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Chair

Mr. David Tilson

Standing Committee on Citizenship and Immigration

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• (1530)

[English]

The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)):
Good afternoon, everyone. This is the Standing Committee on Citizenship and Immigration, meeting number 60, on Monday, November 19, 2012. This meeting is televised. We're studying Bill C-43, An Act to amend the Immigration and Refugee Protection Act.

We have two witnesses before us today. The first is the Ontario Council of Agencies Serving Immigrants, represented by Amy Casipullai—every time you come here I pronounce your name wrong and I'm sorry; you'd think I'd know—and Francisco Rico-Martinez. Good afternoon to both of you.

We also have Jacques Shore, who is a partner with Gowlings, which I assume is the law firm. Good afternoon to you too, sir.

We will let you go first, Mr. Shore. You have up to 10 minutes to make a presentation.

Mr. Jacques Shore (Partner, Gowlings, As an Individual):
Good afternoon, and I thank you for inviting me to appear before this distinguished committee today. These remarks are presented to the committee in memory of my cousin, Lily Bergstein, who, along with her husband, Salomon Bergstein, witnessed the atrocities of the Second World War.

[Translation]

I am very pleased to be here this afternoon to support Bill C-43 in principle. I would like to take this opportunity to commend the government for tackling this difficult issue and for proposing some essential and long overdue changes.

With some amendments, I am confident that Bill C-43 can improve national security, public safety and ensure the fair treatment of non-citizens.

[English]

I am very pleased to be here this afternoon to support Bill C-43 in principle. I commend the government for tasking this difficult issue and making these changes which are long overdue.

I would like to concentrate my opening remarks on three specific measures.

First, I support clause 24, which removes the appeal rights for persons convicted of crimes and sentenced to imprisonment for six months or more. This will speed up deportation of those convicted of serious offences. Criminals should not slow down the Canadian

justice system by relying on years of appeals and giving them the opportunity to reoffend.

This is not to say that a person should be automatically inadmissible to Canada if they have committed a serious crime. There is already a safety valve in the system to ensure that each person's individual circumstances are taken into account. Under subsection 25(1) and subsection 25.1(1) of the current version of the Immigration and Refugee Protection Act, the minister may allow a person to stay in Canada even if he or she has been deemed inadmissible. This effectively operates to prevent injustice within the system. Bill C-43 maintains this important power.

This brings me to my second point. Clause 18 amends section 42 by adding the criteria that the minister may take into account when deciding if certain persons should be allowed to stay in Canada. This clause only applies to persons deemed inadmissible because of a security risk because of human or international rights violations or organized criminality. As drafted, the minister would only be permitted to assess national security and public safety considerations when exercising this discretion. I believe this is appropriate as undesirable criminals should not be permitted to linger in Canada.

In exceptional cases the minister will, I believe in any case, still be able to determine if a person may enter or remain in Canada by considering additional factors in the context of the words in proposed subsection 42.1(3), which provides “but, in his or her analysis,”—that being the minister's—“is not limited to considering the danger that the foreign national presents to the public or the security of Canada”.

I am apprehensive of the potential impact this legislation could have on permanent residents who have spent most of their lives in Canada. I believe that those living in Canada who are permanent residents must value and recognize the privilege of living in our country. One may ask how someone with no real connection to their country of origin can be deported. Other witnesses have expressed views and members of this committee have raised their concern on this question. However, I must conclude that with this privilege of permanent residence must also come the responsibility to be law-abiding and the will to make a positive contribution to our society.

While the ability of the minister to exercise discretion in such cases is important, consideration should also be given in another vein to implement measures to prevent this sort of situation from arising. Perhaps it is time to consider instituting a program to encourage good citizenship that would also motivate long-time permanent residents to apply for citizenship. This could help prevent the unfortunate cases where young permanent residents become misguided and engage in unlawful activities. This could also ensure that they are aware of the risks if they lack citizenship, often due to the neglect of their parents or guardians.

• (1535)

It is the right time to re-emphasize Canada's citizenship guide and its reference to Canada's four pillars: freedom, democracy, human rights, and the rule of law. Our Canadian values should be viewed as paramount and should be emulated in the behaviour of those who seek to live in Canada as permanent residents and those who seek to become Canadian citizens.

My third point also deals with ministerial discretion. Specifically, I would like to discuss clause 8, which gives the minister the power to declare that a person may not become a temporary resident. Bill C-43 allows the minister to use his or her discretion if he or she is of the opinion that it is justified given public policy considerations. I believe this is a necessary provision. There are people who should not be allowed to come to Canada who nevertheless do not match any of the inadmissibility criteria established in the Immigration and Refugee Protection Act.

Bill C-43, if passed, could prevent people who have demonstrated track records of blatant lack of respect for our society's cherished values from coming to Canada. The minister has proposed guidelines for how to exercise the power. These indicate that individuals who promote terrorism, violence, or criminal activity, as well as certain foreign nationals from sanctioned countries and corrupt foreign officials, would be prevented from visiting Canada. These guidelines respect the need for certainty and restraint in the use of a discretionary power.

In line with this principle, I would suggest that the guidelines be incorporated into the text of Bill C-43 itself. The current use of public policy considerations in clause 8 is quite vague and could be clarified. Such a clarification would result in three key benefits. First, it would give guidance to the decision-maker, the minister. Second, it would provide clarity, enabling the public to fully understand the law and its stated criteria. Third, it would give a potential judicial narrowing to the scope of ministerial power.

Australia has adopted a similar approach. In the Australian Migration Act 1958, the minister is given discretion to refuse or cancel a visa based on very specific grounds. For example, this power can be exercised if there is a significant risk that the person would incite discord in the Australian community or would vilify a segment of the Australian community. This condition provides certainty and transparency and ensures that the objectives of the act are met.

Canada can reap the same benefits by specifying in clause 8 the factors to be considered by the minister.

In summary, ladies and gentlemen, Bill C-43 is a step in the right direction. It will prevent criminals from taking advantage of our overly generous appeals process. However, I would recommend amendments to clarify the role of ministerial discretion to justifiably refuse temporary resident status. With some minor changes, this bill could advance Canadian immigration law in a manner that serves to protect Canadian citizens and instills fairness in our immigration review process.

I thank you, honourable members of this committee, for giving me the time to speak with you today.

[*Translation*]

Thank you very much.

• (1540)

[*English*]

The Chair: Thank you, Mr. Shore.

Ms. Casipullai and Mr. Rico-Martinez, you have 10 minutes between you. Thank you for coming.

Ms. Amy Casipullai (Senior Policy and Public Education Coordinator, Ontario Council of Agencies Serving Immigrants (OCASI)): Mr. Chair and committee members, thank you for inviting us to share our views on Bill C-43 with you today. I will start off with an introduction and then I'll hand it over to my colleague Francisco. Francisco is OCASI's Toronto regional director, and he is here in that capacity.

We would like to focus our presentation on the impact on children and youth, particularly children and youth from racialized communities.

We are very concerned about clause 24 of Bill C-43, which takes away the right to appeal for a permanent resident who is convicted of a crime punishable by a sentence of six months.

Canada's visible minority population was over five million in 2006. That represents 16.2% of the total population. Canada's racialized population is younger than the rest of the Canadian population, and the recent census numbers from Stats Canada show that the prison population grew by 17% between 2006 and 2011.

In December 2011, Canada's Correctional Investigator said he was concerned about the sharp increase in the number of black inmates in federal prisons over the past decade, an increase of about 50%. Statistics on the disproportionate numbers of incarcerated black and aboriginal individuals are not easy to find. The most recent set of comprehensive figures that we could find were from a 2004 study by Corrections Canada, which confirms that black offenders are overrepresented in prison while Caucasian and Asian offenders are under-represented relative to the general population. Visible minority women are also overrepresented compared to Caucasian women.

The Corrections Canada study also found that visible minority offenders tend to be younger and that they are at a lower risk of reoffending.

Now I'll hand it over to Francisco.

Mr. Francisco Rico-Martinez (Regional Director, Toronto, Ontario Council of Agencies Serving Immigrants (OCASI)): We are basically focusing on youth and racialized youth because these are the people we serve in the different community-based organizations, and this has been an issue identified by our members.

A 2010 *Toronto Star* investigative series on Toronto police data for the period 2003 to 2008 found that black men ages 15 to 24 years are stopped and documented 2.5 times more than white males the same age. The finding echoed a similar analysis of data the *Toronto Star* conducted in 2002.

The overrepresentation of visible minorities in the prison system is rooted in factors of poverty, economic inequality, and historical prejudice. That includes the over-policing of young black men, a practice that results in racial profiling. The existence of racial profiling by police is well documented. It has been acknowledged to different degrees by various police services in Canada, including the Kingston police chief in 2005.

Racialization of poverty has been growing in Canada, including among the working poor. Racialized individuals do not have the same access to the labour market as everyone else has. This was documented in a recent report on Canada's colour-coded labour market, published by the Canadian Centre for Policy Alternatives.

In their study, "Review of the Roots of Youth Violence", Roy McMurtry and Alvin Curling have said that while poverty does not lead to violence, it can be one of the factors in play. They point out that poverty without hope, poverty with isolation, poverty with hunger and poor living conditions, poverty with racism, and poverty with numerous daily reminders of social exclusion can lead to the immediate risk factors for violence.

They note that lack of investment in services for those affected by these circumstances will have a deep impact on young people, leaving them with few choices for their day-to-day needs, even such needs as a quiet place to do homework. They note that these challenges can be exacerbated for those who have issues with language and cultural differences.

Clause 24 in Bill C-43 will have an unintended and disproportionate impact on black and other racialized permanent residents, particularly youth, a population that has been historically disadvantaged in Canada, and is already subject to routine suspicious scrutiny, negative stereotyping in media, and is often faced with longer sentences.

Corrections Canada's experience with visible minority offenders is described as follows in the study mentioned earlier:

In summary, visible minority offenders seem to be less "entrenched" in a criminal lifestyle than Caucasian offenders. They tend to have less extensive criminal histories, are incarcerated less often for offences against the person, and are lower in risk and need than Caucasian offenders. They also tend to have higher levels of education, less unemployment, and are less often single.

The study notably concludes that these circumstances may help in rehabilitation.

Bill C-10 has become law, and has introduced minimum sentencing. It will mean that even some non-violent crimes will carry a sentence of six months, making sure that those permanent residents will be deported from Canada.

Those who are subject to this provision can be deported regardless of how long they have lived in Canada. They will not have the right to appeal. There will be no consideration of the circumstances of the offence and potential for rehabilitation. There will be no consideration of the length of time they have lived here or their ties to family and community.

• (1545)

Individuals who have lived all their lives in Canada, particularly those who came as infants or young children, would lose families, friends and communities when they are deported to a place they barely know or remember from before. They will have no family or community connections over there. Unlike Canadian citizens, permanent residents will be punished twice for committing a crime.

We urge you to seriously rethink this bill, particularly the severe implications for young, visible minority Canadian residents. We strongly recommend that clause 24 be withdrawn, allowing the right to appeal to stand. We also encourage you to ensure that young Canadian residents are fully informed of the impact of Bill C-43 through avenues such as school curricula, as well as through other opportunities and campaigns, because this is going to have a serious impact in the communities that we serve.

Thank you very much.

The Chair: Thank you, sir.

We will now have some questions, first from Ms. James.

Ms. Roxanne James (Scarborough Centre, CPC): Thank you, Mr. Chair and thank you to our guests, some of whom are back for another time.

I'll ask Mr. Rico-Martinez a couple of questions first. You've said we need to rethink this bill specifically because of young, visible minority residents; I believe I wrote that down correctly. You seem to be indicating there's an imbalance in our federal penitentiary system. I'm wondering whether you're making excuses for people who commit crime. When you say that we need to rethink it because of a specific group, I have a bit of a problem with that because you said they have few choices of where they can do homework, maybe their language or cultures are different, maybe their skin colour is different.

I simply want to let you know that I know lots of people who fit those categories, but they do not commit serious crimes. I'm wondering why you substantiate your viewpoints based on those specific things and why you're against this bill. That's the problem I have with your statements.

I'm wondering whether you're making excuses for people who commit crimes and why you think we need to make excuses for people who commit crimes because, again, lots of people who fit those descriptions have few choices, to do homework, maybe come from a background where they're not wealthy and have language or cultural differences.

Mr. Francisco Rico-Martinez: First, it is not my opinion. I was quoting the studies from which we took this information. Even though we are not experts in the penitentiary system, the over-population, all the situations there, we did our research to show you that the population we serve in our agencies, community-based organizations, are racialized communities and a lot of them face a lot of isolation and discrimination and many other barriers, such as poverty, etc.

The majority of people whom I serve don't have a problem like this, but once in a while there is a problem of a youth, a person who makes a mistake. We are not talking about the crime; we are talking about that particular individual and their need to not be removed from Canada. They need protection. They need education. They need many other things that we can provide here that they won't have over there. Plus, we are talking about them having the chance to be rehabilitated after making one mistake. This is one of the areas we want you to focus on.

We are asking to give them the chance—

• (1550)

Ms. Roxanne James: Mr. Chair, I've got my answer, but I'd like to ask more questions in relation to that.

The Chair: I think she wants to ask another question.

Ms. Roxanne James: I understand what you're saying is that you based that on studies. Again, the study that says there might be a disproportionate number or whatever isn't a reason to excuse people who commit crimes.

I'm going to leave it at that and direct some of my questions to Mr. Shore now.

I saw in your bio, and you did mention it earlier, that you actually were a co-lead counsel for the Air India Victims Families Association with regard to the Air India bombing.

Mr. Jacques Shore: With regard to the inquiry, yes.

Ms. Roxanne James: Yes, that would have been something to be involved with, so I commend you for doing that.

I was going to ask you if you've talked to victims' groups or victims of crime. I suppose that probably answers my question, but I'm wondering if you could speak to that. People who are not Canadian citizens who commit a serious crime, what is the impact on those families of the victims themselves? Sometimes the victims are no longer here; they're not alive.

Mr. Jacques Shores: Absolutely.

Ms. Roxanne James: Can you speak to what the impact is on Canadians when something like this happens?

Mr. Jacques Shore: Thank you Ms. James.

My comments are observational. I have had the chance over the years to work with a number of groups and organizations that address issues on behalf of victims of crime, including the Canadian Coalition Against Terror.

There is a sense of frustration that the system is not working, when you look at individuals who have been victims of crime and when you see potential for reoffending by those who are here in

Canada but do not do what is necessary to respect the system, to engage in the system in a meaningful way, as I shared in my remarks.

I have come across, as my colleagues on the panel have said, outstanding immigrants who come to Canada. We are a nation of immigrants. I do think individuals who come to Canada as permanent residents have a sense of responsibility.

You look at those who are victims of crime. In the specific instance that you mentioned, Ms. James, I am dealing with the tragedy, post-Air India bombing where there are families. We know very well there are individuals who have committed heinous crimes and are here. Our system hasn't been able to address them in the way they would want. I think this is a demonstration of the frustration, which is why I applaud the government for taking a step.

Ms. Roxanne James: I listened to your opening remarks. You indicated that you agree with the provision to remove the right to appeal deportation. You're a lawyer so you obviously know the judicial system inside and out. I just want you to comment on the fact that people who are convicted or who are charged with a crime actually have the right to go through the judicial system and have the right to appeals.

Mr. Jacques Shore: There still is a ministerial ability to be able to address, in certain circumstances, those cases that should be reviewed. There are limits as a result of section 42.1 as proposed right now, but there are still opportunities for the minister, or those designated by the minister, to ensure that in instances where it would be a grave injury to send someone out of the country, they could do that.

There are safety valves for some of the categories. You are correct, Ms. James. I think we have a judicial system that is fair, that is exceptional when we look around the world at how fortunate we are. I would say that it gets to a point where once you have exhausted those appeal processes in the context of criminal trials, it should suffice.

Ms. Roxanne James: We talked about the impact it has on victims of crime, but is there a cost associated with that?

• (1555)

Mr. Jacques Shore: I made reference to the frustrations. Again, it is purely observational through the years of work that I have done. Looking at the way we have only so much ability to address the backlog of cases, whether it is in the immigration appeal division, our courts, and ultimately the Federal Court of Canada, there's only so much one can do to end up with a system that ensures that justice is addressed within a timeframe that is acceptable.

The Chair: Thank you Mr. Shore.

Ms. Sims.

Ms. Jinny Jogindera Sims (Newton—North Delta, NDP): Thank you very much and thanks to all three of you for giving up your time to participate in this critical debate. I certainly appreciate your contributions.

Having taught for years and dealt with students from diverse backgrounds and, over the last number of years, looking at research, Francisco, I certainly agree with the very factual information you put in front of us about certain students from diverse communities, from lower socio-economic communities, representing a higher proportion of those who are in our penitentiaries. That's a known figure. That's just a fact. That is not making excuses, but what it does to us as a government is it challenges us to look at some of the circumstances and conditions that cause that and it gives us pause to reflect.

From the work that OCASI does, and the vast majority of your work was with newcomers, I think we are in agreement that most new Canadians, people who come to Canada are law-abiding people who simply want to come to this country to make a better life for themselves and their children. They have all come here for different reasons and by different routes, but eventually they want a better life. As Jacques said, we are a country built by immigration and we're proud of that.

While on this side of the table we support the efforts to make sure violent, serious non-citizen criminals are removed from Canada quickly, we need to accept that they are a tiny minority.

In fact there is no evidence to suggest that permanent residents are any more prone to commit crime than citizens are. We really wish this government would make more effort to ensure the vast majority of law-abiding newcomers are treated fairly and can be reunited with their loved ones and provided the support system they need.

Sadly, we have a minister on the committee who seems keen on spending most of his time talking about immigrants as bogus—

The Chair: Stop the clock for a minute.

Ms. Sims, it's your dime and you can talk about anything you like as long as it's on topic—

Ms. Jinny Jogindera Sims: This is on topic.

The Chair: Those sorts of comments could be left for debate when we debate the clauses. We're not in clause by clause. We're asking questions of witnesses, and you're making statements, which you're free to do, but I'm telling you that these guys over here are being held back. They're going to go at you, and I will not stop them if you continue to attack the minister.

Ms. Jinny Jogindera Sims: I will go on to say that while I have sat on this committee, I have heard committee members across the way talk about immigrants as “bogus”, “queue jumpers”, “fraudsters” and “terrorists”. Those are quotes. Let me tell you—

The Chair: Stop the clock.

On a point of order, Mr. Menegakis.

Mr. Costas Menegakis (Richmond Hill, CPC): In line with the intervention you made, Mr. Chair, no one has ever referred to immigrants as “bogus”. That is a false statement. It's inflammatory, and Ms. Sims is going down the wrong path here.

Ms. Jinny Jogindera Sims: When you talk about asylum seekers, they are immigrants as well. They come into this country, and I'm quoting words that have been used in previous committee.

Mr. John Weston (West Vancouver—Sunshine Coast—Sea to Sky Country, CPC): What you're doing is out of context. We all—

Ms. Jinny Jogindera Sims: I was quiet while Ms. James did her thing, and I would really appreciate the same thing.

Here we are. As you probably know—

The Chair: Carry on. Start the clock.

Ms. James has a point of order.

Ms. Roxanne James: I just take a little bit of offence being referred to as “doing my thing” over here. I'm actually a member of Parliament in a committee trying to go through this particular bill with witnesses, so I would prefer that you actually don't speak to me in that context.

Thank you.

● (1600)

The Chair: That's true. We have to be respectful. As I've said many times, we're all honourable ladies and gentlemen, and I hope that we will act accordingly.

Ms. Jinny Jogindera Sims: Honourable ladies and gentlemen of the committee, as you well know, one of our biggest concerns with this legislation is that this bill will concentrate even more power in the hands of the minister, and that is actually what is in the bill.

My first question, Francisco or Amy, is can you talk to us about how these new powers will affect the people you work with on a daily basis?

Mr. Francisco Rico-Martinez: We are here to talk about the specific situation of no access to appeals for persons who make a mistake, and we are talking about youth. You can make an exception for youth, and you can indicate an age or whatever, but the person has to have access. We are not asking for a pardon for the people who make a mistake. We are asking for the chance to explain the situation, because that situation for the person who we send back could be horrendous and the future of that young person could be destroyed totally by a mistake. We understand there has been a mistake made and we are not asking that you forget the mistake. We're asking that the person have a chance to justify and explain the circumstances of what happened.

Ms. Jinny Jogindera Sims: Thank you very much for providing that clarification. I don't think any of us are saying...sometimes somebody can commit a crime that is so heinous that even with a six-month sentence you want them deported. Right? There are such cases out there.

What we're really talking about here is not the act of deportation itself. What we're talking about is the right to appeal, which in our system we consider part of our due process. We pride ourselves on being a country that is governed by the rule of law.

When you looked at this legislation, did you have a chance to look at amendments that could be made to this legislation that could help to protect due process and limit the increasingly arbitrary power of the minister?

Mr. Francisco Rico-Martinez: We are focusing on the amendment in clause 24. We are asking to remove it in order that persons have access to an appeal before the Immigration and Refugee Board.

The second thing we're asking is if there can be a campaign to explain the consequences of the implementation of the bill for the racialized communities, and specifically young people, because we don't have that in the curricula in high schools or wherever. We are asking you to also include something that is going to explain the implications of the bill to the young people of Canada, permanent residents and otherwise.

Ms. Jinny Jogindera Sims: My understanding, from what you have just said, is that you would ask that the appeal process be reinstated.

Mr. Francisco Rico-Martinez: Exactly.

Ms. Jinny Jogindera Sims: Right now we have an appeal process for sentencing above two years. Now that we have lowered the bar to six months, or raised the bar, whichever way you want to look at it, that appeal should be there for everyone. If this legislation should pass without any appeal, there should be education done to raise people's awareness of these issues.

Mr. Francisco Rico-Martinez: Even if the bill is passed with the amendment on the appeal, I think the campaign and the changes to the curriculum have to be suggested so that youth and children know about the implications of this bill.

Ms. Jinny Jogindera Sims: Thank you very much.

As you know, filing an application to immigrate to Canada can be a lengthy and challenging process. I actually looked at the forms when I was in my riding last week. Somebody came in to ask for help. The person was struggling with it. When you look at it, there is the potential for honest mistakes to be made on an application. Do you think five-year inadmissibility is an overly punitive measure for what could be an honest mistake?

Mr. Francisco Rico-Martinez: It is, particularly because that affects many people who are now obligated to make a mistake. Let me give you an example.

Some women are in very abusive or violent relationships. The husband fills out all of the applications and forces the woman to leave children behind, for instance. There are no names, because the husband doesn't want to name them. They come here. That could be a mistake that could have serious implications. The woman didn't have anything to decide or say at that particular moment. In that case, it has to be explored in a particular way under humanitarian circumstances, for instance.

• (1605)

The Chair: Thank you.

Mr. Lamoureux.

Mr. Kevin Lamoureux (Winnipeg North, Lib.): Thank you, Mr. Chair.

I want to approach this from a different perspective. The bill actually affects one and a half million people, permanent residents who call Canada home. This means that we should all be very much concerned about the content of the legislation itself. The government, in introducing it, listed its five reasons. Of course, they are those extreme cases.

I would like to mention a case that has been talked about and which I have had the opportunity to raise in the past.

Imagine, if you will, that you are a 19-year-old graduate living in Windsor, Vancouver, or Montreal, and you decide that you are going to go stateside to celebrate your graduation. The drinking age there is 21, so you use some false identification to get your bottle of wine or alcohol. In that situation, you would, in fact, be deported, and you would not have the right to appeal. One of the presenters put it quite well and provided a document. This is the reason you would ultimately lose the right to appeal. Using a false or fraudulent document is an offence under section 368 of the Criminal Code of Canada and carries a maximum potential penalty of 10 years. A 20-year-old permanent resident who is convicted of using fake identification to get into a bar while visiting the U.S. is inadmissible under IRPA because of a foreign conviction. It doesn't matter that the U.S. court punishment might be only a \$200 fine.

The point is that this legislation is so encompassing of that 1.5 million permanent residents who live in Canada that a 20- or 19-year-old youth who happens to use poor judgment by using false identification is ultimately not going to have the right to appeal and is going to be deported. The rest of the family will stay here, but that person is going to be deported.

I'm wondering if you feel, when you think of that sort of an example, that maybe the government has gone a little overboard and that we need to improve the legislation before it leaves this committee. That would be a big for sure. Would you agree, Mr. Shore, Francisco, or whoever would like to respond?

Mr. Francisco Rico-Martinez: Those are exactly the examples we are thinking of. You can go on and on with the examples we consider.

We understand that the person was at fault. It's prescribed in the law. On the other hand, we understand that it was a mistake. That person is going to learn very quickly that this is something he or she is not going to do again. We try to explain it to everybody. That's when peer pressure comes in. Why? Many other Canadian-born children have that situation as well, and they will make the same mistake. In a group of people, one will be targeted and deported, and the other one will stay, even though both of them made the same mistake. That's why youth need to have a way to explain the circumstances and be given a second chance.

What we are asking is to give the young person a second chance and to consider that it was a mistake. Consider the human being you have in front of you.

Mr. Kevin Lamoureux: Mr. Shore, if you don't mind, think in terms of misrepresentation. Now we're increasing from two years to five years the time needed to seek a pardon.

I ask you in particular, Mr. Shore, whether you have heard of unintentional misrepresentation that has occurred. If so, do you think it would be appropriate to be extending the granting of a pardon from two years to five years?

You may want to comment on the earlier question as well.

Mr. Jacques Shore: I haven't actually heard of it and I don't know how it would necessarily be addressed, but I do think that we have safety valves in our legal system that would allow an individual to seek judicial review in circumstances in which we see grave circumstances developing.

As well, in the particular instance that you have shared, I believe there is an opportunity to seek, under humanitarian and compassionate grounds, the minister's leave to exclude this from happening, in respect to a situation such as you described.

I would want us to go back, though, to what I shared earlier, and I think my colleagues did as well, which is the importance of education, the importance of ensuring that we create good citizenship. The vast majority, 95%, 99%.... I'm a first-generation Canadian. I think of those immigrants, the 1.5 million whom I think you referred to. There needs to be a better appreciation of good citizenship in the context of not allowing young individuals to get into these sets of circumstances.

I want to repeat that even in the context of the court process, I do not think our system would allow someone to be deported and sent back to a country that he or she does not know, in a situation like this, one in which it's as a result of a misrepresentation, in this instance.

I believe we—

•(1610)

The Chair: I'm sorry, Mr. Lamoureux, we're over your time.

Mr. Weston.

Mr. John Weston: Thanks, Chair.

This has been a really engaging discussion. As someone who as an Osgoode Hall student worked in the Parkdale legal aid clinic, I served many of the people, or at least the genre of people, whom you're serving today, and I understand where you're coming from. I appreciate what both of you are saying about public education, that an ounce of prevention is worth a pound of cure. Given that we're dealing with a minister who was so proactive in promoting his citizenship guide, I think he will be very interested in the suggestion that both of you make.

I want to point out some things, especially, Francisco and Amy, in response to your presentation. Then I need to get to a question for you, Jacques.

Our government has tripled settlement funding. Many of the people we're talking about here, those who you feel are more at risk, have been helped to integrate into Canadian society, for instance, with the free language classes that they're getting. I think we should take that into account.

Also, we will abide by the Geneva Convention. No person will be left stateless. In addition, persons will get access to pre-removal risk assessment to ensure that we're not sending people back to torture. That's our goal, and our government will be committed to implementing that goal.

Certainly when it appears that someone is going to be harmed, that person will be allowed to stay, at least temporarily, while the risk is assessed.

I was very interested, Jacques, in your suggestions about clarifying the criteria that would guide the minister. You mentioned that there would be three benefits from doing this. Could you be a little more specific on this?

Also, I share the concern that my colleague, Mr. Lamoureux, brought up, with respect to people who make misrepresentations and whether there is going to be a disproportionate kind of response to their doing so.

Do you see any remedy that might come in the clarifying of the discretion you have referred to?

Mr. Jacques Shore: Thank you very much, Mr. Weston.

With regard to the issue of the guidelines, I believe there would be an added benefit if the minister were to decide along with parliamentarians to include specific guidelines described as well as possible in the legislation. There would be an advantage for one thing because, if we look at the way they are written right now, public policy can be extremely broad, but it could also be regarded as vague in the way in which it's implemented. I could see someone going to court and basically saying that it's too vague. There is also a concept of "void for vagueness" that one might try to apply because of its element of vagueness.

There's also the added benefit that with this clarity, you're not going to ultimately have.... While I have enormous respect for the judiciary and our courts, I could see a judge not really understanding what the government might want to do in a particular instance and limiting it. Usually, cases of this kind happen very quickly. For example, there's a speaker coming to a university or an individual coming to a community centre, and within two days you must try to decide whether someone will get the permit to come. As we've seen in some of those circumstances with individuals, they clearly did not respect our values.

I would probably say that with the inclusion of that, there is a guarantee that we would be able to at least know with clarity what the issues are and what the government's intentions are. I think there would be a benefit for Canadians from this.

Mr. John Weston: I've noted that. I want to reiterate something that we've all heard. I think everyone in this room takes pride in Canada's record in settling refugees. Per capita we settle more than any other country in the world, and we continue to embark on that generous refugee resettlement program.

My hope, and I think the hope of my colleagues, is that by ensuring that criminals are deported more quickly and are not unnecessarily or unfairly clogging up our legal system, we will continue to have the public support we need for a very generous refugee program, so that the people I met at Parkdale and the people you're serving will continue to come to Canada for safe haven.

Thank you, Mr. Chair.

•(1615)

The Chair: I can't believe you guys are going to quit.

Mr. John Weston: I'm going to share with—

Mr. Jacques Shore: Mr. Weston, may I just add to that?

The Chair: Sure, Mr. Shore.

Mr. Jacques Shore: Thank you very much, Mr. Chair.

There was also a point with respect to making sure that our classrooms have the benefit of understanding good citizenship. I had the good fortune of being the chair of Carleton University for a number of years, and I look at how we don't use our universities nearly enough to address these kinds of issues. How wonderful it would be if the minister could call in the presidents of universities and ask them how we should address this.

How do we get every principal in the nation focused on this? How can we get our provinces to understand good citizenship and that the risks—and they are risks, because how unusual it is that in the same exact set of circumstances, for a child who is an immigrant, not a Canadian citizen, and a child who is a citizen, one could be deported and one cannot, but that is the way the system works.

Mr. John Weston: Well, even our elementary schools—

Mr. Jacques Shore: Precisely, and that's why it should be included in the classrooms.

Mr. John Weston: I am so glad you added that. Thank you.

Chair, do we have more time?

The Chair: You have a minute and a half.

Mr. John Weston: I'm going to share my time with Mr. Dykstra.

Mr. Rick Dykstra (St. Catharines, CPC): Thanks.

Mr. Shore, you've touched on this issue a couple of times, including in your opening remarks. We've had a number of witnesses talk about “serious criminality” as currently defined in IRPA, and how this changes, both under clause 24, as you noted, and also within the context of the lowering from two years to six months, and what kinds of implication that has had.

We have what I find to be extreme examples. One is of an underage student who goes to the United States, is found to be underage, and therefore is convicted, and somehow that is going to mean that the individual, if they're a permanent resident, is going to be deported to their country of origin. Of course I'd like to get your thoughts on that from a legal perspective.

We look at how the bill is laid out in terms of subsection 36(1) all the way from (a) to (c), and the whole aspect of what this means. For example, paragraph 36(1)(b) refers to “having been convicted outside Canada of an offence that, if committed in Canada, would constitute an indictable offence under an Act of Parliament, or of two offences not arising out of a single occurrence that, if committed in Canada, would constitute offences under an Act of Parliament...”.

We're having some struggles here. I'd really like to get your opinion on this.

The Chair: I'm afraid we're out of time.

Mr. Rick Dykstra: That's fine. I have the next five minutes, so I'll just let you answer.

The Chair: No, actually, Madame Groguhé does.

Mr. Rick Dykstra: I have the following five after her.

[Translation]

Mrs. Sadia Groguhé (Saint-Lambert, NDP): Thank you, Mr. Chair.

First of all, I think it is important to mention that we all agree—and that includes the official opposition—on the need to process more quickly the files of foreign nationals who have committed serious offences in Canada. However, Bill C-43 does raise some questions and concerns. These involve the issue you referred to, Francisco, as well as you, Mr. Shore, which is the situation of youngsters who arrived very young in Canada. You also talked about the potential for rehabilitation. In my opinion, that is particularly relevant when youngsters are involved.

Until 1999 in Australia, there was a law which protected permanent residents who had settled in the country 10 or more years before from deportation. It guaranteed that people who arrived in that host country at a very young age and had grown up there and started a family were protected from being returned to a country they had never known.

Should we not include in this bill a provision recognizing the common law marriages of those who arrived in Canada at a very young age, in particular? What do you think of that?

[English]

Mr. Francisco Rico-Martinez: That's one of the possibilities that you can have, particularly for young people. We have many cases in our agencies where the young start having problems during their adolescence. They have depression, mental issues, many things. They run away from home. They become a problem. Then they realize they are not citizens of Canada, maybe 10 or 15 years after the fact, when sometimes they have already committed mistakes. Some of them have serious mental issues, and we have to deal with the situation.

If you put a period of time for a person to not be sent to areas or countries where they haven't been before, or where they left when they were very young, there will be the possibility of protecting people. That could also be in the appeal situation, because if they have the right to appeal, they can go with their medical records, with many things, to explain why the situation happened. Sometimes it's not the fault of the parents; it's the fault of the situation and that young people make mistakes.

We want to protect the person. We know they've made a mistake, but the circumstances have to be known first. One is to put a period of time, five years, ten years, it's up to you. That would be a good way to deal with the situation for young people.

● (1620)

[Translation]

Mrs. Sadia Groguhé: Mr. Shore, do you have a comment?

Mr. Jacques Shore: Thank you very much, madam.

[English]

My sense, again, is that the way the words are now included in the proposed legislation, Bill C-43 does, under section 25(1) and subsection 25.1(1), provide for a minister to be able to make the decision to not have that person leave the country. I do think that safety valve is there, except for in very exceptional circumstances, such as if it's under espionage or under certain criminal behaviour, criminal organizational behaviour, and also with regard to crimes against humanity.

I do specifically believe that without the right to the immigration appeal division, there still is that safety valve. Otherwise, I'm not quite sure what the main change in this legislation would be. We'd be basically back to the current system. That's the frustration I spoke of earlier, that unfortunately, too many people have been taking advantage of it.

[Translation]

Mrs. Sadia Groguhé: Francisco, you recommended that the right of appeal be maintained. However, several of our witnesses stated that Bill C-43 would have too broad an application, in the sense that it could apply to “real criminals”, but also to young people who arrived here very young, as we were saying earlier. Several witnesses expressed the fear that this bill could have a disproportionate scope.

Is the right of appeal not a fundamental principle in our judicial process? What do you think?

[English]

Mr. Francisco Rico-Martinez: The right of appeal is a fundamental component in every single area of law that I would want to have in the country where I am living, of which I am a citizen. Having no access to appeal is an anti-democratic measure.

The Chair: Thank you.

Mr. Dykstra, you have until the end of the half hour.

Mr. Rick Dykstra: Mr. Shore, I asked my first question already. You stole my thunder a little bit on the second question with how you responded to Ms. Groguhé. Could you respond directly to the issue around criminality and the extent of what a minor crime would be?

There is an overlap of what could potentially be seen as a minor crime and what would potentially be seen as a serious crime. There is a big difference in how it's been skewed in terms of understanding where that serious crime threshold begins.

Mr. Jacques Shore: Again, I do believe there are sufficient safety valves in the system as it is defined right now in the legislation, with the exception in certain circumstances of those which have been identified as extremely serious. Those are the three I mentioned earlier, with regard to national security issues, with regard to criminality in the context of criminal organizations, and also with regard to humanitarian and compassionate grounds.

I realize we are looking at extremes, but recognizing the system as I understand it to be after 32 years of practising law in Canada and appreciating the work that I've done through the courts and public policy work, it is unimaginable that someone who has committed that kind of an act would be thrown out of the country without the ability of... I appreciate what my new friend here on the panel said, that there would not be a right of appeal. It's undemocratic. I don't think that in our country we would throw that person out of the country. Part of it is also this. There is an element of, what officials are going to run after that person to do that. There are a number of instances where the decision to throw the person out or not is made. Who's going to act upon that? It comes down to this. When we look at the unreasonableness of a situation like that, I would think a minister or his delegate would appreciate that an individual like that should not be thrown out of the country.

Then I keep on going back to my underlying theme that we have to make sure that individuals appreciate their obligations, their rights, and their responsibilities.

● (1625)

Mr. Rick Dykstra: I think that's fair. I think those who are presenting would agree with you, certainly, on that matter.

Mr. Jacques Shore: I don't think it's a blind faith. I think it's a faith based on reasonable judgment.

Mr. Rick Dykstra: Blind faith isn't what is suggested in proposed section 42.1, which gives the minister—

Mr. Jacques Shore: I agree.

Mr. Rick Dykstra: —a new authority to prevent someone from being thrown out of the country.

I appreciate your bringing it up. It's where I was leading with my next question. I continue to not understand why folks—and maybe, Mr. Rico-Martinez, you can enlighten me on this—do not mention proposed section 42.1 in terms of saying that it does augment and give a threshold for the Minister of Public Safety to prevent someone from being thrown out of the country if, in fact, they've done something of a minor offence that has been interpreted as a serious one.

There is another point on this. How do we pass legislation that says a youth should be given a second chance? I don't know how you define that in legislation. If someone commits a crime and they're convicted of that crime, regardless of their age, I know you're talking about the whole issue of mental health and how they're doing psychologically. Those are issues faced by the courts every day.

Mr. Shore was involved in a case that took years to determine. I know for a fact that the issue of mental health and the capacity from a psychological perspective to stand trial is one of the issues that is faced on a daily basis in the court of law. If it is an individual regardless of age, why then shouldn't a senior citizen, someone who is 83, who commits a crime, not be waived in the legislation? We have to define within the legislation how we're going to and not going to treat people in the court of law.

If you're going to say we have to help youth—and I agree with all of those things—but you're going to define it in legislation, explain to me how.

Mr. Francisco Rico-Martinez: For me, second chance means an appeal.

Mr. Rick Dykstra: Don't you think proposed section 42.1 is an appeal?

The Chair: No, no, Mr. Dykstra.

Mr. Rick Dykstra: Okay, I understand.

Mr. Francisco Rico-Martinez: The minister, I agree, has to have the last word, if you want to put it like that, but the quasi-judicial system that you have in place in Canada would be a good idea. Then the person would have a chance to explain the situation in an appeal.

Let me finish with this. We included the appeal division in the IRPA because we didn't have one, and a person has to have a second chance to go there. Now here we are cancelling that. In my opinion, that's not possible to use a double standard. You have to give the right to appeal to people. That's part of democracy.

Mr. Rick Dykstra: Mr. Shore, are we giving a right to appeal within this new legislation?

Mr. Jacques Shore: I think it's a different venue to address issues. I think we do see that here. My sense is that sadly, too often we see people who are seeking that right to appeal only for the purpose of delay. Again, it creates frustration and a cost to the system. I think what we need to do is focus on other ways in which to address those issues. This is a reasonable way of going forward as the legislation is identified right now.

Mr. Rick Dykstra: Okay, thank you.

The Chair: Thank you very much.

Mr. Shore, Mr. Rico-Martinez, and Ms. Casipullai, thank you very much for giving us your views.

Mr. Jacques Shore: I'd like to thank someone who is with me here today, Julia Wernberg, who was very helpful also in the research.

The Chair: Julia Wernberg, stand up and take a bow. Good to see you.

Mr. Jacques Shore: Thank you very much.

The Chair: Thank you very much.

We will suspend.

• (1625)

(Pause)

• (1630)

The Chair: Okay, we'll start the second hour.

We have three witnesses before us. Rear-Admiral Donald Loren, good afternoon to you, sir; Walter Perchal and George Platsis, good afternoon to you.

Mr. Perchal, we'll start with you. The three of you each have up to eight minutes.

Lieutenant-Colonel Walter Perchal (Program Director, Centre of Excellence in Security, Resilience, and Intelligence, Schulich Executive Education Centre, As an Individual): With your permission, Mr. Chair, my colleague is going to start. We've prepared this in a slightly different order.

The Chair: Let's think about this.

Okay, Mr. Platsis, you can go first.

Mr. George Platsis (Program Director, Centre of Excellence in Security, Resilience, and Intelligence, Schulich Executive Education Centre, As an Individual): Chair, members of the committee, once again, thank you for your invitation. With me today are my colleagues, Rear-Admiral Don Loren of the U.S. Navy, and Professor Walter Perchal of York University. We're all part of the Centre of Excellence in Security, Resilience, and Intelligence at the Schulich School of Business, but today our comments are our own and do not reflect any organizations we may be associated with.

As a child of immigrants, I've been fortunate to win the lottery and to be born in this great nation, a country that has provided countless opportunities to people like my parents. They came here in search of a better life with a view to adopting Canadian values and contributing to Canadian society. I believe that the majority of our immigrants are like my own parents: honest, law-abiding, and love Canada.

With that in mind, I would like to draw the committee's attention to this stark reality: we do live in a world that has considerable dangers. We must accept that there are those who seek to take advantage of our welcoming system, undermine our interests both here and abroad, and even maliciously hurt us. As previously noted, technology is an enabler creating an asymmetric capability for the individual. Flight patterns have changed. Communication systems have kept us connected, and our dependence on cyber systems should really force us to rethink how we educate our citizens both young and old as we further expand the use of them.

Within that context, I would respectfully say that much of the current discussion surrounding this bill views the world from a very reactive perspective. I believe this to be a mistake. As a consequence, the discussion has focused on law enforcement, judicial process, and review boards. Respectfully I ask, why is there not more discussion on a proactive approach? From local community engagement to foreign intelligence collection, information is ultimately what gives our visa-issuing officers the ability to make informed decisions about individuals entering Canada. I believe proactivity that is more related to national security would result in fewer cases of deportation, lower rates of incarceration, and a reduction in fraud, which in turn should make resources available to new immigrants and refugees.

With respect, much of the analysis has focused on rare cases. On one end, we have cases that are tragic, of police officers that are killed. As somebody who works closely with law enforcement and first responders, many of whom I call friends, incidents like this trouble me. But these cases demonstrate that there's a gap in the legislation and shouldn't be used for sole justification for the amendments.

There have been also cases about persons with potential mental illness. Respectfully, I don't think we should be tossing away amendments due to rare cases or issues that may take years to materialize, especially when they don't address the root cause. In this specific case, I would say the solution is better training of visa-issuing officers who could potentially identify cases of mental illness, and immediately refer the case to a counsellor.

Another case has been the threshold for right of appeal. An example of six marijuana plants has been used. I ask the committee to consider this. One plant on average can produce about four ounces of marijuana. At a street value of \$350 per ounce, six plants are worth about \$8,400 and can produce 24 ounces. Where the average ounce can produce 30 joints, 24 ounces produces 720. Respectfully, I think this is trafficking, and Canada doesn't need any more drug traffickers.

I also have concern about—

•(1635)

The Chair: Mr. Platsis, this is being translated into French, so you will have to slow down.

Mr. George Platsis: Will do. My apologies. Sorry, translator.

I also have concern that trials and lengthy sentences are avoided by pleading guilty to a charge of two years minus a day. This allows the foreign national to seek review of his deportation order.

Multiple assaults, failure to comply with court orders, fraud, drug trafficking, in all these offences deportation was put off by an average of six years, because of the sentence length. I think a gap clearly exists. The criminal justice system and the immigration review system do not align, resulting in a situation that can be exploited.

There is concern over the public policy consideration. With respect, I feel these fears are overstated, particularly when looked at contextually. I see the provision as the final stop in ensuring Canada's safety and security, not the front-end consideration to admissibility. The notwithstanding clause is essentially a public policy consideration, designed to override section 2 and sections 7 through 15 of the charter. It is only used in exceptional circumstances to make important policy decisions that are isolated from judicial review. I do not mean to equate the two, but a comparison here may prove beneficial.

Invoking the notwithstanding clause, though, has ramifications for the government of the day. The political cost could be significant, and I believe this is why we do not see it invoked frequently. Respectfully, in the larger context, this is how I see the public policy consideration being used. Any misuse of this provision, particularly in today's real-time media and information context, I think would prove to be politically damaging. If used in exceptional circumstances to address a gap such as barring a foreign national who spews hate speech, I think this is in the Canadian interest.

The Criminal Code of Canada in sections 318, 319, and 320 forbids hate propaganda, with clear definitions. The Canadian Human Rights Act, under sections 3 and 13, also has definitions. Hate speech may not be a crime in another country, but it is in ours. Therefore, I see this provision as closing a gap. It is not unreasonable, especially when the government of the day has to consider the enormous political cost if the provision is misused.

Lastly, has the committee discussed the public policy consideration to be used for admissibility in extraordinary cases? The example of the foreign national who came at a very young age and knows only Canada as his home has been cited many times. Could the provision be used to keep somebody in Canada for humanitarian or compassionate grounds for these rare cases? I am not sure if this was the intent of the public policy consideration, but if used in this way it could certainly address some concerns that have come before this committee.

In the larger context of national security, which includes information gathering coupled with law enforcement along the full continuum of the immigration process, taking into account potential political considerations, I feel the bill is balanced and proactively addresses many of the issues Canada faces, while also serving the Canadian interest in the long term.

At this point, I would ask my colleague Professor Perchal to speak more slowly than I did and highlight some more specific cases.

Thank you.

•(1640)

LCol Walter Perchal: I, too, am a child of immigrants. I therefore echo my colleague's comments, particularly that the majority of immigrants in this country are law-abiding and honest. They are striving to establish a better life and to integrate Canadian values into their own.

On a go-forward basis, I strongly believe that Canada's future prosperity is directly linked to a sound immigration policy. That policy should attract the best minds and best talents in the world. It should welcome those who wish to adopt a Canadian set of values. It should also incorporate the strong values and beliefs we cherish, which includes assisting people based on compassionate and humanitarian grounds, no matter where in the world they come from. Furthermore, our society cherishes the security and stability of the rule of law. As Canadians, we have a right to be before the courts to defend ourselves, and so should foreign nationals who are here temporarily or on a permanent basis.

However, as a believer in planning for even exceptional cases, we should not lose sight of the bigger picture. If the committee accepts realities, including the dangers of the world in 2012, as I and my colleagues have illustrated here and in the past, the amendments proposed in Bill C-43 should be characterized as the end point of the immigration process, not the starting point.

There have been recent examples of potential abuse of our welcoming system. Most recently, the Project Sara report, with which I'm sure you are familiar, by CBSA has warned of a significant level of welfare fraud and other crimes. Violations have stemmed from altered or falsified names, financial theft, manipulation to receive benefits even after deportation, and even the prospect and possibility that there's been human trafficking.

What the Project Sara report demonstrates is that abuse of our system is not only letting some of the wrong people into our country, it's also drawing valuable resources away from critical areas that should be addressed in the interest of those who should be admitted to our country. These include services to help our newest residents find jobs and do things such as learn our official languages.

Additionally, the Project Sara findings show us that there is a level of sophistication being used, thus exploiting our existing safety net. For example, travel patterns are no longer from point A to point B. Rather, there are intermediary countries being used. For example, a person will travel from Europe to Mexico, sneak into the United States, and subsequently enter Canada through border towns in various communities, with an aim to making a claim within Canada.

There have been calls for increased RCMP patrols along the border, including better staffing and tougher detention measures. I would suggest that these are warranted, for if we did a better job protecting our borders at all points of entry—land, sea, and air—there would be less need to focus on detention measures.

With respect, though, simply having more RCMP patrols along our borders does not address the heart of the issue. This issue is more complex as we look to appropriate decreasing resources. For example, to have increased patrols, the RCMP needs to have a level of insight as to where to patrol, what to look for, and who to be on the lookout for. Ladies and gentlemen, efficiency in this area is a function of the degree to which we have effective information or intelligence. Furthermore, increased patrols along the border address only specific cases, not the whole issue, especially when we have certain groups making disproportionate numbers of refugee claims at some of our country's largest airports or ports. This is why I feel it is appropriate to request, if a CBSA official deems it necessary, a further review, in certain cases, by CSIS officials. With respect, if people want to enter our country, it is reasonable for us to want to know who they are.

To give you a micro perspective, there's a simple question that animates this perspective: Would you give to a stranger the keys to your house? Ladies and gentlemen, our house is Canada. We have a right to know who's coming into our house. We have a right to protect ourselves from potential danger from a person unknown to us in terms of their background or intentions.

I have stated that the amendments proposed by Bill C-43 should be looking along the continuum of the immigration process, not judged by a singular amendment. Increased RCMP patrols and increased staff at borders are of limited value if we do not have the information and intelligence backbone to support them. They are of even less value if our agency officials do not have the necessary training to spot potential issues.

The ideal situation is to make sure that potential abusers never reach Canada. Having said that, I'm fully cognizant of the fact that our defences will never exclude 100% of those who would seek to do us harm. This is why I see Bill C-43 amendments as final safeguards in a larger apparatus, which includes but is not limited to national security, law enforcement, support and assistance to the immigrant or refugee claimant, and integration into Canadian society.

●(1645)

If a foreign national is deemed to be a threat to national security, they should not be admitted into Canada. If an offence is committed by a foreign national, they deserve their day in court, but we should not hold them to a different standard. We should hold them to a single Canadian standard. For those born in this country, it is a rare privilege. For those not as fortunate, this is not a right. It remains a privilege. It is therefore reasonable to expect people who wish to come to Canada to have a clean record, just as it is reasonable for us to expect them to obey the laws and the expectations of this society.

Unfortunately, not only is our current system exploitable, but it is dated as compared to the systems of our international partners and allies. For example, places like Japan, the United States, and the European Union, along with a string of other nations, all require

something as simple as photos on visas. Canada does not. Furthermore, we lack back-end safeguards that support our front-line agents. While we are seeking to make a uniquely Canadian policy, we should consider the benefits that other countries employ, particularly when a border officer deems a foreign national inadmissible. Within the Canadian context, according to the Treasury Board, rarely is an initial assessment overturned. In the period of 2009-10, only 3% or approximately 100 cases were overturned, yet 18% of those who were not overturned, approximately 600 people, failed to appear for their hearings, which had been granted to them as a right.

I have brought before this committee only a few issues, but as my colleague noted, I agree that Bill C-43 should be looked at in a more holistic manner along the entire continuum of the immigration and refugee process. Within that context, the bill addresses many of the issues Canada faces. Additionally, as we have all noted previously, the backbone of any apparatus used is sound information. Without this, we cannot make informed decisions.

At this point, I would like to ask a great friend of Canada, retired Rear-Admiral Donald Loren of the U.S. Navy, to give us his perspective on how his country has had to face similar issues.

Thank you.

Rear-Admiral (Retired) Donald Loren (Senior Distinguished Faculty, Centre of Excellence in Security, Resilience, and Intelligence, Schulich Executive Education Centre, As an Individual): Good afternoon, Mr. Chairman and members of the committee.

As a great friend of Canada, I am greatly pleased to be here again. As before, it is at my colleague's request that I appear before you. All comments made by me today are my own and are not reflective of any of the organizations that I may be affiliated with.

I recognize that today's focus is on Bill C-43, but as I have noted in my previous testimonies before this committee, I am not here to address the law specifically, as it would be inappropriate for me as an American to do so. What I wish to offer today to all of you is a perspective on how my own country has dealt with similar issues, including challenges and lessons learned, and the factors we considered in our own decision-making process.

As deputy director for operations support at the U.S. National Counterterrorism Center and as deputy assistant secretary of defense for homeland security integration, I was able to see first-hand how immigration patterns in my own country have changed over the years. While these pattern changes do not mirror Canada's, I am certain there are many commonalities between our nations.

As is the case for many of you here in Canada, my own ancestors in the United States came from the old world. In my own case, my great-grandparents and grandparents immigrated to the United States from Europe. But is the concept of immigration the same today as it was when my ancestors crossed the ocean?

The long journey of past immigrants had a profound and irreversible effect on their lives. Moving to the new world, to places like the United States, Canada, and Australia, was driven by establishing permanent integration into a western society founded on the principles of fundamental freedoms, the right to own property, and the ability to live a prosperous life. Also, the immigrants' intent rarely included plans to travel back and forth between country of origin and country of immigration. Rather, it was to pick up and leave for good.

Immigrants left their homeland knowing full well they might never see their family again. Upon arrival at places like Ellis Island, Halifax, and Fremantle, immigrants strove hard to integrate by learning the local language, working in some of the harshest conditions, and sadly even suffering the treatment of being labelled a second-class citizen.

Their tenacity and perseverance in these hard times has been woven into our respective histories and societies, highlighted by meaningful contributions we should all be proud of. But as my colleagues noted, we need to consider today's realities, which include technology as an enabler, and ever-changing intent.

Airplanes have reshaped immigration patterns and travel behaviour. Travel that once took two weeks and cost a small fortune now takes hours and is affordable for most persons. Communication was limited to the monthly letter and the odd short and expensive phone call. Today we place unlimited international phone calls for a flat fee. We have video chats. Even paltry amounts of cash that were tucked away in the pages of a book or under the mattress sent by mail have been replaced by instantaneous wire transfers and electronic banking.

Integration is different as well. Many pressures of blending into a community are gone, as we have local ethnic towns such as, in the United States, Little Italy, Greek Town, and Chinatown. When these towns reach critical mass, virtually every service and amenity is offered in the language and the tradition of the home country.

Satellite TV and the Internet allow the immigrant to follow events back home, potentially limiting their desire to learn English or French. Instead of reading the local Canadian or American newspapers, they follow news of their homeland in their native language.

Immigration used to be about work and opportunity. Now it includes family reunification as well, a once costly process for a sponsor who often was the original immigrant. Today there is a societal safety net designed to protect the newest members of our society, something that did not exist for the first and second wave of immigrants to my own country.

The above is not designed to cast a wide stroke on the immigrant's ability to integrate; rather, it is designed to demonstrate that the context has changed considerably.

• (1650)

Like my colleagues, I also believe that the majority of immigrants are honest, law-abiding, decent people with strong values. Statistically, the percentage of those seeking to take advantage or do harm to either of our countries is small, but as my colleagues noted, the asymmetry has expanded the threat spectrum and forces us

to reconsider intents. I can say with strong certainty, given my experiences, that those who seek to take advantage of us and strive to hurt us use unbelievable levels of sophistication, some of which are not necessarily evident at first glance.

Manuals on how to abuse our judicial system can be found on the Internet. Shady agents within our own countries consult on how to beat the system. Preferred travel routes and entry points are identified and shared. What is even more worrisome in the 21st century is the coalescing of transnational organized crime and terrorism. What may seem like petty crime may be part of a more elaborate scheme to circumvent the safeguards of our respective immigration systems.

Lines have become blurred requiring us to do more. From a national security perspective, this can include the expansion of information gathering. As noted previously, HUMINT, human intelligence gathering, is vital to the security of the nation, and as my colleagues stated before, HUMINT should not be viewed as some shadowy intelligence operation, but rather something that can include immigrant community engagement by local elected officials and law enforcement officials, a tactic that if instituted properly can be very effective. From a law enforcement perspective, we want to ensure even foreign nationals get their day in court if they commit a crime, but we must have legislative and operational tools that remove them faster from our respective homes.

I echo the comments of my colleagues. Once a person is within our borders, it becomes much more difficult to deport him. All western democracies face this challenge, which is why I believe any legislative actions you decide should take account of the dynamics of our time. Investing in systems, processes, and most importantly, people who focus on proactivity and protecting our interests should be paramount.

In 2012 and moving forward, it is not unreasonable to want to know more about somebody who is trying to enter our countries. By the same token, you want to ensure that privacy and fundamental freedoms are protected and people are treated with dignity and respect, fully understanding that there are legitimate humanitarian and compassionate causes that must be dealt with as they arise. A proactive strategy which prevents unfriendly foreign nationals from ever reaching our borders is a strategy that reduces the need for back-end safeguards and frees up resources for those who have legitimate need of them.

Furthermore, measures that seek out malicious intent are not a great deal to ask of anyone wishing to pass your borders, particularly in today's context. I believe that Canada, much like the United States, will welcome those who seek to share our values and respect our laws. Therefore, it is not unreasonable to hold foreign nationals to the same standards we hold our own citizens.

In closing, both the United States and Canada have talented professionals who can assist with these issues. We must reach out to them with a view of supporting the human and technical resources required, insomuch that I feel it will ensure that the legitimate foreign national not only stays both in the United States and in Canada, but also makes meaningful contributions to both of our great societies.

Thank you again for having me here with you today.

• (1655)

The Chair: Thank you, gentlemen.

Members of the committee have some questions. We'll start with Mr. Opitz.

Mr. Ted Opitz (Etobicoke Centre, CPC): Mr. Chair, through you and to our witnesses, thank you once again for being here. Admiral, welcome back to Canada. It's good to see you again, sir.

Before we start our discussion, I'd like to point out a couple of things about where Canada really is. We remain one of the top countries in the world that welcomes refugees. We welcome more refugees per capita than any other G-20 country. Canada welcomes approximately one in ten of the world's resettled refugees and that's more per capita than almost any other country. In fact, our government has agreed to increase the resettling of refugees, in this case, by over 2,500 a year.

As for immigrants, we allowed over 280,000 immigrants into the country last year. The vast majority of them are good, decent, hard-working, contributing people. Those are the people we want in Canada, as Professor Perchal pointed out. We need to attract the best, most industrious minds out there to help us build this country.

Admiral, one of the things you ended your discussion on is the knowledge about our laws an individual has coming into this country. Is ignorance about its laws any excuse when you come to a new country? What's the responsibility of that individual?

RAdm Donald Loren: Thank you, sir.

The same thing holds with traffic violations. Ignorance of the law is no defence. That doesn't mean we can't be compassionate and reasonable and use judgment when we determine intent, but ignorance is not a defence.

Mr. Ted Opitz: Colonel Perchal, what's your view on education? A previous witness suggested that the universities have a role to play in citizenship education and people who are PRs and perhaps not citizens at the time. What would your view be?

LCol Walter Perchal: We have a unique issue here that one of the parliamentarians mentioned in earlier testimony. We are the only country in the western world that has no national minister of education. Since this is a provincial responsibility, this is something that needs to be encouraged, and certainly should be encouraged, and a view of Canada should be facilitated through our universities. It is difficult to do that through the federal level except by way of asking or encouraging it. Certainly, the federal level should both ask and encourage; that's an important function.

I agree with one of your colleagues, Mr. Opitz, that that form of education should frankly be downloaded all the way from the university level down to the school level. For a parent who doesn't

speaking the language, a kid would know there might be concerns or there might be issues, and that family can be sensitized to any concerns or issues proactively as opposed to reactively when somebody knocks on the door and asks what they are doing here. I think these issues should be brought to the attention of the public.

Again, I submit that the universities and schools are not the only, nor perhaps even in the 21st century the best, form of education. I think it would be incumbent upon us in our national interest to bring that out to people using media. Certainly, the various forms of media have a great deal more penetration, particularly among young people, than many university professors.

• (1700)

Mr. Ted Opitz: You also mentioned the cost to this country. Can you talk about the cost to this country, not only in CBSA and RCMP patrols, but the possible cost of high criminality in this country and the cost of victims?

LCol Walter Perchal: I want to address that to leverage off a point that Admiral Loren made. There is a real lack of consciousness in Canada about this thing called asymmetry. The 21st century has fundamentally changed the game. For the first time in human history, a single individual can make war on the entire planet. A single individual using a technology as common as his computer can cause devastating destruction in a country.

Yesterday I did a simulation at York University. We used exactly that scenario of a single individual in this country, unhappy for whatever reason, who perpetrated a cyber attack that impacted our critical infrastructure. The cost of that was devastating and the best professionals in the room had no idea how to cope with something as simple as that.

We have things to fear that we did not need to fear a generation ago. We have an entire generation of people who can cause us injury, unexpected in previous times. That's why it is important for us to be vigilant. We are not concerned about the vast majority of immigrants who come to this country. What we are concerned about is the asymmetrical threat that can cause us undue harm. That harm can be not disastrous, ladies and gentlemen; it can in fact be catastrophic.

Mr. Ted Opitz: Admiral, this morning this committee had a chat about the ETA system, protocols to keep people offshore, as you know, that would be modelled very similarly on the American system which, I think, when implemented will help a great deal in that regard. You also talked about the acquisition of intelligence and sharing that acquisition.

Can you elaborate on how human and other intelligence capabilities will be shared among allies?

RAdm Donald Loren: Remember, intent is a significant piece of the types of things we're discussing here today. The way you determine intent is generally through intelligence, whether it be associations, previous history, relationships, or activities. There has to be the opportunity to determine intent.

As I have said at previous meetings here, when we discussed biometrics, the intention is not to spy on citizens of our own countries or other countries. The intention is to use the means that are available to us, again respecting the dignity of individuals, to attempt to determine intent. Unfortunately, most of these types of things that we have done in the past have been forensics, trying to determine what a person's intent was because they committed a particular act.

As people now gain access to our countries, as people now have the type of capabilities that Walter has mentioned, where a single person or a small group of people can effect tremendous damage on the security of both nations, it's imperative to have some understanding of the intent, the associations and relationships of the people who are trying to seek permanent residency on our shores and, certainly, as we do to some extent, of the people who only wish to come and conduct business on our shores. As the times have changed, the nature of the threat has changed. We need to have different ways of monitoring the people who are coming to our nation and trying to determine the true intent of those people coming to our nation.

The Chair: Thank you very much.

Ms. Sitsabaiesan.

Ms. Rathika Sitsabaiesan (Scarborough—Rouge River, NDP): I would like to thank all of our witnesses for joining us today.

Further to your comments, Mr. Platsis and Mr. Perchal, I, too, am a child of immigrants. I am actually the case of the young child who truly knows Canada as her only safe home.

The safety and security of Canadians and our communities is a priority of mine, and it is a priority of the NDP. Earlier this month, I co-hosted a community conversation on safety where the leader of the official opposition attended. He took lots of questions from residents of my community in Scarborough. Immigration didn't come up. As we know and as you mentioned, Mr. Platsis, the vast majority of newcomers to Canada are law-abiding people who don't commit crimes. Actually, when people are talking to me about immigration issues, it's generally constituents who are looking for fairer treatment, or a speedier reunification with their families, as you mentioned, Admiral.

What we did hear from residents of Scarborough was the need for preventive strategies and giving law enforcement the resources they need to keep us safe from criminals of all backgrounds, whether they are citizens or not. It was the need to keep the community safe from criminals.

We have also been hearing from witnesses in these committee meetings that the government needs to address the lack of training, resources, integration of information, and monitoring technologies within the responsible public service agencies. We have heard this from witnesses, as well as from Auditor General reports time and time again.

I would like to give you an example. Serious errors appear to also lead to the delays in removing serious criminals, like Clinton Gayle. Lost files, human error, and lack of detention after violating terms and conditions of release have occurred in some of the cases used as examples by the government. How can the current system be

improved without eliminating an individual's right to due process? As you mentioned, every person should have their day in court. How can the current system be improved without eliminating a person's right to due process?

Any one of you can answer my questions.

● (1705)

LCol Walter Perchal: If I may, I will start on that. One of the traps I think we often get caught in, particularly in the context of our time, which is a very complex time with many issues, is that we tend to institutionalize silos. This is a problem that we have spent a great deal of time thinking about. What silos do by nature is develop their own cultures, resources, and information. What they fail to do is share that information across, which would leverage the capacity to understand the problem in a better way.

The problem of potential criminality is not limited to law enforcement—

Ms. Rathika Sitsabaiesan: Sorry to interrupt. I simply want to make sure I am understanding you. When you say “institutionalized silos”, what do you mean?

LCol Walter Perchal: For example, a police agency has a particular way of looking at the world. That's a function of their experience, the way they see the world, the clients they deal with, the population they have.

Ms. Rathika Sitsabaiesan: It's the different agencies working in silos rather than integrating.

LCol Walter Perchal: Absolutely.

The problem of crime, in your riding or in anyone else's in Canada is not simply a function of a local police force. It may or may not be associated with an immigration issue. It may or may not be associated with a multiplicity of issues. A poor quality education, which is one of the things that came up, tends to say that what we really need to do is to develop holistic approaches.

Certainly, in the matter of people coming into our country, I think that's what we have been pushing toward, a holistic approach that starts as far forward of Canada's borders as possible, based on information that gives us information on a forward base, and leads all the way back to the community where this person ends up residing as a landed immigrant, as a refugee, as a whatever. As I indicated in my earlier remarks, I think we have a right to know as the people who are resident here, who is in our house. We have a right to know who they are and what their background is, but we need resources that come from a multiple number of agencies, not a single agency. There is a great challenge here, however, because we have not yet developed an integrated and secure system that shares information.

Ms. Rathika Sitsabaiesan: You're saying something similar to what the Auditor General reports have been saying about ensuring integration of resources within CIC.

LCol Walter Perchal: Clearly, but that balance—

Ms. Rathika Sitsabaiesan: I just have one more question. I only have two more minutes left. That's why I'm trying to rush through it. I really apologize for cutting you off.

During a federal inquiry about the same case I mentioned earlier, the Clinton Gayle case, the associate deputy minister, Ian Glen, stated, "Quite simply, the system failed." As to why, he explained that the department's priority at the time was to target unsuccessful refugee claimants who were on the run rather than criminals. That way, the deportation numbers would be higher.

How is this policy effective in keeping Canadians safe from serious criminals who are not citizens?

Mr. Platsis or anybody may answer.

• (1710)

Mr. George Platsis: I'm still trying to find the connection between your quotation and the policy.

Ms. Rathika Sitsabaiesan: I'm just taking it based on his explanation following his quotation. They were trying to get the number high for deportations. They weren't focusing on criminals. They were focusing on deportations of unsuccessful refugee claimants at the time. How is that effective policy?

Mr. George Platsis: I'm not going to comment on that specific case because I don't know it well.

I'm going to turn it back to the comments that Walter was making. I think what the policy is trying to at least lead to is the integration of agencies and to push forward what sort of information we have about people to make informed decisions, to act with the Auditor General.

Ms. Rathika Sitsabaiesan: Sorry, I just want to see if any one else wants to answer the second question because—

The Chair: You'd better let him finish because all you've got left is 15 seconds.

Go ahead, sir.

Mr. George Platsis: I'm willing to let it go.

The Chair: I guess we're going to move on to Mr. Lamoureux.

Mr. Kevin Lamoureux: Thank you, Mr. Chair.

If this bill passes, it will have a profound impact on a lot of people. Hundreds of thousands of people every year fill out documents and paperwork overseas. There is absolutely no doubt that misrepresentation occurs. A lot of it is intentional, where someone is trying to intentionally mislead the Government of Canada.

Equally, there is a considerable amount of it that's done unintentionally, maybe through a representative or it's an innocent mistake. In those situations—and we're not talking about a few, we're talking about hundreds, maybe even into the thousands—where it's unintentionally done, we're increasing the penalty. We're saying it's from two years to five years that you're not going to be able to apply to come to Canada.

Does this seem to be fair for those individuals—and we're not talking hundreds, we're talking thousands—that there is no system in place that would allow them the opportunity to explain why it was an accident? Those do happen. Those happen in Canada in filling out all different types of forms. Is that a part of the legislation that you think should be changed to take into consideration misrepresentation where it's not done intentionally?

Mr. George Platsis: Do you have any cases of what you would consider unintentional? I can depart from there.

Mr. Kevin Lamoureux: Sure. Let's say, for example, a gentleman finds a young lady, and he marries her in another country. In the form, he's asked where he worked and where he got his education. He inadvertently forgets that he worked part-time at some facility, puts down his education, lists other things, but didn't put down where it was that he worked for four months on a part-time basis.

Because of that misrepresentation, he's not able to apply for five years. They're going to be separated as a spousal unit. There are hundreds of examples of that sort of nature. Is it fair to increase it from two years to five years?

Mr. George Platsis: With respect, I wouldn't know if that was unintentional. I'll give my own case of when I lived in the United States. I had to go through a similar process where I had to give my history, fill out all the forms. There's an onus on the person to actually make sure not only to double but to triple and quadruple check.

When I was living in the United States, it's not my right to live in another country. I am a guest in someone else's home, and I think the onus is on me to make sure my information is correct. Do honest mistakes happen? Yes. I'm not sure forgetting to list that you were working somewhere for four months would, in my own opinion, constitute an honest mistake.

Mr. Kevin Lamoureux: We're entitled to agree or disagree.

Mr. George Platsis: Absolutely.

Mr. Kevin Lamoureux: I talk to hundreds of immigrants every year and witness first-hand what I would classify as innocent mistakes. I don't believe that we should be punishing them excessively. That's one of the reasons I think it's important to see an amendment of that nature.

Equally, I used an example earlier which was actually presented to the committee by a former chair of the immigration division of the Canadian Bar Association. The example is that of a youth who's 19 years old, who's a landed immigrant in Canada, who graduates, crosses the border, uses a false document, and as a result is going to be deported, unless of course the ultimate appeal, the Minister of Immigration, could say yes. But so much for the rule of law or a quasi-judicial system that would ensure there would be a protection because that principle could apply for virtually all cases, period.

There seems to be a fundamental flaw. At the end of the day, I believe most Canadians would see that as something that doesn't warrant being deported for and not having the opportunity to have an appeal, because someone used false identification in order to get served alcohol at age 19 or 20, and they were five years old when they came to Canada. Would you not agree with that?

• (1715)

Mr. George Platsis: Respectfully, I would say the person is using false identification. If someone who has come here at an age, to use your example, of five years old, and has lived a majority of their life in Canada, I think they're relatively conscious about their decision to use fake ID.

If you're saying that it's disproportionate, again, when you're going into another country, with respect, you have to respect and value their own laws. You are a guest within their own country.

Do you want to jump in, Walter?

LCol Walter Perchal: If I may. I would leave penalty to lawmakers, and you are lawmakers. I think you've opened a far more difficult problem, and certainly one that I'm going to give some thought to, which is how you separate intentionality. You have indicated that the vast majority of issues on intentionality are intentional. It is the minority that are not intentional. How do you do that?

One of the things that we could do—and again, I believe in protecting the house as far forward an offence as possible—is something which to date we've chosen not to do. I believe, and this is my personal view only, we should have a foreign intelligence service. We should have somebody who sits there and checks the form. That can be reviewed in an embassy and can be discussed by an immigration officer at an embassy in a foreign country before it ever becomes an issue that contacts us here in Canada.

The Chair: We have to move on, sir.

Mr. Menegakis.

Mr. Costas Menegakis: Thank you, Mr. Chair, and thank you to our witnesses for joining us.

Like a lot of my other colleagues here, I, too, am a product of immigrant parents. My parents came here from two very poor villages in Greece.

We're talking about a bill today. I've heard the word “immigrants” thrown around, unfortunately. It's not a bill designed to keep immigrants out. It's a bill designed to faster remove foreign criminals from our country.

My parents, like all immigrants, or like most, came here with a dream. They worked very, very hard. One of the most poignant moments in my life was the day I was sworn in as a member of Parliament. There were 35 people in the room, and there was my dad sitting in the front. While everybody else was smiling and taking pictures, he had tears streaming down his face. I'll never forget that. This is not a bill designed to go after parents like mine, law-abiding citizens who came here, worked hard, helped build this nation, and grow families to be contributing citizens in this country. It's designed to keep people like Clinton Gayle out.

I don't want to be flippant about discussing the case of Clinton Gayle, because here was a foreign criminal, a known drug dealer who shot and killed Todd Baylis, a young police officer, 24 years of age, in the prime of his life, engaged to be married to a beautiful young lady, and whose parents and that young lady and people who loved him are still feeling that pain today.

Mr. Gayle was in the country, unfortunately, because he had an appeal process, and while his case was being appealed, he decided to perpetuate more crime.

Here is my first question: Todd Baylis died at the hands of someone who was a known criminal. Since he wasn't removed from

Canada, he continued to live that life. Do you think known criminals should have a right to an appeal process? Foreign criminals.

• (1720)

Mr. George Platsis: Is this the question of a serious criminality?

Mr. Costas Menegakis: Yes, I'm talking about serious criminality.

Mr. George Platsis: In this case, my own opinion is no. They have a long list of history. As I mentioned, in the cases that have been presented, you have cases of assault, sexual assault, fraud, drug trafficking, weapons charges. We should really ask ourselves whether these are the people we want in Canada. Again, I'm going to go to my own case. When I live in another country, I am a guest in that home. When someone comes to our country, they're a guest in our home. I think it is a reasonable expectation that they respect our values, our laws.

As a guest, if they're breaking these laws especially on such charges as assault, and repeated assault and multiple assault, the resources that we're using for their appeal and for keeping them in a detention centre or in the federal prison system are resources that we are diverting away, that we could be actually using for immigrants and refugees who actually need that. It's anything from education so they can integrate into the country, to helping them find a job.

I see an issue like that and I don't know what the costs of the entire appeal would be, but that takes resources away from people who have legitimate use for them.

Mr. Costas Menegakis: Thank you.

I might add that last week was a constituency week, so as parliamentarians we were back in our ridings. Let me just say your response is something that was echoed in the many meetings I had with constituents in my great riding of Richmond Hill, almost irrespective of political party affiliation. Everyone had the same opinion. Foreign criminals should be removed from this country as soon as we identify that they're criminals.

Mr. Perchal, I see that—

LCol Walter Perchal: If I may, again, I don't want to beat this to death, but I think it's an important point. We need to know who these people are before they get here. There are some simple things that can be done and more elaborate things that can be done, but really the time to know about somebody coming into your house is before you let them through the door. Let's give consideration to, I would respectfully submit, the idea of finding out about people before they land.

If somebody shows up at a Canadian airport, and has no documents because they are in the toilet of the airplane, what we should do is a simple measure. We should ask that an electronic copy of the documents they boarded with be sent to Canada first. This is electronic data transfer. It's simple. If they now show up and claim they don't know, or say, “I've lost my name and I'm actually somebody else”, well, because we've checked with an appropriate authority, Canadian or otherwise, we can say, “You came on this thing. This thing says you're a criminal and you have one of two choices: incarceration or deportation.” That is \$50,000 of appeals done in 15 seconds.

There are efficiencies to be had here, but the critical variable, respectfully, sir, is we do not have sufficient information about the people who are coming into our house. This is a real concern for all of us.

Mr. Costas Menegakis: Let me offer you this as my time runs down. I'm sure I only have about 15 seconds left.

Is that right, Mr. Chair?

The Chair: It's about that.

Mr. Costas Menegakis: One of the things under consideration right now as a result of discussions we've had with the United States in the perimeter security agreement is the implementation of the electronic travel authorization, the ETA, which does precisely that.

LCol Walter Perchal: Yes, absolutely.

Mr. Costas Menegakis: Someone will have to fill in that documentation to be checked out prior to getting on that airplane, or to entering into our country by land. We'll identify them up front.

I'm really, really pleased that you brought that up. Thank you very much.

The Chair: Thank you.

Ms. Freeman.

Ms. Mylène Freeman (Argenteuil—Papineau—Mirabel, NDP): Thank you, Mr. Chair.

I want to thank our witnesses for coming back again. We've seen each other a few times and we're always glad to have you.

I want to talk about the reports from the Auditor General. Chapter 7 of the 2008 Auditor General's report on removals and detentions states that detention decisions are inconsistent.

Section 7.27 states:

While requiring a financial guarantee helps ensure that individuals comply with requirements, we found that the Agency does not analyze the extent to which individuals comply with the terms and conditions of their release. Nor has the Agency set standards or guidelines to determine whether the level of non-compliance results in undue risk to the public. While infrequent, there have been cases where individuals who have been released on condition committed violent crimes.

Would a review of compliance help to prevent individuals who have been released from committing a serious crime or offending?

It's for any of you.

• (1725)

LCol Walter Perchal: The evidence is that there is non-compliance. We have a lot of people running around whom we've lost track of. That's clearly within the public domain. We have tens of thousands of people we asked to appear who are here illegally and whom we have no capacity to manage or identify. We know that.

This is part of the issue we're trying to sensitize you to. We're trying to find out before and not after. Clearly, the after part is not working very well. If that number is in fact what the government has indicated, in the tens of thousands, then we've failed rather badly.

RAdm Donald Loren: Compliance is a difficult subject, whether it be in the workplace or in the government. Review of compliance is imperative if you have a set of instructions and directives to comply

with. No one would ever argue that compliance is not a prerequisite for an effectively operating function.

The question is whether you can legislate compliance. It depends on what you want a law like Bill C-43 to do. What is it you want your immigration system to do? Why do you want immigrants to come to Canada?

In the United States, I would suspect the purpose of an immigration system is to protect the United States and its citizens in accordance with the constitution, and to make the United States a better place by bringing in people that give us diversity, strength, and capability, and make us a better nation.

You as legislators must ensure that policies are in place to provide the agencies, whether they be federal, state, or local, with the tools and resources necessary to carry out those policies and comply with the intent and purpose of the law. In the case of the United States, the purpose is to protect the United States and make it better.

It's very difficult to get down and deal with each of the eaches, not that my own Congress doesn't attempt to do that frequently, and not that it might not be warranted in some instances.

Ms. Mylène Freeman: If we're talking about a lack of coordination of resources and training efforts, we've heard a lot of extreme cases to justify this law. A lot of those cases came down to bad coordination, technicalities. People end up staying in this country based on technicalities. They were able to appeal based on technicalities. That's not a question of needing stronger laws. That's a question of needing better resources.

Would you agree, Mr. Platsis?

Mr. George Platsis: I think the question goes back to having the right information about people coming in. You could argue that cases for and against have been extreme. For example, I mentioned the case of the marijuana plants. I think that's an extreme case. I think that doesn't pop up too often.

The difficulty with compliance is that compliance is a very difficult thing. I'm not sure you can legislate compliance, but what exactly are you doing? Compliance, by virtue of what it is, is reactionary. You set out what you want to comply with, and then you go back and check against it. I think that's contrary to what we've been trying to say. It's not taking into account what is happening today and tomorrow. I think we need to focus on today and tomorrow to see what sort of vision we want for Canada, what we want the immigration system to do, and how the immigration system fits into the larger Canadian interest.

• (1730)

Ms. Mylène Freeman: Sorry, to specify...

The Chair: Ms. Freeman, our time has expired. We probably could go on for quite a while. You have raised some great points on all sides.

I'd like to thank our witnesses for making their presentations to us.
Thank you very much.

Tomorrow morning we will consider Bill C-45.

Before I adjourn the meeting, we will have one hour of Bill C-43
on Wednesday. We will have one hour of supplementary estimates.
The minister will come for the final hour.

The meeting is adjourned.

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