will be sending it on to NSIRA, in this particular case—that investigation would cease in your organization. Is that correct?

Mr. Guy Bujold: Yes.

Mr. Blaine Calkins: Then if it didn't meet the test, you would like to have the investigation back to continue it to its conclusion.

Mr. Guy Bujold: Yes, that is our position. We are saying that in the eventuality that NSIRA were to determine that no, it wasn't and there were dimensions of that which were related to the conduct of an RCMP member, they would send it back.

Mr. Blaine Calkins: I have one last question. Do you have any concerns about privacy or access to information powers that you have right now? What would the commissioners of either of those organizations say with regard to Bill C-59 in your organization? Have you no concerns?

The Chair: Very briefly.

Mr. Guy Bujold: No.

The Chair: Thank you.

Mr. Picard, go ahead again for five minutes.

[Translation]

Mr. Michel Picard: I want to come back to one of the questions asked.

When you receive a file involving a national security element, it is provided that you should transfer that file and end the investigation. You have proposed a procedure whereby the new agency would refer the file to you if it determined that no investigation was needed.

Wouldn't it be simpler for you if the file was suspended until a confirmation was given for you to continue the procedure?

That puts an end to the issue of national security, and you know that you can close the file. If the file remained open, you could continue the procedure.

Mr. Guy Bujold: There would probably be many ways to get the same result. The most straightforward way is definitely in the act and enables the National Security and Intelligence Review Agency to refer the complaint to us if it determined that national security was not involved.

Mr. Michel Picard: I like simple documents. But this one is already fairly extensive. It has about 150 pages. I thought that a memorandum of understanding or an internal procedure would help get the same result.

Mr. Guy Bujold: That is why I was saying that there are probably other ways to get the same results.

Mr. Michel Picard: When you investigate a complaint, it's always after the fact. Something happened, but that does not necessarily mean that the operation is finished.

Can you get involved in an investigation even if an operation is ongoing and if, in the case of a national security issue, you once again risk meddling in something very delicate?

Mr. Guy Bujold: That's a very good question.

Our practice is not to conduct an investigation if we determine that, by doing so, we would harm an investigation or another ongoing activity. We try to respect that consistently.

Mr. Michel Picard: Do other organizations put pressure on you to slow down certain files?

Mr. Guy Bujold: No.

Mr. Michel Picard: That's the end of my gift, Mr. Chair.

[English]

I'm done.

The Chair: You're quite brief on your birthday.

Mr. Motz, you have five minutes.

Mr. Glen Motz: I wish to advise the committee that I will be sharing my time with the aged Mr. Picard.

Voices: Oh, oh!

Mr. Glen Motz: I only have one question actually.

What will your process be, when this happens, in order to consult with NSIRA for your determination of whether or not a matter or a complaint falls within an investigation or is national security related?

I would be so bold as to suggest that the initial complaint may not be as evident when it first comes in. As you uncover that, will you, and how will you, go about consulting with NSIRA on these matters?

Mr. Guy Bujold: The modalities of the consultation are something we will have to work out with the new agency. We have an objective in mind, which is to ensure that we respect the intent, both the spirit and the letter of the new law, which says to us, “You are not to do this. You are to send it over.”

We believe that in the majority of cases, we will be able to make the determination quite easily as to whether it is in pith and substance something related to national security. There will be a few instances, and again we go by history—the past being a good indicator of what may occur.... In a few instances, we will want to talk to the people at NSIRA to ensure, not necessarily in dealing in a granular manner with everything that's related to the complaint, but with enough specificity to ensure that....

It would seem to me that our default would be that if NSIRA said in that conversation, “Yes, this is a matter of national security”, we would toss it over to them, which makes the notion of them being able to return it to us, if they thought it wasn't all that more important....

• (1250)

Mr. Glen Motz: Having investigated complaints against the police for years, I am curious to know this. You obviously will be able to determine national security issues simply by.... I'm sure in your practice you don't have access to all their databases, you'll have access to individuals who have access to their databases. You'll have a complainant's name. You'll potentially have an RCMP officer's name. You should know within a phone call or two, and they will tell you whether this is a national security issue or not.

Is that fair?

Mr. Guy Bujold: I think that is fair.

Mr. Glen Motz: Thank you.

The Chair: Mr. Fragiskatos, five minutes, please.

Mr. Peter Fragiskatos: Thank you for being here today and for the work that you're doing.

I take your point on definitions of national security and, as you say, absent a definition, you're in a difficult spot. You said that you were currently, though, operating under a definition.

What is that definition?

Mr. Guy Bujold: No, we are not operating under that definition, because we don't have to operate under it.

What I said—

Mr. Peter Fragiskatos: Okay, maybe I misunderstood.

Mr. Guy Bujold: What I said is that in going back and looking at the cases—the complaints we've had—we believe that there are five or six of them—

Mr. Peter Fragiskatos: What criteria are you using to assess those cases as national security matters?

Ms. Joanne Gibb: The most obvious ones. The ones we've looked at relate to charities, terrorists listing for charities, high-risk

travellers. That language is in it, so sort of on the face of it, it's very obvious.

We have others, though, that we potentially might count. One, for example, is where an individual was complaining about the RCMP's actions because he was denied a passport. That's all the information we have. Given the location, the RCMP does federal policing in that location, so we're assuming that maybe it's related to national security. That's one of them where we would have to make a few more calls and dig into it a little further to determine if in fact this is a national security related matter.

Mr. Peter Fragiskatos: This has always been a problem when it comes to national security. It's a very ambiguous concept. I am on the Department of Public Safety website, and under the heading of national security, it's ambiguous here too. They say it's a multi-faceted endeavour. They have a number of subheadings that pertain to national security. Counterterrorism, counter proliferations relating to weapons of mass destruction, critical infrastructure, and cybersecurity. Could you not use something like that as a general framework when complaints come in? If they fall within these categories, then you shift them over to NSIRA. Wouldn't that be helpful?

Ms. Joanne Gibb: The one that sticks out for me in that is critical infrastructure protection, and I've had conversations about public safety and the RCMP. It's in SCISA, it's linked to national security. But given how the RCMP is set up, it's usually not national security. Sometimes it is but for the most part it isn't. That's where the challenge is for us in trying to notionally define what is closely related to national security or elements like that. Same with the issue of intelligence, and I know it's been raised here. It's not listed as part of the mandate change for CRCC; the word intelligence has been omitted because the RCMP does intelligence-led policing; that's what they do. It's in the national security and every other aspect of their mandate. If we were to restrict to everything the RCMP does in collecting intelligence as national security, it would probably be almost every complaint we have to a degree. That's really a definitional issue. We would look to NSIRA and how they frame it, and we would look to the RCMP and how they frame some issues. Just because the RCMP is collecting intelligence on a protest, and doing it perhaps in plain clothes, doesn't necessarily mean it's a national security matter. We would probably make the call to find out —

• (1255)

Mr. Peter Fragiskatos: It could be an issue of civil liberties; is that where you're going?

Ms. Joanne Gibb: It could be just an issue of public safety. They were worried that violence might occur. It may not have any link at all to Nexus or national security in how the RCMP frames it.

Mr. Peter Fragiskatos: It's an interesting point.

Those are my questions, Mr. Chair.

Thank you.

The Chair: Assuming Mr. Picard has no further questions, Mr. Dubé, you have the final few minutes.

Mr. Matthew Dubé: I'm good.

The Chair: With that, assuming no other questions from any other side, I want to thank you both for your contributions.

The meeting is adjourned.

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