



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Public Safety and National Security

SECU • NUMBER 073 • 1st SESSION • 41st PARLIAMENT

EVIDENCE

Thursday, February 28, 2013

—
Chair

Mr. Kevin Sorenson

Standing Committee on Public Safety and National Security

Thursday, February 28, 2013

• (0945)

[English]

The Chair (Mr. Kevin Sorenson (Crowfoot, CPC)): Welcome back, everyone, to the Standing Committee on Public Safety and National Security. We are going to continue with our second hour.

This morning we are commencing our study of Bill C-51, An Act to amend the Witness Protection Program Act and to make a consequential amendment to another Act.

Our first witness is the Honourable Vic Toews, Minister of Public Safety and National Security. Accompanying the minister from Public Safety Canada is Trevor Bhupsingh, director general of the law enforcement and border strategies division. From the Royal Canadian Mounted Police, we have Assistant Commissioner Todd Shean, federal and international operations.

Again, Minister, we thank you for coming to committee. You've appeared here a number of times at our request. Thank you for your availability this morning. We would invite you to make your opening statements in regard to this new bill the committee will be looking into. We welcome your comments.

Hon. Vic Toews (Minister of Public Safety): Thank you, Mr. Chair, and thank you, committee members, for the invitation to appear before this committee to assist you with your deliberations on Bill C-51, the safer witnesses act.

As indicated, I have senior officials with me from both Public Safety and from the RCMP.

The safer witnesses act will help to strengthen the current federal witness protection program, a program that is often vital to effectively combatting crime, and in particular organized crime. Bill C-51 will first and foremost improve the interaction of the federal witness protection plan with provincial witness protection programs. At the moment, someone in a provincial program obtains federal documents required for a secure identity change only if he or she is temporarily admitted into the federal program. This process can result in delays in obtaining a new identity.

Bill C-51 proposes to remedy the situation by establishing a process whereby the provincial programs can become designated witness protection programs. A province would request this designation from the Minister of Public Safety, at which time the provincial authority would provide assurances of the program's capacity to protect both its witnesses and its information. Once a program is designated, and upon the request of the program, the RCMP would be obliged to help in obtaining federal identity documents for a provincial witness requiring a secure identity

change without any need for him or her to be temporarily admitted into the federal program. This new system will cut red tape and make the process more efficient and indeed more secure.

Currently, each law enforcement agency submits its requests for federal identity change documents to the RCMP. Under the designation regime proposed by the bill, the provincial official from a designated provincial witness protection program would request federal documents on behalf of the law enforcement agencies. This process would limit the number of individuals involved in the process.

The bill would also enhance the security of witness protection regimes in Canada by both enhancing and broadening the current prohibitions against the disclosure of information. The current federal Witness Protection Program Act prohibits the disclosure of information about individuals within the program. Section 11 of the current act says:

no person shall knowingly disclose, directly or indirectly, information about the location or a change of identity of a protectee or former protectee.

Bill C-51 will strengthen this prohibition in a number of very important ways. It will not only prohibit the disclosure of information about people who are in the federal program, it will also prohibit the disclosure of sensitive information about how the program itself operates, as well as about those individuals and front-line officers who actually provide or assist in providing protection for the witnesses. So it's those who are administering and working with the protectee who are also protected now.

This legislation, in particular this portion, has received very strong support. Tom Stamatakis, the president of the Canadian Police Association, has stated that the Canadian Police Association appreciates the steps being taken by the Government of Canada to protect front-line officers. He went on to say, "On behalf of the over 50,000 law enforcement personnel that we represent across Canada, we ask that Parliament quickly move to adopt this Bill."

Mr. Chair, I can't say I disagree. Both of the prohibitions I mentioned earlier will also extend to designated provincial programs. That is, disclosure of information about witnesses, people who provide protection, and sensitive information about the programs themselves, will be prohibited. Such prohibitions against the disclosure of information currently exist only within the legislation of a particular provincial jurisdiction, so they don't apply across jurisdictions. Bill C-51 will also clarify the prohibition with respect to what and how information is being disclosed.

As I've mentioned, section 11 of the current act contains the phrase:

no person shall knowingly disclose, directly or indirectly, information about the location or a change of identity of a protectee or former protectee.

● (0950)

The phrase "directly or indirectly" was considered to be unclear. The bill proposes amendments to ensure that the prohibitions will clearly apply to cases where a person discloses information in a range of ways. Some examples include telling someone what a protected person's name is and telling someone where a protected person lives.

Bill C-51 will prohibit all of the above disclosures by specifying that no one shall disclose any information, either directly or indirectly, that reveals the location or change of identity of a protected person or the information from which the location or change of identity may be inferred.

Among other improvements, Bill C-51 will expand referrals for admissions to the federal witness protection program to sources assisting federal security, national defence, or public safety organizations such as National Defence and CSIS. By extending referrals to this category of witnesses, we are also addressing one of the commitments under the Government of Canada's Air India inquiry action plan released in 2010.

The current federal witness protection program has served the criminal justice system well. Today there are approximately 800 individuals under the protection of this program. In 2011-12 alone, the RCMP considered a total of 108 cases for admission into the federal witness protection program. Thirty protectees were admitted to the program, of which 27 were granted a secure name change. The number of admissions fluctuates from year to year, depending upon factors such as the number of cases being investigated or the number of people in a witness's family.

During this same time, the RCMP also provided assistance to other Canadian law enforcement agencies, as provided for under the existing Witness Protection Program Act. The fact that the federal witness protection program is serving the criminal justice system well does not mean there's no room for improvement.

The Witness Protection Program Act has not been substantially changed since 1996, despite the increasingly sophisticated, evolving, and global nature of organized crime.

Ongoing consultations with provincial and territorial stakeholders have also helped to highlight some areas where stronger provisions are needed, including those that I've mentioned today.

I must mention that this legislation has been well received by police chiefs, front-line officers, and the provinces.

Mr. Chair, before I close, I'm aware of some concerns with regard to the need for funding to accommodate the expansion of organizations that may refer witnesses for consideration of admission into the program, and I want to take a moment to address those concerns.

It is important to note that it is not anticipated that there would be any need for additional funding to accommodate this change. The program is currently funded by the RCMP from existing operational

resources, and that will remain the same under Bill C-51. I would like to point out that there are seven criteria the RCMP use to assess whether to place an individual into the program. The cost of the protection is only one consideration.

The commissioner of the RCMP is required by statute to consider the risk to the witnesses, the danger to the community if a person were to be admitted into the program, the nature of the inquiry and the importance of the witness in the matter, the value of the information or evidence to be given by the witness, the likelihood the witness can adjust to the program, the cost of maintaining a witness in the program, alternate methods of protection, and other factors deemed by the commissioner to be relevant. The RCMP will continue to be required to take each of these factors into consideration under Bill C-51.

I've also referenced the fact that many people were applying to get into the program, but only 30 were admitted last year. I'd like to point out that there is no application process. The law enforcement agencies and international courts and tribunals refer individuals to the RCMP for consideration of admission, and each case is reviewed based on the seven criteria I have mentioned.

The truth is that very few people, if any, actually want or apply to be admitted into the witness protection program. It is a tool of last resort to keep them safe in exchange for their testimony. It imposes significant restrictions on their movements, lifestyle, and associations. That said, the witness protection program is a vitally important tool in our ongoing efforts to combat organized crime groups.

● (0955)

The bill addresses the need for modernization as well as enhanced information protection and integration with provincial programs. The bill introduces reforms to the present witness protection environment that will build on our collective efforts to battle organized crime as well as terrorist organizations, and in that way it helps all of us to continue to build safer streets and communities for everyone.

I ask that both opposition parties work with us to move forward this important piece of legislation.

Thank you very much.

The Chair: Thank you very much, Mr. Minister. I know there will be some very good questions coming out of that.

We'll begin with Ms. Bergen, please.

Ms. Candice Bergen (Portage—Lisgar, CPC): Thank you very much, Mr. Chair.

Thank you, Minister, Assistant Commissioner, and officials for being here.

I want to get right into the issue of cost. What we have found with the opposition, and it's kind of interesting...there's a bit of a pattern. The NDP support this particular bill, yet they were constantly talking about the fact that they think we need to put more money into the program. Interestingly enough, they don't support Bill C-42, for example, but they want more money for it. Even when the commissioner said we don't need more money and the independent chair of the complaints commission said we don't need more money, the NDP just want to keep throwing more money where it's actually not needed.

Can you please tell us very clearly, or the assistant commissioner could tell us, is there more money required when and if Bill C-51 passes?

Hon. Vic Toews: I'll let the assistant commissioner follow.

I'll just make a couple of comments. In my briefings with the RCMP, they've advised me very clearly that they have the resources to administer the witness protection program. In fact, what this program really does is streamline the process, and it should, in many ways perhaps, even save some administrative costs in that respect. The prohibitions are simply a broader way of protecting individuals in law without requiring any additional resources. But if there are additional resources that are needed to administer the program, the RCMP advises me that they have the capacity to manage within the existing budget.

I want to make clear that when we talk about 107 witnesses who have been considered by the program in any one year, it's not that there are 107 who want to join the program; it's simply a consideration based on the criterion that it might be advisable for these individuals to be in the witness protection program. As indicated, there are some substantive limitations on their lifestyle and where they live, so many people simply do not want to take that route. There are other ways of protecting these individuals.

Perhaps the assistant commissioner can add to my comments.

• (1000)

Assistant Commissioner Todd G. Shean (Assistant Commissioner, Federal and International Operations, Royal Canadian Mounted Police): Mr. Minister, Mr. Chair, as the minister has stated, with the changes this bill brings about, the RCMP is comfortable that we have the resources within our existing resources to run an effective witness protection program.

Ms. Candice Bergen: Thank you.

Also, during the opposition's comments on this bill—and I could almost quote verbatim—they said several times that 108 applied and only 30 were accepted; they could only assume that's because there were not enough resources.

My challenge to them was that it's probably not a good thing to assume anything. Was their assumption correct? Can you please explain that for everyone here?

Hon. Vic Toews: I'll let the assistant commissioner answer. It's not that there are 108 who require protection but only 27 or so get it. That's simply false. If that's the impression being left by anyone, that is a false impression. Those who need protection receive the protection, if the program is the appropriate one for them to receive that protection in.

A/Commr Todd G. Shean: That's correct. It's not a question of resources; it's a question of the assessment that's done. Once the assessment is completed...during the assessment process the person may decide that they do not want to enter into the program, they don't want to proceed on the route they're on, or we may assess that they're not suitable for the program. So the assessment is done, but the person is not necessarily entered into the witness protection program.

Ms. Candice Bergen: How much time do I have, Chair?

The Chair: Three minutes.

Ms. Candice Bergen: Thank you.

Can you also speak to those seven criteria? My understanding is that in the act as it exists—not in this legislation, but in the act—seven criteria are laid out, one of them being cost.

I think there has been some confusion. The RCMP website refers to some times when municipalities or provinces end up not carrying through because of costs. There seems to be a misunderstanding that this is because there is not enough money, so that they can't protect people. It seems to me that it's more within the criteria, looking at the cost versus whether there is actually going to be a benefit and whether it will enable protecting the individuals.

Can you speak to the criteria and very specifically to the costs? It's really important. We have the support of the opposition; cost is the only thing they are talking about. I think we need to be really clear on where the costs are incurred and whether there are any deficiencies.

A/Commr Todd G. Shean: As you stated, the criteria are under section 7 of the act, and cost is one of the considerations. But I can say that at the end of the day, the witness protection program reports to me, and I'm the one who signs off on the admissions or the terminations. Cost is one of the factors considered, but since my time in the chair, never have I denied an entry because of costs.

Ms. Candice Bergen: When you say “costs”, do you mean literally how much it is going to cost to protect this person, to change this person's identity?

A/Commr Todd G. Shean: The type of protection we are going to have to afford this particular individual is always a consideration that we have, as part of the assessment. Normally it's based upon the type of organization or the type of situation the person finds him or herself in and the type of protection that must be afforded.

Ms. Candice Bergen: With the changes in this bill, are we expecting that there will be a huge flood of new witnesses who will need to be protected?

A/Commr Todd G. Shean: No.

Ms. Candice Bergen: Thank you very much. That concludes my questions.

Hon. Vic Toews: On that point, the criteria aren't changing. What we're doing is streamlining the program in respect of the interaction with the provincial program—and of course the additional prohibitions against disclosure of certain types of information.

Ms. Candice Bergen: Yes. Again, the opposition has commented that because we would now take applicants from National Defence and a few other areas, such as Public Safety, there would be a great flood of new witnesses who would need to be protected. But that's not the expectation, because we're opening it up as per the Air India inquiry's recommendations.

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

Thank you, Minister.

We'll now move to Mr. Garrison.

You have seven minutes in the first round.

Mr. Randall Garrison (Esquimalt—Juan de Fuca, NDP): Thank you very much, Mr. Chair, and thanks to the minister and officials for being here today.

We on this side of the House are very glad to see Bill C-51 before the committee.

Also, of course, we have committed to expediting its passage through the House. We believe it's important legislation. It's something we've been interested in since the time of the Air India inquiry, in which the inability to protect witnesses in national security matters became very obvious.

We are also very glad to see the definition expanded so that it might be useable in protection of witnesses to combat street gangs. We know this has been a very big concern of municipal police forces.

The provincial coordination and assistance program is very positive. I think one matter that has not received enough public attention is the additional protections to those working in the program. We know that organized crime, in an attempt to break the witness protection program, has a temptation to pick on those who administer it, so we think this is a very important provision for protecting the police who work in this program.

The parliamentary secretary has read some of my notes this morning, obviously, and has used them for her presentation. We have heard from municipal police forces that there will be some additional demand on the program if they are going to use the program to combat street gangs, which they weren't able to do before. We had one very specific instance, Chief McGrogan from Medicine Hat, who appeared before the committee and expressed his concern about costs for municipalities of witness protection programs.

I have some personal experience with this as a police board member and as a city councillor. I'm going to save the minister some time, because he usually responds to me by talking about my record as a police board member and a councillor. I'm going to save him a little time in his response on this by pointing out that when I served on the police board and as a councillor, each and every year the police received additional resources, and each and every year I supported the vote and voted for additional resources for the police. I don't know where his confusion about my record comes from,

because it's a very clear public record. So I'll save him time this morning by making that response.

I really want to come back to this: the minister has said there will be no additional resources for the RCMP, and we take it in good faith that the RCMP can manage the program, but our question about resources is really at the municipal level. Municipalities face downloading in policing costs of all kinds. The parliamentary secretary made reference to the statement on the RCMP website that there sometimes is a reluctance on the part of municipal police forces to use the witness protection program because if it's for a federal prosecution they will be billed back the full costs.

I would like to have your comments on this issue, concerning resources.

● (1005)

Hon. Vic Toews: Actually, I wasn't going to mention your record. I have the quotations if you want them, but I thought we were starting off on such a good footing today, with all the nice things you're saying, that I wondered, why get into a cat fight on that kind of stuff?

Some hon. members: Oh, oh!

Hon. Vic Toews: I appreciate the opposition's supporting this bill in principle and I respect the fact that you have questions you need to ask.

First of all, I am a little confused about the issue that street gangs are now included. In my opinion, the nature of the crime and who commits it is irrelevant; if a witness needs protection, that's the only criterion. We don't make a distinction about whether somebody is part of a street gang or whether it's old Mafia or other types of organized crime that is going against witnesses. The criteria that are considered are those laid out in the statute, and I don't believe there is any restriction on the type of criminal who is causing these individuals to be threatened. Somebody must be mistaken.

Maybe I could get the RCMP to correct me, if I am mistaken in this.

A/Commr Todd G. Shean: No. I too look at the threat assessment to the potential witness or the person involved. The crime can be whatever the crime might be.

Mr. Randall Garrison: Certainly Bill C-51 changes and broadens the definition of who can be included. I guess this would be good news, then, because we had that impression from talking to municipal chiefs and the Canadian Police Association.

Hon. Vic Toews: Maybe I could just put on the record, Mr. Garrison, that if there are police who presently have any hesitation about bringing forward individuals in street gangs who want protection or witnesses who are the victims of street gangs, our policy remains the same, whether Bill C-51 is passed or not. Obviously we want it passed for other reasons, but I want to clear up that misapprehension. If there are some administrative restrictions that have been made mistakenly, I would only say that the people should contact my officials to get the matter straightened out.

Mr. Randall Garrison: Thank you, Mr. Minister. We welcome that. I believe that misapprehension has been out there and that the broader definition will help remove it, but your statement is I think very important.

One of the suggestions made in the Air India inquiry was that there be some independent review mechanism or some independent evaluation of the witness protection program. I would like to hear, maybe from your officials, whether they feel that will be necessary. It is not included in the bill; they feel this can be handled under existing structures.

Hon. Vic Toews: One thing we are doing is to separate the investigation of a crime from the administration of the program. Though both the investigation and the administration take place under the RCMP, we feel the RCMP are best placed to administer the program. I know there have been suggestions of perhaps having the Department of Justice take over the administration. Quite frankly, the Department of Justice does not administer programs per se, and that is not a good fit.

I have not heard of any complaints about the RCMP administering the program, but I think it is important to separate the administration of the program from the investigation of the crime so that the legislative criteria are considered on an independent basis. Obviously they're going to have input from the police, who say they think or don't think a particular person is an inappropriate candidate.

Assistant Commissioner, perhaps...?

• (1010)

A/Commr Todd G. Shean: I think you are absolutely correct, Mr. Minister, and we have done this.

The program at one point used to report through an intermediary; now the program reports directly to me. Within the respective provinces, we've severed the relationship between the operational side of our business and the witness protection program, and the work done within the provinces reports directly into Ottawa, into offices that report to me. We are the sole decision-makers with regard to the assessment of that protectee and what resources it will take to protect him or her. In addition to that, we now have psychological assessment and case management plans prepared.

So we have really separated...and our program is protectee-focused.

The Chair: We'll move now to Mr. Gill, please.

Go ahead.

Mr. Parm Gill (Brampton—Springdale, CPC): Thank you, Mr. Chair.

I also want to thank you, Minister, and your officials for being here this morning with us on this important topic.

Minister, does Bill C-51 respond to recommendations made in the Air India inquiry? Can you talk about that, please?

Hon. Vic Toews: You know, we look at all of these inquiries to determine how to best implement the spirit of the recommendations, and we certainly have taken numerous steps right across the board in implementing the Air India inquiry recommendations. In this

respect, I believe the recommendation in Air India was for an independent program within the Department of Justice. For a number of reasons, it was just felt that this was not the appropriate place for the program. The Department of Justice simply is not suited to this type of program.

We felt that we could meet the spirit of the Air India inquiry recommendations by having the RCMP administer the program or continue to administer the program, but that we should separate the operational from the administrative side, as the assistant commissioner has mentioned, so they can clearly focus on the criteria that the legislation presently has and not be influenced by the operational side in an inappropriate or unnecessary way. Perhaps that's the best way to say it.

Mr. Parm Gill: Thank you.

I have another question, Minister. You may be aware that I have introduced a bill in the House, Bill C-394, An Act to amend the Criminal Code and the National Defence Act, which basically targets individuals who are responsible for recruiting youth, mainly, and other individuals into criminal organizations, or, in other words, gangs. It has passed second reading in the House. I was very thankful to have the government's support on this, and that of the official opposition, but unfortunately, I guess the Liberal Party did not see this as an important initiative.

My question to you as minister is, can you confirm that if the police refer an individual who is part of a youth gang, the RCMP would consider that individual?

• (1015)

Hon. Vic Toews: Thank you.

I want to thank you for your initiative in that respect. We think that trying to give police additional tools to stop the recruitment in these gangs, especially of young people, is very, very important. To my knowledge, there is nothing that would prohibit the consideration of an individual for the program simply because of the type of organization he or she is in, or the type of organization that the person is being victimized by. The criteria are spelled out very clearly in the act, and those are the ones that are utilized.

I have never heard of a situation where all of the criteria have been met and somebody says, "Well, the organization that you're frightened of is not one that we would consider in the context of these deliberations." That simply is not the case. Street gangs are every bit as dangerous as more organized criminal gangs.

In fact, the street gangs are often more dangerous because of the tendency to violence—unpredictable violence. I'm sure the RCMP know much more about this, but organized crime is more focused on the business of crime, whereas some of these street gangs are in fact much more violent and unpredictable in their activities. Those individuals I would see as being as vulnerable, if not more vulnerable, than those who traditional organized crime would target.

Mr. Parm Gill: Thank you for that.

In Toronto, Chief Bill Blair has stated that they have seen the fear caused by intimidation and the threat of retaliation in gang investigations. Can you describe how the witness protection program and these changes will encourage witnesses with information to come forward?

Hon. Vic Toews: I think I'll leave that to the assistant commissioner, because that's an issue that he has dealt with over the last number of years.

A/Commr Todd G. Shean: With regard to the changes being brought forward, if they're entering a provincial regime, the changes brought forward under this new act will facilitate the obtaining of documents. It clearly spells out within the act the criteria and the protections that are afforded to the individuals who are helping us. Quite frankly, I believe that there's everything that's required there to provide proper protection to any witness who wants to enter the program.

Mr. Parm Gill: It's obviously very encouraging to see that this legislation is standing up for front-line officers.

Can you please explain how the amendments in Bill C-51 will benefit those individuals who administer and protect those in the program?

Hon. Vic Toews: Right now the focus of the protection is on the protectees. Of course, the more successful we are in protecting the actual individual, the more the focus could be on individuals who are providing that protection and their families. So it's very important not to disclose information regarding those individuals who provide that protection.

This gives front-line officers another layer of protection by ensuring that there are criminal sanctions in place should that information be improperly released. As I've indicated from the president of the Canadian Police Association, this is something that they're certainly supportive of and they welcome these changes.

I note that the official opposition also indicated that they support that aspect of the bill.

The Chair: Thank you very much, Mr. Gill.

We'll now move to Mr. Scarpaleggia, please, for seven minutes.

Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.): Thank you very much.

If gangs are a growing problem, and if those in gangs are particularly vulnerable...because, as you say, gangs are violent. They do the dirty work of organized crime, I guess, in many situations.

If Mr. Gill's bill is going to target more gang members...and I'm not certain that's the case; I'm not certain it will be effective. But if that's the case, if we're putting a greater accent on gangs, if gangs are a growing problem, and if we want to use witness protection to apprehend more gang members, wouldn't you think that a higher rate of admission into the witness protection program would be an indication that crime-fighting strategies were working?

Let me phrase it another way. If you expect this legislation and crime-fighting efforts with existing resources to be effective in terms of apprehending more criminals, especially gang members, and you expect the witness protection act to be useful in this battle, wouldn't

you expect that there would be more people admitted over the next few years, if you're successful in fighting gang-related activities?

• (1020)

A/Commr Todd G. Shean: I guess what I can say is that we have a number of successful investigations that are ongoing, so the number of admissions into the witness protection program fluctuates. It really does; it fluctuates—if it's an individual gang member, if it's a gang member with a family.

So if more people come forward, the admissions could rise, but we've seen that the numbers have been relatively steady over the years.

Mr. Francis Scarpaleggia: But now we have Mr. Gill's bill, so one would expect that there would be more apprehensions. Are you budgeting for an increase in admissions, and if not, why not?

Given Mr. Gill's bill, and given the government's effective crime-combatting strategies, wouldn't you expect more admissions?

The Chair: Mr. Scarpaleggia, are you making reference to Mr. Gill's private member's bill?

Mr. Francis Scarpaleggia: Yes.

The Chair: Okay.

Hon. Vic Toews: I don't necessarily see that where you have a successful prosecution it necessarily means you have a particular witness in need of protection—

Mr. Francis Scarpaleggia: But there must be a correlation.

At any rate, I'll move on to another question.

In the confidential report from the RCMP of October 2011, entitled *Enhancing Independence between Witness Protection and Investigations: Supporting Operations by Widening a Safer Net*—I put the emphasis on “widening”—it gives on page 13, under the topic “Changes to enhance independence”, I guess the conclusion of some consultation:

In fact, it was generally agreed that such independence was positive, as long as resource implications arising out of any changes were properly addressed.

Now what does that mean, “as long as resource implications” are properly addressed? Does that mean as long as more money is available?

A/Commr Todd G. Shean: No. I think you have to understand that there's only a certain investigational capacity. There are only a certain number of resources to undertake investigations, and in turn, a lot of those witness protection efforts stem from an ongoing investigation. So there's normally only a certain number of admissions into the program.

As I shared with the committee, I feel quite strongly that the program right now is properly resourced to run an effective witness protection program, considering the number of cases that come to us each year.

Mr. Francis Scarpaleggia: I believe you. I'm not impugning what you're saying. But theoretically, how would we know? This information would be confidential; it wouldn't be accessible under ATIP. Would the police complaints commission be allowed to investigate to see if in fact cost is not operationally a criteria?

A/Commr Todd G. Shean: I can share that over the last year—

Mr. Francis Scarpaleggia: I believe you.

A/Commr Todd G. Shean: —I've administered the program, nobody's been turned away because there wasn't the budget there to do it, so the admissions that came and the people—

Mr. Francis Scarpaleggia: How do we know?

A/Commr Todd G. Shean: The program reports to me and....

Mr. Francis Scarpaleggia: Okay. I believe you. I'm not impugning what you're saying, but if I may go on to another point, Chair....

The Chair: Two minutes.

Hon. Vic Toews: I can tell you, Mr. Scarpaleggia—

Mr. Francis Scarpaleggia: Excuse me, Chair—

Hon. Vic Toews: I can tell you that if there are requests for additional resources in any area, I hear about them.

Mr. Francis Scarpaleggia: But you put constraints on your budget, so something's got to give.

Hon. Vic Toews: No, I've never heard about more requests.

Mr. Francis Scarpaleggia: Anyway, if I could go on to the next question....

The Chair: Go ahead.

Mr. Francis Scarpaleggia: Let's be clear. I take what you say at face value. I'm sure you're correct. I don't doubt what you're saying.

Another of the recommendations in the 2008 committee report, the Air India inquiry report, was that potential candidates for admission to the program be offered the aid of legal counsel during the negotiation of the admission and the signing of the protection contract. Is that foreseen? I didn't see that in the bill.

• (1025)

A/Commr Todd G. Shean: We do it as a matter of course in every instance, and we actually encourage it.

Mr. Francis Scarpaleggia: Okay, that's good. You said the bill, Minister, is going to increase protection against divulgence of information related to the program. Has that been a problem at this point?

Hon. Vic Toews: As street gangs or other gangs become aggressive or upset about certain initiatives, we've seen them begin to threaten not only the witnesses but also the broader police. That is always a concern. If there's any way we can stop that activity from spreading, we will take it. This is a very good step.

Mr. Francis Scarpaleggia: So it's related to gang activity. Okay.

The Chair: Thank you very much, Mr. Scarpaleggia.

We'll now move back to Madame Doré Lefebvre.

You have five minutes.

[*Translation*]

Ms. Rosane Doré Lefebvre (Alfred-Pellan, NDP): Thank you, Mr. Chair.

Mr. Minister, Assistant Commissioner Shean and Mr. Bhupsingh, thank you for joining us today. We greatly appreciate it.

First of all, Mr. Minister, I would like to thank you for the clarifications you have made on the fact that some street gang members can benefit from the witness protection program. As my colleague Mr. Garrison said, a number of stakeholders saw the situation differently. Thank you very much for making those comments today.

If I may, I will continue to talk about street gangs. I have some fears about that. So I wish to raise various issues and share my concerns with you.

We agree with those who are combatting street gangs and who say that giving members who are trying to leave street gangs access to the program is a major tool that they sorely need. Let's face it. But it is already difficult to meet budgets. Just think of the fact that some groups who are combatting street gangs in municipalities, for instance the Éclipse squad in Montreal, will lose their funding at the end of March.

So how do you plan to implement a bill like that? On the one hand, this bill is very important for witness protection. On the other hand, there are some significant examples of funding being eliminated for the fight against street gangs in Quebec, since the funding is not recurrent, unfortunately. I see a double standard.

I am really wondering how we are going to manage to implement this bill if we eliminate policing tools particularly in Quebec where the mandate is to combat street gangs. What do you think about that?

[English]

Hon. Vic Toews: It's exactly as you've stated. It is the mandate of the Quebec government to take that activity. Policing throughout the province is a responsibility of the provincial and municipal governments. That's the way our Constitution is determined. The federal government did make a one-time-only contribution under the police officers recruitment fund. There was \$400 million over five years, but it was made very clear, all the participants understood, that that was initial funding over those five years for that purpose. At this time it is coming to an end.

Of course, the real issue is not simply funding police, but ensuring their work is effective. Their work is effective when the guys who are continually going through the revolving door of the justice system remain in prison. That has been the focus of our legislation: to ensure that those who deserve to be in prison remain in prison. We will continue in that respect. I believe we will see crime drop as a result of that, because the same old guys are committing the same crimes over and over again. As soon as they're back out on the street, they're committing crimes. The fact that they are no longer out on the street committing crimes has a tremendous impact on the crime rate.

So we would certainly appreciate your support for some of the other initiatives we're making in terms of mandatory minimum prison sentences for those who are involved in serious crime. That will help the police more than \$400 million over five years.

Remember when the NDP said we had to put \$19 billion of infrastructure in place to accommodate what Bill C-10 would do? Even my department estimated three years ago there would be 19,000 prisoners by this time, 2013, up from 14,000. I said no, that wouldn't happen. At present, we have about 15,000 prisoners, so it's up about 1,000. Essentially, we're not scooping up new people; we're just keeping the same old guys in prison so they don't get a holiday to go out and victimize more people. It's a very simple strategy.

•(1030)

The Chair: Thank you very much, Mr. Minister.

Unfortunately, we're out of time. We're over five minutes.

We'll now move to Mr. Leef, please. You have five minutes.

Mr. Ryan Leef (Yukon, CPC): Thank you, Mr. Chair.

Mr. Minister, welcome to the committee again.

Assistant Commissioner, in policing in general, but in this program as well, have you ever experienced an occasion or occasions whereby witnesses have been reluctant to come forward and testify simply because of their perception of what an ultimate sanction would be. When a witness says he'd like to testify, but at the end of day he thinks person X is just going to get a slap on the wrist, so he's not willing to put his name out there, he's not willing to testify, he's not willing to take the stand. He's not willing to take those risks if he doesn't perceive an appropriate sanction will come down.

Have you ever experienced that in your policing career?

A/Commr Todd G. Shean: Quite frankly, I never have discussions regarding sanctions. I think the important thing for a witness is always to understand the process—here's the process,

here's what you're going to go through—to make sure the witness has support throughout the process, and certainly to understand the laws that exist and what they could experience before the courts. That's normally the explanation that's provided.

Hon. Vic Toews: I think, though, if I understand your question, Mr. Leef, it's the broader policing experience than simply the administration of the program.

Mr. Ryan Leef: That's correct.

Hon. Vic Toews: Certainly, in my experience, not only as a prosecutor but in other roles I've played in the Attorney General's department in Manitoba, there's always been that reluctance among individuals, especially in communities that are being plagued by gangs. Why should they get involved if the same individual is back out on the street, on bail, very shortly, or even if upon conviction they're out very quickly?

There is a tendency to view the system as not being proactive enough. That's certainly something I've heard over and over again in the course of my career. If witnesses can be assured that somebody with a gun is not going to get bail, they are obviously more likely to testify. That's one of the reasons we made that change, for example, in the reverse onus on bail for those who are carrying illegal firearms. It's a small amendment, but very effective over the long term, in terms of protecting witnesses and giving witnesses confidence.

Mr. Ryan Leef: You certainly mentioned in your testimony that the witness protection program is a tool of last resort because it restricts movement, lifestyle, and associations. Very few, in respect to witnesses, actually apply for the program. It's understandable that if a person's movement is restricted and lifestyle is going to be impacted by entering the program, and associations will be limited, that one would also want to consider that in coming forward. We have parameters in which we would measure whether they would come into the program. I'm certain that witnesses have their own sets of parameters in their head. One, I assume, would be that if they're going to impact their movement, their lifestyle, and their associations for probably the rest of their lives, they would want to know there's going to be a meaningful sentence and sanction to come along with that. Would that be an accurate statement?

Hon. Vic Toews: I think all witnesses are different, but that's certainly one of the themes I've heard over the course of my career. If there is no meaningful sanction, why should they risk themselves or their families in testifying? Again, I'm sure that's something the investigators are very aware of when they're trying to put a case together.

Mr. Leef, you've been an RCMP officer. You know what that's all about, how difficult it is in certain communities to get somebody to testify.

I know the real problem we used to have in respect of domestic violence, a horrendous problem where spouses are being abused by the other spouse, and then ultimately, the reluctance to testify for a number of reasons. I think as a society we've moved quite far from the old days. Back in the 1970s when I was prosecuting as a front-line prosecutor, so many women, usually, came to court and simply said, "I don't remember what happened", or, "I don't want to go forward." Then the women used to be prosecuted on public mischief charges. We've come a long way since then.

I think some of the steps we're taking on this program are just other steps in terms of protecting witnesses and understanding how the witness is an integral part of the justice system, which they never used to be. They were a sort of afterthought or just an appendage.

• (1035)

The Chair: Thank you, Mr. Minister.

We'll now move to Mr. Rafferty, please.

Mr. John Rafferty (Thunder Bay—Rainy River, NDP): Thank you very much, Chair.

Thank you very much, Minister and officials, for being here.

I have five minutes now to finally put this whole cost thing to bed so that we don't have to talk about it anymore. I have some very pointed questions for you.

First of all, let me say why I'm concerned about cost. We've heard with earlier witnesses, from the government members, and from you here today that you're clearly all on the same softball team. The manager has said, "Whatever you say, it doesn't matter what you say, but don't say that it's going to cost us more money." That's the impression I have, so that's why I'm concerned about the cost.

The reality of the numbers is that from the last estimates we are seeing a reduction in the RCMP budget, about \$58 million. I think the RCMP has said that in 2013-14 they estimate saving \$89.1 million. I see money going down, and I know that's part of what the government's looking at.

I assume also, Assistant Commissioner, that your money is kept in envelopes, or most of it, but perhaps you can beg, borrow, and steal from other programs to make it work. The question is, will the witness protection program be protected from cuts?

A/Commr Todd G. Shean: Over the past year and coming up, the witness protection program has actually seen an increase in resources.

Mr. John Rafferty: I have a further question to that, and I don't think we got an adequate answer last time. Bill C-51 will undoubtedly encourage more people to come forward. That's good, and we're certainly supportive of that.

Let us just say that there may not be exponential numbers coming forward, but there is an increase. You will have a certain bar. You don't want to keep moving the bar higher because you don't have any money, and there are people who are worthy of and interested in being in the program. Will you have the opportunity to borrow from other programs, for example, to make sure that all the people who need and require witness protection will be able to get it?

Hon. Vic Toews: Go ahead.

A/Commr Todd G. Shean: My only answer is that there are a lot of people coming to the witness protection program; some are inadvertent witnesses, but those, in my experience, are more rare. Most of them stem from cases or investigations we have ongoing, so we only have a certain investigational capacity as well. That's why, as I sit here, there are only a certain number of investigations that are ongoing, that are going to generate a certain number of potential people coming into the program. That's why the enhancements assist the program, but I don't see a great new influx of people within the program. That's why I'm very comfortable.

Mr. John Rafferty: Minister, you—

Hon. Vic Toews: Just to reiterate, the RCMP has advised me that it has the capacity to manage within its existing budget if more funds are needed. That's what it's indicated to me, and I have no reason to doubt when it says that to me.

Mr. John Rafferty: Okay.

Minister, you said a moment ago that if there are funding requests, you hear about them. I'd just like to—

• (1040)

Hon. Vic Toews: Not only in the House of Commons from you, but it also happens inside the department and from the agencies.

Mr. John Rafferty: My question is specifically about first nations, and I think we can expect with this bill that perhaps there will be more first nations activity in terms of witness protection and so on. There are serious problems among first nations in terms of gangs and so on. So there may be an increased use of that.

Part of the problem, of course—and I'm sure you've heard this many times, Minister—is that first nations police services are woefully underfunded. They do the best they can with the resources they have.

I wonder if you would like to perhaps make a comment about moving forward over the next couple of years and what you have in mind. I don't expect you to jump the gun, but with Bill C-51 there should be increased usage of that among first nations, I would expect, in terms of northern Ontario, for example. They need more money, Minister.

Hon. Vic Toews: You mean the first nations police.

Mr. John Rafferty: Yes.

Hon. Vic Toews: Well, they've certainly advised me that they would like to see the federal participation continue in the first nations policing program. They've made that clear to me in the discussion I've had with various first nations communities and with every province in Canada.

The Prime Minister has indicated that a decision on that issue will be made shortly.

Mr. John Rafferty: Do you think the 52%, the federal contribution now—

The Chair: Mr. Rafferty, you are over time.

Hon. Vic Toews: I see the 52% continuing.

A voice: [*Inaudible—Editor*]

Hon. Vic Toews: Well, I can't say anything about that. I'll leave that with the Prime Minister.

The Chair: Thank you very much, Minister.

And thank you, Mr. Rafferty.

I would just like to ask one quick question; I think I had permission from our parliamentary secretary on that.

I want to thank you first of all for moving with Bill C-51.

Mr. Norlock is getting ready to ask a question. Mr. Norlock is the only member on this committee who was on the committee in 2008 when the committee issued the report on the review of the witness protection program. So some of the changes that are happening in this bill are straight out of the good hard work of Mr. Norlock and the committee back then.

I would ask one question, and I thank you for clarifying on the street gangs. I think the word that was missing a bit was “youth”—youth street gangs. You clarified that. The definition of “person” that falls under this is “any person”. Anyone can fall into the witness protection plan.

One of the criteria in the witness protection program, when you consider whether they would be available, is the likelihood of the witnesses being able to adjust to the program, having regard to the witnesses' maturity. I don't know if the deputy commissioner would.... Is there difficulty for young people to prove the maturity they would need in such a program? That was one question.

I wonder if, Minister, you would have any examples as to a rate of recidivism? Are you aware of any recidivism of prior offenders who may be in the program?

These are two questions that came out of Mr. Norlock's committee report.

Hon. Vic Toews: Do you mean people repeatedly entering into the program?

The Chair: I mean a situation where they may have been offenders and they were also witnesses and they were brought into the program. Is there any awareness of recidivism later on?

Hon. Vic Toews: Recidivism has the connotation—and I want to clear it up—that they have failed in being in the witness protection program. It is simply that the involvement of the witness protection program is no longer seen as necessary; then these individuals might

be involved in another context or be perhaps threatened again by the same gang when they're back out into their normal life. Then they are brought back into the program. There is nothing that would prevent that type of—

The Chair: From coming back.

Hon. Vic Toews: —recidivism from happening. But the individual has to be appropriate for the program. If they can't offer any protection for the individual within the context of that program.... It doesn't really make any sense bringing them into the program if it jeopardizes others in the program, if it jeopardizes investigations, if it does everything. There are other ways the police can take steps to protect them.

● (1045)

The Chair: Exactly. There is a responsibility on the witness, and that's the point. For the witness, if they are a juvenile or if they are a youth, there is a certain responsibility they have in this program.

A/Commr Todd G. Shean: For everybody within the program there are definitive responsibilities that are laid out. I think one of the enhancements from the committees is the addition of the psychologist and the case management plan. The psychologists are there to work with the individuals and develop a case management plan to ensure the individuals entering the program will be successful within the program. That's one of the enhancements, and the plans are so comprehensive that it's very much advancing the program. I'd say we have one of the best in the world.

The Chair: Thank you very much, Mr. Minister, for appearing here today.

We appreciate that we have one hour and our time is up. In fact, you stayed a minute or two longer.

Mr. Norlock, I apologize.

Mr. Rick Norlock (Northumberland—Quinte West, CPC): Okay.

The Chair: Thank you for your good work on the committee before and thank you again, Minister.

Hon. Vic Toews: I want to thank all the committee members for moving this bill ahead as quickly as possible. I think we've been fulsome in our disclosures here. So I want to thank all the committee members, and I want to specifically thank Mr. Norlock for the work he did in developing this particular bill because of his prior studies.

Thank you.

The Chair: Thank you.

We are adjourned.

Published under the authority of the Speaker of
the House of Commons

SPEAKER'S PERMISSION

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Also available on the Parliament of Canada Web Site at the following address: <http://www.parl.gc.ca>

Publié en conformité de l'autorité
du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante : <http://www.parl.gc.ca>