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# **Standing Committee on Public Safety and National Security**

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**EVIDENCE**

**Thursday, October 20, 2016**

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**Chair**

**Mr. Robert Oliphant**



## Standing Committee on Public Safety and National Security

Thursday, October 20, 2016

• (1405)

[Translation]

**The Chair (Mr. Robert Oliphant (Don Valley West, Lib.)):** Good afternoon everyone. I am Robert Oliphant, chair of the Standing Committee on Public Safety and National Security. We are in Montreal on this fourth day of our trip through Canada. We have begun a study of Canada's National Security Framework, which began in Ottawa with testimony from the Minister of Public Safety and Emergency Preparedness and officials from the department.

We will continue today with our new witnesses. I thank you for being here.

We are happy to have this opportunity to meet with you.

[English]

I'm going to turn to the committee and have them introduce themselves to you.

[Translation]

We will begin with Mr. Di Iorio.

**Mr. Nicola Di Iorio (Saint-Léonard—Saint-Michel, Lib.):** Thank you, Mr. Chair.

I am Nicola Di Iorio, the member for Saint-Léonard–Saint-Michel. I want to welcome you to Montreal, Mr. Chair. I think Mr. Dubé is going to join me to welcome all of our colleagues to Montreal.

I want to welcome our witnesses as well. It is a great pleasure to have you before this committee.

Thank you.

**The Chair:** Thank you.

Mr. Mendicino, you have the floor.

**Mr. Marco Mendicino (Eglinton—Lawrence, Lib.):** Thank you, Mr. Chair. I am Marco Mendicino. I am the member for Eglinton–Lawrence, a Toronto riding.

If I may, Mr. Chair, I want to say a few words in English to express my gratitude to the whole team accompanying this committee.

[English]

This is the first time I've had an opportunity to travel with the parliamentary committee. I thought it would be appropriate, because we're veering towards the end of the committee's tour, to say thank you to the analyst, to the clerk, and to all of the staff, including security, who have provided critical support for us on this tour. It's

not easy to put a public consultation of this magnitude on, and we could not have done it without you, so thank you very much.

I also want to thank my colleagues across the aisle who are standing members of this committee, as well as you, Mr. Chair, for facilitating this discussion. It has been at all times constructive and civil. On an important topic like this, I could not have asked for a more positive experience.

I hope all of my colleagues share that sentiment.

[Translation]

**The Chair:** I think so.

Ms. Watts, could you introduce yourself.

[English]

**Ms. Dianne L. Watts (South Surrey—White Rock, CPC):** Thank you very much.

My name is Dianne Watts. I'm from British Columbia, South Surrey–White Rock. I echo the sentiments of my colleague in terms of what a great experience this has been. I welcome you here, and all of the witnesses who have come, as well as all of our support, and our analyst and clerk.

What a great job everyone's doing. I thank you and acknowledge you for the great work you're doing—as well as you, Mr. Chair.

[Translation]

**The Chair:** Thank you.

Mr. Dubé, you have the floor.

**Mr. Matthew Dubé (Beloeil—Chambly, NDP):** Thank you, Mr. Chair.

Things always come in threes, as they say. I also want to echo Mr. Mendicino's comments.

My name is Matthew Dubé. I am the member for Beloeil–Chambly.

Mr. Di Iorio, my constituents would not forgive me if I did not say that I am a Montreal member. My riding is on Montreal's South Shore, but is in fact located in the Greater Montreal region. I am very happy to be back in Quebec after a very busy week, which is not over yet.

I am pleased to welcome our witnesses this afternoon.

**The Chair:** Yes.

[English]

Thank you to members of the public, as well, for being here.

Just a note that we are having a second meeting tonight from 5:30 to 7:30, to which the public is invited to come to give their comments as individuals on the subject of national security and the way Canada should be framing that question.

[Translation]

We will now begin our meeting. We will first hear Mr. Foura, from the Congrès Maghrébin au Québec.

You have 10 minutes. We are listening.

**Mr. Lamine Foura (Spokesperson, Congrès Maghrébin au Québec):** Thank you very much.

Good afternoon, Mr. Chair, ladies and gentlemen, esteemed members of the committee. Good afternoon also to everyone else here.

I will briefly introduce the Congrès Maghrébin au Québec and tell you about my journey so as to provide a context for my statement, and then move on to my testimony as such.

The Congrès Maghrébin au Québec is an organization created in 2009 by professionals of the Maghreb community in Quebec. Its objective essentially is to encourage the civic participation of Quebecers of Maghrebian origin, and also to help the Maghreb community to integrate, especially in the scientific, economic, cultural and other areas. It also promotes entrepreneurship within the Maghreb community. For two or three years now, we have also examined the issue of radicalization.

As for my personal journey, I have been in Canada for 17 years. I am an engineer by training and I work in a large Canadian aeronautics firm in Montreal. I have a BA in Islamic studies, with a major in theology. For several years I worked with the Quebec Ministry of Immigration and Cultural Communities, as it used to be called, to promote integration. I became a member of the Maghreb Issues Table. Two years ago, I was among the members of the Muslim community chosen by the Premier of Quebec, Mr. Couillard, to be appointed to a task force on radicalization. I am also a research assistant at the Interdisciplinary Research Group on Ethno-Religious Montreal, GRIMER, and I have hosted radio and television programs for about 15 years within the Muslim community.

I will now read my statement as such, which will focus essentially on the issue of prevention. We consider prevention to be a very important element in countering radicalization leading to violence.

We launched several initiatives within the Arab-Muslim community of Montreal to raise the awareness of its members regarding the importance of their participation in this debate. This testimony is based on what we have observed on the ground.

We also followed the work done by the CPRLV, the Centre for the Prevention of Radicalization Leading to Violence, created in Montreal two years ago. We believe there are three important elements that make up the biggest challenge in any prevention efforts.

The first element is the issue of trust.

I apologize, I forgot to mention that I was invited by the American government in the month of August to visit four American cities that have set up anti-radicalization programs. This gave me some understanding of what is happening in the United States. We visited four cities where there were violent incidents related to radicalization.

I'd like to get back to the issue of trust. All of the anti-radicalization programs, whatever their effectiveness and structure, require and need trust. This trust is established by the type of intervention the government adopts—this is what we have observed, and it is not a criticism. This is a conclusion based on our observation of the CPRLV. In our case, when the centre was launched, the ambiguity of its relation with the police did not allow it to establish proper links with the community.

We are not saying that police involvement is a problem. Paradoxically, experience in Montreal has shown that RCMP involvement was much better accepted. The reason is that the community police, in its community role, when it is transparent—that is the second very important point in any attempt at radicalization prevention—is viewed in a more positive light. This has been the case with the RCMP since young Canadians who left the country to join terrorist groups were identified. The community involvement has to be open, and recognize that police officers have a role in fighting crime, but also play a role in the community. That role is not to impose programs, but simply to participate in programs and activities.

Another important element in the process to fight radicalization is to avoid that this be done in parallel with community activities as such. One of the criticisms we make of the centre is that its work involves a lot of international marketing. It is not perceived as a main actor that promotes sports, cultural or social activities within those communities that can be affected by this phenomenon. This approach is done in parallel and creates distance; there is a lack of trust among the members of the communities in general, toward all prevention activities.

● (1410)

I heard the same comments in the United States, whether in California, Chicago or Atlanta. All of the communities, particularly the Muslim communities, show a certain mistrust when the process is not clearly identified, such as when a centre is created that claims not to be in contact with the police, but is in reality. People prefer, as in the example I quoted with reference to the Montreal radicalization prevention centre, that the RCMP get involved through community activities.

For example, our activities currently include judo, soccer for youngsters, and cultural activities. By participating in such activities, having open discussions with the young people, being open about being members of the large RCMP family, and by working through the community to establish good relationships with the youngsters, the image of police authority is improved, and we consider this very important.

Concerning young people who are likely to be radicalized, we have observed in the field that radical groups on the Internet will work on one aspect particularly, the weak link which is the feeling of belonging, a fundamental link. The young person who loses that sense of belonging to society becomes vulnerable and likely to be recruited by ill-intentioned groups on the Internet or by persons who are agents of radicalization.

Allowing the police to build community relationships serves two objectives. On the one hand, we are furthering prevention by ensuring direct support of current activities and not in parallel with them, and on the other hand, we are strengthening the rule of law. Even if he disagrees with the country's policy, the young person understands that he is living in a state governed by the rule of law and democratic processes that allow him to express his disagreement on issues like international policy.

The last point I want to raise is the matter of assessment. Studies done around the world have shown that all of the anti-radicalization programs can be counter-productive and even generate radicalization if transparency and trust are not well established. In Canada, we need to find a way of putting in place a neutral authority that would evaluate the various existing anti-radicalization programs, including local programs. That authority could be made up of persons who are known throughout the country. Something needs to be done, because anti-radicalization programs that are poorly implemented can produce the opposite effect. A poorly made distinction, for example, between prevention activities and criminal law activities can create mistrust, eliminate trust and cause an irreversible break between Canadian youth and the Canadian government.

Please allow me to go back to a very important point with regard to radicalization prevention. In consultations, the issue of the list of groups considered to be terrorist groups came up. When the government updates that list, it is very important to manage the transition between the phase when a group is not considered a terrorist group and when it becomes so, because any person or any Canadian who has a relationship with that group is then considered to be involved in something criminal. The management of that phase is very important, communication-wise. In other words, you have to ensure that people are well informed about the situation of organizations which, entirely legally, dealt with an organization that is subsequently added to the list of terrorist organizations, so that the transition in the status of the group is done entirely transparently.

I will conclude my statement on the issue of radicalization. The Muslim community as a whole very much appreciated the statement by the Minister of Public Safety and Emergency Preparedness that radicalization is a phenomenon that is not well known. That is also what the American political authorities said during my visit there. We have to be careful of organizations or centres that claim to have easy solutions, but are only looking for subsidies.

I think we are in discovery mode, and we have to take the necessary time to make all of the actors aware of things, as well as the Muslim community. On the ground and in my open mike programs, I have observed that the Muslim community is mobilized and wants to participate. I would say that there are a lot of differences of opinion on a lot of topics, but on the matter of radicalization, the community can play a very important role. The

majority of its leaders are ready to participate actively despite their differences.

Thank you.

• (1415)

**The Chair:** Thank you very much.

Mr. Peschard, you have the floor.

**Mr. Dominique Peschard (Spokesperson, Ligue des droits et libertés):** Good afternoon. I thank the members of the committee for having come to Montreal to hear what we have to say.

The Ligue des droits et libertés is a non-profit and non-partisan organization founded in 1963. Its objectives are to defend and promote the rights recognized in the International Declaration of Human Rights, and we support its principles of universality and visibility. The Ligue des droits et libertés is a member of the International Federation for Human Rights. It is also one of the oldest rights advocacy organizations in the Americas.

I am accompanied by my colleague Denis Barrette, who is a lawyer and a member of the Ligue des droits et libertés. Regarding the standing committee's interest in public and national security, Mr. Barrette represented the International Civil Liberties Monitoring Group—of which the Ligue is a member—at the commission of inquiry on Maher Arar, presided by Judge O'Connor. He will speak to you more particularly about the problems regarding accountability and the mechanisms to monitor the agencies.

We are very pleased that the government has initiated a public discussion on national security. I am aware that we will not be able to cover everything in 10 minutes, but I want to point out today that we would like the national security framework, which goes back to the events of September 11, 2001, to be reviewed.

To provide some context, I want to read two quotes. The first one reads as follows:

• (1420)

[*English*]

“Shall we fail to remember that nothing can so weaken security as the loss of liberty?”

[*Translation*]

These are the words of Ramsey Clark, the former American Attorney General.

The second quote is from the former Secretary General of the United Nations, Kofi Annan: “Upholding human rights is not only compatible with successful counterterrorism strategies. It is an essential element.” Since the attacks of September 11, 2001, anti-terrorism measures have generally been adopted in fear and haste in the wake of specific events, without substantive discussions on the appropriateness of these measures, and what is more important, without assessing their impact on our human rights regime and on the freedoms which must be protected.

Some of the rights that have been put at risk are the presumption of innocence; the right to privacy and protection against searches and invasions of privacy; the right not to be harassed, questioned, arrested or detained on the basis of suspicion or racial, religious or ethnic profiling; the right of everyone to a fair and equitable public trial, and the right of appeal; the right to a full and complete defence; the right to be protected against arbitrary imprisonment and torture; the right of asylum; the right to information and freedom of the press; and freedom of expression, including the right to demonstrate publicly and collectively.

All of these rights have been affected in one way or another since the attacks of September 11, 2001. The idea that has been promoted among the population is that if we want more security, we have to sacrifice freedoms and that this is a matter of balance. We want to emphasize that this is a profoundly erroneous and dangerous idea. We will not obtain greater security by sacrificing our rights. Rights and freedoms are the basis of security.

I quoted Kofi Annan, but in a United Nations report on terrorism, it was pointed out that the societies that have the greatest respect for rights are the ones where there is the greatest security, and where there is the least violence and the fewest attacks.

Moreover, we wish to reiterate our position that the Criminal Code prior to 2001, as well as the 12 international treaties against terrorism which Canada subscribed to, already allowed us to fight effectively against terrorism. In its brief tabled when Bill C-36, the Protection of Communities and Exploited Persons Act, was adopted, the Canadian Bar Association reminded us quite rightly that the Canadian government already has many legal tools to repress terrorist offences, and that the Criminal Code contains a solid arsenal of provisions aimed at fighting terrorist organizations.

We also wish to point out that the terrorist threat, as well as the search for security, have to be evaluated in a broader context. In a report submitted to the Secretary General of the United Nations in 2004 entitled "A more secure world: our shared responsibility", an impressive list of threats to international peace and security was drawn up. The report also identified the main challenges, including war between states, and violence within states; poverty, infectious diseases and the deterioration of the environment; nuclear, radiological, chemical and biological weapons; terrorism; and organized transnational crime.

In other words, terrorism is a threat to security, but there are many others, that in fact cause the deaths of many more people throughout the world.

Moreover, it is quite dismaying to note to what extent governments refuse to learn lessons from the past 15 years. Western countries, including Canada, have waged many wars against Muslim countries. These wars have sown death, destruction and chaos, and have created conditions conducive to the development of terrorist breeding grounds. Rather than revising this disastrous policy, which only leads to endless war on terrorism, governments persist in making us believe that our security rests with the surveillance of populations and extraordinary police powers.

In this short presentation, we cannot critique all of the anti-terrorism laws and measures that exist in Canada. However, the law

based on Bill C-51 adds a particularly worrisome level to the measures that already exist. The power to minimize the measures granted to CSIS reminds us of the abuses uncovered by the McDonald Commission, such as the fact that the RCMP stole the list of members of the Parti québécois, burned down a barn, and issued false FLQ communiqués to counter the separatist menace.

The new crime which consists in advocating or promoting the perpetration of terrorism-related offences in general is a threat to freedom of expression. People may be put on the no-fly list on the basis of simple suspicion, without knowing what is being held against them, and without really being able to defend themselves. The possibility of detaining people for a week on the basis of simple suspicion when no charges have been brought against them is extreme and unacceptable. We also share the opinion of the Privacy Commissioner of Canada, who criticized the new Security of Canada Information Sharing Act, based on Bill C-51.

Finally, we still do not have a mechanism to monitor and oversee national security activities. The proposed parliamentary committee is absolutely essential, and will be one of the ways of ensuring that the organizations concerned respect the charters and rights of citizens. However, improvements must be made to Bill C-22 which creates this parliamentary committee. It is essential that an independent body, with the capacity to closely examine all national security activities, be created. Otherwise, the committee will not be able to function.

In this regard, we share the point of view of the International Civil Liberties Monitoring Group, which will testify in the second panel. That said, we could go back to that issue, if you have questions on this topic for us.

In conclusion, you have the obligation not only to question anti-terrorist measures, but also to generate debate and promote real public discussion, both on the full exercise of fundamental rights and on the identification of true threats to security, as well as their causes and the means to curtail them. We are in favour of this consultation. It is a first step. We nevertheless expect this government to continue to set itself apart from previous governments by placing the rights and freedoms of individuals at the heart of security policies.

Thank you.

• (1425)

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

We'll start now with an initial round table. You'll have seven minutes to speak, and we'll begin with Mr. Di Iorio.

**Mr. Nicola Di Iorio:** Thank you, Mr. Chair.

My first question is for Mr. Foura. I'll ask the Ligue des droits et libertés questions at the next round table.

Mr. Foura, you referred to your work as a volunteer and you said it led to the American government inviting you to visit certain cities in the United States as an expert. I want to hear more about that experience and about what you observed.

Let's take a fairly typical example of a family with two or three young children. The children grow up and run into problems as teenagers. I want you to explain how the problems can arise and what solutions—or parts of a solution—you have used.

**Mr. Lamine Foura:** We considered the issue of vulnerability. In general, youth can't be radicalized from one day to the next. There's a socioeconomic and international policy context. There are many reasons why a person can lack a sense of belonging to Canadian society. For example, the person's parents may not have integrated well because they failed to find a job despite their qualifications.

There are also external factors, essentially websites. The United States has developed very good programs to find out the recruitment methods and analyze the dialogue on these sites. Canada doesn't have these programs. I know the RCMP is working a little on these things, but the government could equip the volunteers on the ground with this type of program and develop ways to investigate this type of dialogue. The volunteers could therefore develop certain indicators.

The danger is that no typical profile exists. A person must not be stigmatized directly. That's when the role of volunteers on the ground becomes important. These are people who can be trusted. For example, I received calls from parents who trusted me. I met with them. We spoke with their children, and, in the end, there was no need to worry. These people from outside the community have a certain reputation in the community. We can see that the young person is more comfortable talking to these people than to his or her parents. That's when we see whether any isolation issues exist.

For example, in a number of neighbourhoods in Montreal, we integrated radicalization prevention into daily activities. The biggest mistake is to establish an external program because it's seen as a stigmatization of the community.

We connect young people who practice judo with trainers. It's a multicultural environment. It's not one community in particular. We tell them that, as youth, they have a very important role to play in countering radicalization. We don't give them an accuser or victim role, but a proactive role. Each time we involve young people in the process, we educate them on the issue. We share very basic investigation methods with them. We tell them they can speak with the RCMP, for example. We then introduce them to someone from the RCMP who is well-informed, who knows how to do things and who is familiar with the environment.

Training is very important. Today, there are many workers. There's an industry of radicalization prevention programs, and people are looking extensively for funding. Some act as specialists, but they don't know the communities.

We did this experiment, and the youth started asking questions. They consider themselves on a mission. A young person who may be vulnerable to radicalization ends up on a mission to ensure that no youth in his or her neighbourhood or environment fall victim to terrorist groups who spread propaganda over the Internet.

Young people have a great deal of energy and knowledge. They want to have plans. Unfortunately, the plan to go to Syria is a personal challenge. The government must also make many other improvements in terms of international policy. I agree with what was

said on the topic. There are things we can control and things we can't control. We can at least transform the young people's energy into positive energy so they can help counter the radicalization phenomenon. I can assure you that some young people were very mistrustful.

Two things are required. First, the community must be very active—I'm not referring to a particular ethnic group—and the leaders must be ready to act. Then, the authorities must not be indifferent. They must be prepared to get involved, but in a spirit of non-interference. Their involvement must not be seen as spying. The authorities need to provide guidance to create this dynamic among the youth.

This has happened in a number of neighbourhoods in Montreal. There have been soccer, singing, music and judo activities. It works very well. Now the young people are asking whether a program exists because they want to make sure other young people join their activities.

• (1430)

**Mr. Nicola Di Iorio:** Can you give an example of what you do when the situation becomes a real problem and might get out of hand?

**Mr. Lamine Foura:** We created a committee. I'm referring to the Muslim community in particular. There may have been other cases of radicalization of people who weren't from Muslim families. We created a crisis committee that includes a religious authority. Imams work with us and are very involved. There are also two experienced people who work more in the social field. There are also psychologists in the community.

All this is done in the community. It's good to note that the community is now ready to look after matters itself. Each Canadian has a civic duty to help protect national security, and also a moral responsibility.

Lastly, in the cases we mentioned, without stigmatizing the community, the youth from the community decided to go to Syria. Many professionals work in psychology. The committee is starting to provide an environment that inspires trust in the young people because they don't trust things that come from authority. That's the reality. It's not only the case for the police. Even the centre, today, doesn't have the authority in the community to take steps. Certain people have reported cases to me. I'll give you an example.

Someone was contacted by a friend in Syria. I went through this case. It was only a Facebook message. So, what should be done? A network of trust enabled us to contact the police. The police gained the family's trust and were able to take quite good steps to prevent the child from turning to crime because he didn't interact with his friend. He was saved simply because the network established a relationship of trust with his community and school. Sometimes, the best way to counter this type of thing is to work with a friend of the person who can easily gain the person's trust.

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

[English]

We will continue with Mr. Miller for seven minutes.

**Mr. Larry Miller (Bruce—Grey—Owen Sound, CPC):** Thank you very much, Mr. Chairman.

Gentlemen, thank you very much.

Mr. Foura, I missed the first couple of minutes of your presentation. My plane was a little late. Thanks for being here.

You talked about deradicalization in a kind of negative way, as if you don't want law enforcement or society to be involved in that. I do appreciate the fact that the community has a role—and is taking a role—in deradicalization, but it's obviously not working 100%. I need you to tell me what's wrong with law enforcement having a role in that. My time is limited, so if you could be as brief as possible, I would appreciate it.

[Translation]

**Mr. Lamine Foura:** Thank you.

I want to make a very important clarification. There are two complementary approaches, deradicalization and prevention. The Canadian government must focus heavily on prevention. We don't want the person to become radicalized because deradicalization is a much more complex process. The difference is important.

Take, for example, the shock of the fall 2014 attacks. Canada is a very peaceful country. We're not used to this type of violence on our territory. I think it caused a shock that raised everyone's awareness.

It must also be said that the RCMP has made mistakes in the past. Problems have been documented by committees. There was a lack of confidence caused by political positions on an international level that were not completely consistent with the Canadian tradition. All this resulted in an environment where confidence was lacking.

Moreover, the tragic events of fall 2014 showed everyone the importance of working together. I think that, since then, things have been going much better than before. The departure to Syria of a few young people represents the failure of a period that started after the events of September 11, when our approach became much more security-oriented than prevention-oriented. We didn't focus on the community policing issue—

• (1435)

[English]

**Mr. Larry Miller:** I have to stop you there because I'm going to run out of time. I can't get through my head, Mr. Foura, what you mean by “a lack of confidence”.

I was in that room, as a number of us were, on October 22 a few years ago; Mr. Dubé was in a room across the hallway. The problem is that it did happen. I think it is good education to keep radicalization from starting, but it obviously isn't foolproof.

I want to move on at this point to Mr. Peschard. You made a comment about some people saying to give up some rights for more security, but you are opposed to that, from your comments.

Does law enforcement not deserve the rights and the powers to intervene in what they consider to be a known threat, as long as

oversight powers are in there to see that the law isn't being abused? Can you comment briefly on that?

**Mr. Dominique Peschard:** Yes. To the last part, you said insofar as oversight and review are there. Well, in the case of national security, oversight and review are absent. We have no parliamentary committee to date and we have no mechanisms to review the work of the agencies. The majority of the agencies don't have any review mechanisms of any sort.

In terms of the power of the police—maybe Mr. Barrette could expand on this—criminality didn't begin with terrorism. We have a history of developing a Criminal Code and the procedures under which people can be prosecuted and condemned for crimes. The procedures respect the rights of individuals, with a presumption of innocence and so on. These are the kinds of things that are put aside with regard to terrorism.

I mean, there are procedures where people can be put on a no-fly list on the basis of suspicion. They don't know why they're there. They don't have a fair court procedure to challenge that. This is the sort of thing that is not acceptable. These procedures don't lead to more security. If you look at recent history in Canada, terrorist attempts have been foiled, and they've been foiled by regular police work. We have no objection to that.

**Mr. Larry Miller:** I'd like to talk about that. Private Vincent was killed here in the Montreal area and Corporal Cirillo was killed in Ottawa two years ago. So-called experts say that if they'd have had the powers back then to detain, Vincent and Cirillo may still be alive today. You talk about some terrorist plots solved or that didn't happen. Just recently in Strathroy, Ontario, the powers that allowed the police to get that guy before he did something were in Bill C-51. So I don't buy your argument on that, in a respectful way.

Moving on, you quoted terrorism threats, and you mentioned some other events where numbers of people are killed. An airplane crash, car accident, or whatever accident is exactly that: an accident. Terrorism is no accident.

To go back to your point about holding a suspect for a period of time, I believe you said a week or more, how do we keep that identified threat off the street if they can't detain them? We've already talked about times when they knew a person was a threat; because they didn't have the powers to pull them off the street, the crimes were played out.

Perhaps you could answer that.

• (1440)

**The Chair:** Mr. Barrette, please make it a short response.



[Translation]

**Mr. Denis Barrette (Spokesperson, Ligue des droits et libertés):** *Garde à vue*, or judicial police custody, has existed for a long time in France. Before the trial, the investigating judge asks questions, which the suspect must answer. These measures were included in the Anti-terrorism Act that results from Bill C-51. There's judicial investigation, and there's preventive detention, which the authorities want to extend to six days, as it has been in France. That said, France experienced the Bataclan attack and other incidents. The effectiveness of these measures is open to question. We, at the Ligue des droits et libertés, greatly doubt whether these types of measures are effective.

You'll recall the Air India affair, the only instance where investigative measures were used during an inquiry. It was considered a total fiasco. The trial of the people thought to be guilty fell to pieces. The evidence had not been gathered effectively.

The more tools the police are given, the more they are likely to use them. One should not assume the police would be unable to do their work effectively without these tools. Naturally, they will always say they need more tools. But one must ask whether they're really necessary.

As I said, this principle already existed in France, where the investigating judge is as independent as the president when he subjects a suspect in police custody to an examination for discovery. The system is different from ours. The police tell the judge responsible for the judicial investigation what questions to ask. In other words, the judge almost parrots—I apologize for the image—the police investigation. The prosecution gives the questions to the judge, who tells the suspect that he must answer. That is what Justice Fish said in his dissent, though not in those words...

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

Mr. Dubé, you have the floor.

**Mr. Matthew Dubé:** Thank you, Mr. Chair.

Gentlemen, thank you for being with us.

My question is for Mr. Peschard and Mr. Barrette.

Reference was made to the McDonald Commission. Following that commission, it was decided to split the powers. As a result, we have the RCMP on the one hand, and CSIS on the other. Many people, myself included, argue that because of the powers included in Bill C-51, that separation is being eliminated, despite having been conceived for a very specific reason. Since your organization has been around for a long time, you've probably seen things progress, or regress, in that regard. I'd like you to give us more details about this situation.

**Mr. Dominique Peschard:** The fact that CSIS can take preventive action, even unlawfully under the legislation resulting from Bill C-51, does indeed bring to mind the actions of the RCMP. In fact, it's exactly why intelligence work was separated from police action at the time. The problem is that CSIS does not seek to gather evidence that will lead to criminal charges in a context where the accused will be able to defend himself in a fair and impartial process. Instead, things are done clandestinely.

As a result, people are sometimes subject to these police actions, as they were in the 1960s or 1970s, without being aware of it, and are then unable to contest the actions. The data banks of certain organizations can be destroyed, activities can be sabotaged, etc. Action is taken against individuals in the dark, as part of a framework that doesn't keep them informed, even after the fact. The rights of these people are infringed, but they have no way to challenge it. That is not an acceptable way to protect our country.

• (1445)

**Mr. Matthew Dubé:** I'd also like us to address these organizations' duty to prove they need such powers.

In your view, have these powers been proven necessary, or, on the contrary, were the provisions that existed before Bill C-51 sufficient to ensure public safety?

**Mr. Denis Barrette:** The state's surveillance and investigative agencies will always tell you their toolbox isn't full enough. That's normal. It's as old as the hills.

In my opinion, the proof has not been made, and it's up to those agencies to provide such proof. We must always ask—and this brings me back to the same question—whether an investigation would have been impossible without the anti-terrorism measures in Bill C-51, and in which respects these measures are helpful.

This is just one example among many. We must never forget that the context of Bill C-51 is terrorism and national security. National security is based on secrecy being maintained within surveillance agencies and the police. Consequently, the debates take place behind closed doors, because not only national security, but also, international relations, are involved. The information is from the outside. We're not arguing that it's improper for Canada to get information from other countries. We can't criticize that, since it's a normal procedure, and is bound to increase.

As we saw in the Maher Arar inquiry, the problem is that this information is often obtained through torture, or is erroneous. In fact, the two are often combined. Since the information is obtained through torture, it is often incorrect. This is why we often end up with investigations built on rotten foundations. It goes without saying that the results of those investigations are invalid. In short, the way investigations are conducted needs a thorough overhaul.

**Mr. Matthew Dubé:** That's very interesting, and I appreciate your answer.

I don't want to interrupt you, but time is precious.

Mr. Foura, I'd like to ask you a question. I must admit that I feel we know very little about the American experience in fighting radicalization. You mentioned your visits. Perhaps you could describe in a bit more detail the work being done in the United States, and whether those initiatives are successful or not.

**Mr. Lamine Foura:** It's important to understand that in the American model, the federal government does not intervene that much with respect to security. The U.S. Department of Homeland Security was created soon after September 11, 2001. Its role with respect to security is mainly a policy role.

In the United States, working group was created to bring together most federal institutions involved in security, and programs have been developed. So there is no direct intervention in terms of preventing radicalization. The working group developed programs with the help of researchers, and the programs are included in kits. The objective is to identify where receptiveness to these programs is particularly strong.

For example, there are training kits concerning Daesh's discourse. It's a presentation that is two and a half hours long, and in which the federal government simply provides the information to organizations. That's what I find interesting. Instead of creating an institution, such as a centre, the government takes care of developing and identifying training courses about the religious or political discourse of Daesh, intended for Americans. Here in Canada, we could have training for Canadians. And the kit is made available to, say, a sports team or athletic club, which can use it and present it independently. It can also be useful to parents.

For example, there's a slide that shows the major social networks like Twitter and Facebook. Everyone knows those. Then, other, less famous platforms, used more often by these groups, are presented in turn. This training and these tools are offered to stakeholders on the ground.

In the United States, far more work has been done on content orientation than on direct intervention.

• (1450)

**Mr. Matthew Dubé:** Thank you.

One last question, if I may.

You spoke about the importance of the network, but also a fear of criminalization, when a radicalization problem is reported. Some people say that increasingly broad and vague definitions in Bill C-51 risk undermining anti-radicalization efforts because of that very fear of criminalization.

Do you agree?

**Mr. Lamine Foura:** Very much so.

We are talking about countries that practice torture. So there's a major risk of loss of confidence. Relying on information from countries we know very well—countries from which immigrants come, and which use torture to get information—reduces confidence in the Canadian justice system.

**The Chair:** Thank you very much.

We will continue with Mr. Mendicino.

**Mr. Marco Mendicino:** Thank you, Mr. Chair.

[*English*]

My first question is for Mr. Foura. You've spoken at length about the importance of building trust between the community, conventional law enforcement, and the broader national security community. We've heard evidence, in the context of this tour, that there are two demographics within many communities that are often not fully empowered and engaged, when it comes to counter-radicalization. Those two demographics are youth and women.

I wonder if you can take a moment to talk about how we can fully engage those two groups. I think there is an important sentiment here that if we don't get them involved in this initiative, then we will not succeed.

**Mr. Lamine Foura:** Thank you very much. That's a very good question.

[*Translation*]

They are really the two most important groups. Young people generally trust their mothers more. There's a much stronger bond. In any case, in certain traditions, the mother is a very important symbol. This means she can be a bond of confidence. Women and youth play an especially important role.

Let me come back to the effort. In the work I do as an engineer, when transformations are made within my company, all the transformation programs not integrated with day-to-day activities fail. When it comes to preventing radicalization, the programs must not come from the outside; they must be integrated into young people's daily activities.

Young people will not want to take part in an activity if they're told it's an anti-radicalization activity. It won't interest anyone. However, if the tools are designed within the communities themselves, and the communities are given the means to integrate them tools in people's sporting, cultural or social activities, engagement becomes a natural process. The youth will then consider it their project, rather than a project that comes from the outside.

That's the essential element that gives us the certainty we can engage women or youth in a project.

[*English*]

**Mr. Marco Mendicino:** You mentioned sporting activities in your introductory remarks, and I had taken that down. Do you see a way of marrying sporting activities with other community role players, including law enforcement and police, in a way that is constructive?

[*Translation*]

**Mr. Lamine Foura:** We've already done that. Games between young people and Mounties have already taken place. The youth who play are generally talented at soccer. This gives them power. They realize they're people like them, who can discuss with them, score points against them, win the game, etc.

Let's come back to the question of trust. A few years ago, because of what happened in several documented cases, it was very difficult for me, as a leader, to tell the community we were going to invite someone from the RCMP. Since the events of 2005, I feel there's been a change of attitude or policy. I could call up some people from the RCMP tomorrow, and they'd ask me to organize a soccer tournament and make a lamb roast afterwards. That type of preventive activity is done today, but it can't be perceived as spying.

CSIS plays a negative role in this area. The powers it's obtained under recent laws enable it to interview people. But the people don't know how to react, because they don't know whether they have the right to refuse. This can sometimes break a young person's trust that took a year to build. Their interventions, which are sometimes not particularly normative, structured or open, can cause problems.

• (1455)

[English]

**Mr. Marco Mendicino:** Let me pick up on that, and let's return to women and the role that mothers play in the community, which is, of course, vital. How can we fully engage women in a positive way, as role models, as individuals who can ensure that we are reconciling culture and identity, which are core to one's ethnicity and culture, with broader Canadian values?

[Translation]

**Mr. Lamine Foura:** It's exactly the same thing. Unfortunately, we haven't yet launched an initiative of this kind. In the case of young people, some of our initiatives have had positive effects, but it's exactly the same thing.

[English]

**Mr. Marco Mendicino:** Sorry, if I could interrupt, what would an initiative look like in your eyes? Give me your vision of what a positive—

**Mr. Lamine Foura:** Yes, I will try to give you a vision of that.

[Translation]

Generally, citizens, and members of cultural communities in particular, want an opportunity to protect the country's safety. That's what I sense. Moreover, these people are well aware that experience has shown that young people of all religions today are vulnerable to a discourse that is much more political than religious, and that presents our youth an ideal that doesn't exist.

So the parents are contacted, but they don't want to be snitches. They don't want to be dealers. They want the police to treat them as equals, and work with them as a team. We need to find activities that women would be interested in taking part in, so they can play a role as citizens and protectors of national security, along with a maternal role as protectors of their children.

[English]

**Mr. Marco Mendicino:** Let me ask my last question to Monsieur Peschard and Monsieur Barrette.

One of the challenges on this file is coming up with objective metrics of success. How do we see that we're making progress in the prevention of radicalization? Could you offer a few brief words on that?

**Mr. Dominique Peschard:** It's not an easy question to answer.

**Mr. Marco Mendicino:** That's why I asked.

**Mr. Dominique Peschard:** It's not an easy question. I agree with Mr. Foura that prevention must be distinguished from deradicalization.

The metric of success is whether or not we have youth or other people getting involved in this sort of activity. We have to have measurements, at some point. But as an organization, Ligue des droits et libertés is one preoccupation and it's a question of trust and it was raised in relation with CSIS intervening in these kinds of processes, and it's a question of sharing of information.

We have a vast information sharing network, now, among all the agencies and police forces engaged in national security, and one of our concerns is that people who are targeted in one way or another

for intervention end up in police files that are widely shared. It would be a disaster if youth who the police approached, or who had interactions with the police, ended up in police databases that would eventually be shared widely, especially, with foreign partners. These people could be stigmatized for life, and there could be very serious consequences, because it's very hard to backtrack once you have been put on these lists and identified as a threat.

That's one thing. One of our preoccupations is precisely databases, the sharing of information, and that could be one area in which, for example, if care were not taken, the results could be very disastrous for individuals and the youth involved.

• (1500)

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

I think we have about four minutes for a round.

Ms. Watts.

**Ms. Dianne L. Watts:** Thank you very much. I appreciate all of the comments.

I want to go back to some comments that you made, Mr. Foura, regarding transparency and trust and a neutral authority to evaluate all of the programs.

We were just at the Centre for Prevention of Radicalization Leading to Violence, looking at some of the things they have undertaken.

Explain to me what that would look like. From what I'm hearing, the programs are so vast that they start with the community centre in soccer games, and they involve engaging the community, engaging youth, and engaging the police. So the underpinning piece is not the de-radicalization of a youth or a child; it's simply being engaged in the community.

I hear, from what you're saying, that there are organizations that actually put programs out for the de-radicalization of youth.

Can you talk to me about that?

[Translation]

**Mr. Lamine Foura:** Let me share a few comments about the Centre.

The problem with the Centre—and we see it a lot with international travel—is that we talk about an experience or a situation that doesn't exist yet.

There are claims that cannot be made. I went to the United States. It has more than 10 years of experience with this. Americans have a lot of content on the subject, because there have been far more attacks on their soil than on ours. Today, they say they're learning. The Centre does a lot of international marketing, presenting vast experience, and I think it's very dangerous. In fact, I am somewhat critical of it.

For example, one factor that goes to transparency is that the Centre has not yet published the procedures to follow in handling a case. It talks about cases that have been referred to the police. One doesn't know if it's a second police office, or a prevention office. That also breaks down all the trust in this regard.

This is why I believe that, going forward, there must be centres that think about strategy. The Americans may have developed some content, but they're not doing that today. The real work, especially on prevention, must be done by integrating a culture of prevention.

[English]

It's an awareness thing. We need people to be aware that there is an issue with that.

**Ms. Dianne L. Watts:** Let me just get this right.

Do people contact you? Do families contact you, in terms of...?

**Mr. Lamine Foura:** Yes.

**Ms. Dianne L. Watts:** So, over a period of, say, a year, how many parents would contact you and say, "I have an issue with my child"?

[Translation]

**Mr. Lamine Foura:** In one year, 100 people contacted us, officially or unofficially. In addition, some imams work with us on networks, and sometimes, an imam refers a case to us. We thought about creating a hotline, but we realized people are afraid of anything official. They're much more inclined to confide if there's a bond of trust.

[English]

We tried to build networks that included different people.

[Translation]

Certain people tend to turn toward the mosque or a more secular association. Others contact me as part of my radio program. After the show, someone might call me. It's a parent who wants to talk to me about his son. We find this strategy much more effective. When it's official, people tend to get worried about the procedure they must follow to make a call. They end up wondering if they are calling a second police station, or whether someone will help them.

In some cases, we thought things were beyond the prevention stage. So we called the authorities, and lawyers, so they would look after the matter. They answered that it was okay, that there was nothing to worry about, that it was a good thing to have informed them, and that the matter was taken care of.

I'd like to come back to the question of information management. What is that? For the moment, we trust the RCMP and the people who work with us. If this bond of trust is broken, it will set things back 10 years. It's important for the people in the community. We need people to believe security is their problem too, and that we're not against them. We don't want to push someone who isn't causing problems into causing some so they'll be arrested. That should be the main underlying philosophy of our laws, and of any bills introduced in the future.

**The Chair:** Thank you.

We've almost hit the five-minute mark.

● (1505)

[English]

**Ms. Dianne L. Watts:** In dealing with a youth who is engaging in that behaviour, would you use the same or a different process of engagement with someone who is born in Canada or someone whose country of origin is different?

[Translation]

**Mr. Lamine Foura:** Let's consider the example of Daesh, which makes no distinction between the two. There's a youth culture that's being built with the extension of the Internet, even for people born abroad. The important thing is that the workers involved with radicalization be trained well, so they don't fall into cultural biases.

We have to consider an interpretation of behaviour that might be tied to a cultural element. Beyond the issue of whether the person is born here or abroad, the dynamic is about knowing why the young person is more vulnerable than others. We must determine whether this question is tied to the person's confidence in authority—the person's feeling of belonging to the country—or whether it's a psychological problem, because that type of situation exists too. Consequently, these questions need to be dealt with on a case-by-case basis.

[English]

**Ms. Dianne L. Watts:** Thank you.

[Translation]

**The Chair:** I thank all the witnesses. This is very interesting.

We will now take a break for a few minutes, to help the new witnesses get settled.

● (1505)

\_\_\_\_\_ (Pause) \_\_\_\_\_

● (1510)

**The Chair:** Thank you, everyone. We will begin a second round of questions.

I thank the witnesses for being here with us.

We will start by hearing from the representatives of the International Civil Liberties Monitoring Group.

**Mr. Roch Tassé (Acting National Coordinator, International Civil Liberties Monitoring Group):** I'd like to begin by thanking the members of the committee for inviting us to share our perspectives on the national security framework.

The International Civil Liberties Monitoring Group is a coalition of 43 civil society organizations in Canada. Among other organizations, it includes the major unions, NGOs, human rights organizations and churches. Our coalition was created in 2002 specifically to monitor anti-terrorism laws and measures in order to determine their repercussions on the rights and freedoms of Canadians.

Since its creation in 2002, our coalition has appeared many times before the Standing Committee on Public Safety and National Security. We were also heard by the O'Connor and Iacobucci commissions. Furthermore, we have intervened in numerous cases before the Supreme Court, on issues ranging from security certificates to no-fly lists.

I was going to speak about several challenges today, but given the time considerations, we will focus only on two aspects: a request to repeal the provisions introduced by Bill C-51, and agency oversight and complaint mechanisms.

We're fortunate to have Paul Cavalluzzo with us today to represent us. He was lead commission counsel with the O'Connor Commission, which, in 2006, tabled a report containing recommendations for a review mechanism.

I will immediately give the floor to Mr. Cavalluzzo, so we can delve into the heart of the subject.

Thank you.

• (1515)

[English]

**Mr. Paul Cavalluzzo (Representative, International Civil Liberties Monitoring Group):** Thank you.

In the presentation I'm going to make today, I want to talk about the relationship between parliamentary review by the committee that will be created by Bill C-22, and independent review, which will be done, hopefully, by an expert body that is independent of government. I have prepared a presentation, which I understand will be given to you after it has been translated.

Now, having been commission counsel to the Arar inquiry and a special advocate for a number of years, I can attest to the fact that national security agencies and police agencies working in national security make mistakes. I don't say that they do it maliciously. They do it innocently, but they do make mistakes because they are human beings. Indeed, in Mr. Arar's case, what happened to him was that he was sent to Syria for a year of torture as a result of inaccurate information given to the FBI and the CIA by our Canadian agency, the RCMP.

His case is not an anomaly. Many Canadians have been caught up in the response of our agencies to terrorism.

One of the main problems that the agencies are facing is that they're dealing in intelligence. They're not dealing in evidence. Intelligence has been described as "glorified rumours". Intelligence comes from human sources, foreign agencies, and whatever, and it is often not reliable.

The other problem we have with our agencies is that they're not totally forthcoming with our adjudicative bodies when they do make mistakes. Indeed, last year and in the last few years, the Federal Court of Canada has been severely critical of CSIS because it felt that CSIS had not been forthcoming in respect of its mistakes.

The other aspect, which is very important in terms of why we need effective oversight and review, is that most of the activities of these national security agencies, like CSIS, are conducted in secret. They are conducted in secret. Indeed, even the court proceedings respecting the activities of CSIS are conducted in secret.

At the same time as their activities are conducted in secret, both CSIS and other national security agencies have unbelievably intrusive powers, which can intrude upon the rights and freedoms of Canadians. When we look at that total package, we have to say to ourselves that obviously we want to protect ourselves in respect of national security, but at the same time, we want to protect our fundamental freedoms, which are guaranteed in the Charter of Rights. How do we do that?

These are very important questions. Probably one of the most difficult questions in our legal system today is about balancing national security along with our fundamental freedoms, and I think the answer to that is effective oversight by a parliamentary committee and independent review by an expert body. Let me take you through that.

First of all, at the outset, let me say that I'm very pleased that the government is intending to create a committee of parliamentarians to oversee the activities of our national security agencies. I have a number of problems with Bill C-22, which I will share with you at the end of my presentation. I understand you're going to be dealing with it next week, and I have some comments on Bill C-22, but certainly, parliamentary oversight by this committee is a step in the right direction to strengthen our national security system, both national security agencies and national security reviews.

The question is, is it enough? My firm answer, having dealt with national security issues for the last 10 years and in dealing with top secret evidence and national security agencies, is that we need something more, and this something more has to complement the parliamentary overview of this committee or whatever committee there will be in respect of dealing with our national security agencies. On the one hand, we have oversight, which is done by a parliamentary committee, and on the other hand, we have review, which is done by an independent expert body.

• (1520)

Let me tell you the differences between that, because Commissioner O'Connor in the Arar report dealt with those concepts dealing with oversight. It's a good step, as I said before, to have parliamentary oversight by a committee. Most liberal democracies have that, and it's good that we're going in that direction.

What is oversight? Oversight deals with efficacy issues, such as how the national agencies are running and what policy system should be applicable to our national security agencies. It's a blue-sky review or analysis. As parliamentarians, you don't have the time to get on the ground to deal with the review issues.

What is review? Review looks at the national security agency, after the fact, on the basis of propriety against standards of lawfulness, policies, and other kinds of standards. It's what SIRC does. As you know, SIRC is the review body of CSIS.

On the one hand, we have parliamentary oversight dealing with systemic issues and policy issues, and on the other hand, we have review.

You may ask yourself, now that we're going to have parliamentary oversight with this committee of parliamentarians, we have SIRC, and we have the CSC commissioner. don't we have the best of both worlds? The answer to that is clearly not.

Over 10 years ago, Commissioner O'Connor, in the Arar report, said that our review system is inadequate. Now, with Bill C-51, the problems with review are even more glaring.

I will give you three examples of why the review system is not sufficient and adequate today.

First, our review system is siloed. It only has jurisdiction over one agency. It doesn't have jurisdiction over all of the agencies. All of our national security agencies operate jointly. You just can't have a review body over CSIS when it's working with the CBSA, RCMP, and so on. That siloed jurisdiction is totally inadequate.

Second, national security agencies have been given more and broader powers by Bill C-51, and our review agencies have to be given more powers and resources that deal with these expanded powers.

The third example is about personal information. Bill C-51 gives over 100 Canadian agencies the power to send personal information to 17 Canadian agencies, such as CSIS. Of these 17, 14 of these agencies receiving this information do not even have a review mechanism. There's a number of reasons why the system is fraught with difficulty and why we need a broader review mechanism that has authority over all of the national security agencies.

In the last minute or so that I have, I'll deal with the problems with Bill C-22.

The main problem is that the government can interfere with the mandate of the committee. The committee is given authority to do a national security review, unless the minister says it would be injurious to national security.

It's the same thing with respect to access to information. The committee can ask for information from a minister or an agency, but it can be refused on the basis that it's injurious to national security. The problem with that, as the Supreme Court of Canada said in the Harkat case, is that governments constantly over-claim national security confidentiality assertions not only in this country, but in the United States, the U.K., and elsewhere.

The decisions made by the minister under Bill C-22 to refuse information and to refuse this committee to investigate is not reviewable by a court, which is a power I have never seen in this country.

You'll see in my paper a number of difficulties with Bill C-22, which is going in the right direction, but it's not quite there yet.

Thank you.

**The Chair:** Thank you.

We just may hold those thoughts and come back to you in our formal review of Bill C-22. I know you wanted to do more, I could feel it, but you'll have another opportunity, I'm sure, either in person, or somehow, for our review.

Ms. Ataogul.

• (1525)

[*Translation*]

**Ms. Sibel Ataogul (President, Association des juristes progressistes):** I will be addressing you in French, but, as you can see, I can certainly answer your questions in English.

I am here on behalf of the Association des juristes progressistes, or AJP. It's an association of lawyers, law professors, law students and other women and men who work in the legal field. Founded in 2010,

it has several hundred members, and intervenes on a number of issues of current interest, and on recent laws and regulations.

In my own practice, I do a lot of work in the realm of constitutional law, and on the constitutional validity of laws. For example, I challenged a provision of the Labour Code that limited farm workers' freedom of association, a provision of the Highway Safety Code that limited the right to demonstrate, and by-law P-6 enacted by the City of Montreal. At the moment, I am challenging the pit bull by-law—this always makes people smile—but I think that principles related to the validity of laws are of great concern, especially at the AJP.

Our association stated a position when Bill C-51 was enacted. We came out against the measures in the bill for a number of reasons. One significant reason was that, in our humble opinion, most of the measures in the bill probably violate the Canadian Charter of Rights and Freedoms. That's why I'm here today to speak primarily about these measures. We intend to tell it like it is. A bill has been introduced to repeal certain provisions of Bill C-51, and consultations were promised during the election campaign. You will recall that the Liberal Party of Canada voted in favour of the bill, saying it would review the legislation later. We feel the time has truly come to do just that. Hence this presentation, which is the result of my colleagues' work. I won't spend much time on the subject being studied by the Committee; instead, I will focus on C-51.

I want to address two aspects. The first is the green paper, which was released to the public. The AJP has done a lot of legal education on the subject, and considerable public awareness work. What disappointed us about the green paper, and what disappoints us about these consultations, is that the green paper seems to present the current framework, including C-51, as something eminently necessary and/or positive. Naturally, we don't expect you to present the contrary view, but since this is a consultation, we believe the public should be able to comment with all the information in its possession.

It would have been interesting to note the controversies that the bill has sparked within the legal community, since most legal experts believe the law likely contains human rights violations. A constitutional challenge of these provisions, spearheaded by my distinguished colleague Mr. Cavalluzzo, is under way before the Ontario courts. We believe the public is entitled to this background.

As for the merits of the question, it's obvious we have a great deal to say, but I will limit myself to certain aspects of the provisions amending various acts, and will tell you why we think those provisions should be repealed.

The first consideration is the new crime of advocating or promoting terrorism. Specifically, anyone who knowingly communicates statements, while knowing that a terrorism offence will be committed or being reckless as to whether such an offence may be committed, is guilty of an indictable offence.

In our opinion, this provision serves no purpose, as there are already roughly 15 provisions governing all the terrorism offences, including terrorist or hate propaganda. The provision poses enormous problems with regard to freedom of expression. It is not just about people who have opinions different from that of the government of the day—we believe, of course, that this was the case at the time the law was enacted. It also applies to people with neutral positions, like journalists, professors and analysts. Such people might have an opinion about a conflict, but refrain from expressing it because that might cause someone, somewhere, to engage in some act. We believe the provision infringes freedom of expression, and that its usefulness has in no way been demonstrated.

● (1530)

On the contrary, this type of provision has an immense chilling effect.

Before my remarks, much was said about prevention initiatives, and about what is done to determine who is making such statements. You have created a provision for that purpose. I use the word "you", but I'm speaking in general terms, because I haven't heard anyone say they'd like to repeal this provision, other than something about a private member's bill.

You're ensuring that these discussions don't take place. Someone who might have thoughts of this kind, who needs support, and needs to talk with people from his community who would then ask him if he's really thought about what he's said, would refrain from talking about it, for fear of being charged under this provision. As a result, the discussions occur in somewhat more secret places. I think the provision is ineffective. In my view, it violates freedom of expression, and we will see what the court decides in that regard.

Furthermore, statements made in private benefit from no exception either, whereas other provisions do contain such an exception. I'm referring to discussions that take place in venues where one wants people to talk. One of the witnesses referred to a community where one wants people to discuss these ideas freely. Let me be very candid: as a lawyer, I would not advise my clients to have such discussions, due to the provision you've enacted.

Very briefly, I'd like to address the new powers granted to CSIS.

Mr. Cavalluzzo said that truly effective oversight power is needed, and I obviously agree, but first of all, we need to call on the Liberal government. It's the Liberal government that removed information-gathering powers from the RCMP, in the wake of the McDonald Commission.

You noted that granting these powers to CSIS was a step back. We're told that a judge can be seen beforehand. With respect, this does not account for our legal system, in which judges need to make decisions based on evidence. In this instance, a judge is being asked to guess whether a given measure could reduce a threat. So a judge who is not necessarily an expert in the field would have to determine whether a given measure would help prevent a threat, and after that, CSIS could act. Naturally, there is no way to present the judge with all the unforeseeable and spontaneous situations that can arise and justify granting a warrant. All kinds of things can happen in the course of a proceeding. Will it be necessary to go back before the judge each time?

We have a hard time understanding why this provision is needed, especially since, under the previous system, CSIS did not have these powers, and was already committing mistakes in good faith, according to my colleague Mr. Cavalluzzo.

I would now like to discuss a third point: preventive detention.

The Association des juristes progressistes believes the preventive detention scheme is already quite dubious under the Anti-terrorism Act, 2001. Indeed, the scheme permits preventive arrests if there are reasonable grounds to believe that a terrorist act will be committed. Even in such a case, a warrant must be obtained, whereas the provision proposed in Bill C-51 states that a peace officer can lay an information or arrest someone without a warrant, if he or she has reasonable grounds to believe that a terrorist act may be carried out.

I will cite the example given by the Canadian Centre for Policy Alternatives, which others have spoken about. It's the example of young Muslim adults having a lively conversation in the street. We don't know what they're talking about because we don't understand their language, but we wonder whether they might commit a terrorist act and whether they can be arrested preventively.

We believe this kind of provision goes very far and constitutes a major lowering of the thresholds for arrest and detention. For these reasons, it will probably be found contrary to section 7 of the Canadian Charter of Rights and Freedoms.

In the current context, where terrorism is the major concern and connections are made with the Muslim community, we believe it could lead to political profiling.

● (1535)

I was hoping to address other elements, but I will conclude my remarks with some comments on the no-fly list.

In our view, this list was already very problematic. Essentially, Bill C-51 codified the power of the Minister of Public Safety and Emergency Preparedness to put Canadians on such a list. And in order to be removed from the list, one must apply to the Federal Court. I don't need to talk to you at length about access to justice, but I can certainly say a few words if you wish. It's not enough to show that the Minister was wrong; it must be shown that he acted unreasonably. It's a positively Kafkaesque scheme.

It's also interesting that people who are not entitled to fly can still go into schools and shopping centres, and to take the bus and the subway. When seen from this perspective, I think a no-fly list is absolutely useless. We have a lot of trouble understanding how it could be necessary.

I will conclude by telling you about certain reports on the subject from the United States. According to these reports, certain people's names were put on the no-fly list so they could be asked questions, and told that their name might be withdrawn if their answers were satisfactory. I am not saying that's the intention in Canada—far from it—but I think the risk is grave.

Obviously, we feel this violates the right to liberty. It's not the same thing as being arrested, but we believe it could violate the right to liberty, and section 7 of the Canadian Charter of Rights and Freedoms.

Those are just a few examples of the problems caused by the provisions of Bill C-51; there is more.

Thank you very much.

[*English*]

**The Chair:** Thank you very much.

I just want to mention three things. First, if any of you have written submissions that you didn't get to present orally, we're happy to receive them. They will come to the committee and the committee will consider them.

Second, I want you as a committee to confirm that you'd be okay to go until about 4:10 or 4:15 so we have a full round of questioning. I notice it takes about eight minutes to get seven minutes of questioning in with our members, so, if you're willing, we'll go to about 4:10 or 4:15, so we get a full round in.

The last thing is that, as chair, I should have said as we began the meeting that we are not from the government. This is a parliamentary committee. The government issues through the Minister of Public Safety and Emergency Preparedness a green paper. Part of our work is also to examine, as parliamentarians, the green paper. However, our consultation is not on the green paper, but it uses it. We are quite free to go further than that in our recommendations to Parliament regarding the national security framework.

We will begin now with Mr. Di Iorio.

[*Translation*]

**Mr. Nicola Di Iorio:** Thank you, Mr. Chair.

I'd like to thank the three witnesses for travelling here. I greatly appreciated their presentations, which were most instructive, and very helpful.

I will ask the three witnesses a question that preoccupies me enormously and that I consider the starting point.

We have had to intervene in a whole host of areas since our election to Parliament. One thing we're doing is to try to look into best practices.

I'm a member of the Liberal Party, and part of a Liberal caucus that forms the majority and therefore forms the government. As the chair noted, we are taking part in a decision that will have consequences for the public. Moreover, we like to draw inspiration from things that are being done well, and to know which experiences have been negative.

In your presentations, you referred to certain experiences in other countries. I would like your guidance. Are there one or more countries that could serve as inspiration in certain areas? Perhaps not contemporary examples, but something that has happened in history. What can we glean from the international experience?

I would love it if all three of you could answer.

**Ms. Sibel Ataogul:** We can certainly look to our neighbours in the United States to observe the experiences that were not—

**Mr. Nicola Di Iorio:** I'm looking for positive experiences. I've already heard plenty of negative ones.

**Ms. Sibel Ataogul:** Okay, let's talk about positive experiences.

Terrorism prevention is a very specific field. It's not my specialty, but I think the public is able to see that in countries where poverty and isolation are eradicated, a social safety net and social solidarity are put in place, and immigrants are integrated rather than being excluded because they dress differently, and not pigeonholed, things go much better. In general, there's also much less violence when there's less poverty and social exclusion. It's in countries where—

● (1540)

**Mr. Nicola Di Iorio:** Okay.

I'm going to have to interrupt you because my time is limited.

I'd like you to give us concrete, real-life examples. I understand the general terms to which you refer. However, on a very practical level, I am asking you to give us concrete cases and concrete situations on this topic.

**Ms. Sibel Ataogul:** Canada is in a better position than France with regard to terrorist attacks.

France is in a constant state of emergency. The country has very repressive laws that do not seem to work. I am speaking here as a member of the general public, who has no expertise in this regard. However, when one looks at the situation from the outside, France seems heavily involved in repressive action, and yet it doesn't seem to work. The United States is doing the same thing, and it doesn't seem to work. Yet when you look at other countries, like the Scandinavian countries, there seems to be less repression and less terrorism.

**Mr. Nicola Di Iorio:** Mr. Tassé or Mr. Cavalluzzo, do you have anything to mention in this regard?

[*English*]

**Mr. Paul Cavalluzzo:** Certainly, looking to the United States would be useful in terms of oversight. Of course they have a different system of government. But the congressional committees on national security, both the Senate and the House of Representatives, are very effective in oversight. Importantly, they have a great deal of access to top secret information, much more access than Bill C-22 is going to give the Canadian committee.

I think that in Canada, we should be proud. We have reached certain levels, the Arar inquiry, for example, was novel, unique in the world. It was the first time there was an independent review of national security activity.

Our record is good, but we can improve it. We can learn from other countries. The other country we might look at with respect to their oversight is the United Kingdom. They have certain procedures with respect to top secret information that are useful to look at as well.

**Mr. Nicola Di Iorio:** Thank you. Going back to the point you just raised about the U.S. Congress—obviously their system of government is different—what do you see that they have that we could implement here to better our system?

**Mr. Paul Cavalluzzo:** The key thing is the independence of the American congressional committees. Once again, they have the separation of powers that are much firmer than we have here. If we're going to have effective parliamentary oversight, we need this committee to be independent of the government.



Right now, under Bill C-22, as I found out in the presentation, you are going to be answering to the Prime Minister, in effect. That's a conflict of interest. The Prime Minister is responsible for the agencies you will be overseeing.

It would be better, in my view, for this new committee under Bill C-22 to report to Parliament, not to the government nor the Prime Minister.

**Mr. Nicola Di Iorio:** You gave the example of the U.K., but how do you see other countries handling it that have a parliamentary system similar to ours?

**Mr. Paul Cavalluzzo:** Certainly, if we look at similar parliamentary systems like the United Kingdom and Australia, they have effective oversight, and they also have an independent body that looks at national security legislation, and gives advice to the government.

This committee is not aligned with government at all. They are independent experts and they report to government annually, saying how a piece of legislation can be improved. That's another mechanism you should be looking at.

[Translation]

**Mr. Nicola Di Iorio:** Mr. Chair, has my time elapsed?

**The Chair:** You have a bit more than two minutes left.

[English]

**Mr. Nicola Di Iorio:** Your comments were directed at oversight, but in terms of overview or review, what international example of best practices could we apprise ourselves of?

**Mr. Paul Cavalluzzo:** With respect to review, it's hard to say. The key thing in review is, once again, independence from government, obviously independence from the agency they are reviewing. The review body has to have jurisdiction or power over all the national security agencies, so they don't have what is referred to as siloed jurisdiction, and SIRC can only deal with—

• (1545)

**Mr. Nicola Di Iorio:** Could you point to an international example where this works?

**Mr. Paul Cavalluzzo:** Probably the best example would be the United Kingdom.

**The Chair:** We'll end there. Thank you.

Ms. Watts, go ahead.

**Ms. Dianne L. Watts:** Thank you very much.

Just to continue along that line of questioning, can you define for me how you would see that? We've talked about the oversight bodies of CSIS, the RCMP, and everything else. Would you do away with all that? Would you have the parliamentary committee and the independent body with those independent oversight agencies sitting on it reporting up to Parliament?

**Mr. Paul Cavalluzzo:** What I would recommend is that you have the parliamentary oversight, which would be a committee of parliamentarians that would deal with systemic issues, as well as the policies that CSIS and the RCMP should have, such as what agreements they should have with foreign countries, that kind of thing—the broader, blue-sky kinds of issues.

On the other hand, you would have a review body, which would be made up of independent experts. Some people call it a “super-SIRC”, except that it has jurisdiction over all bodies. It would, in effect, make determinations on either a complaint from a member of the public or a self-initiated complaint. It would look at something that CSIS or the RCMP did and rule on the propriety of it, the lawfulness of the activity.

At the end of the year, they would make an annual report to the public and to you as parliamentarians. The other effective thing they would do to complement your important mandate is make recommendations on how the agency can operate better, because they are going to be on the ground looking at front-line investigations. They can see where improvements can be made, and they can make recommendations to the parliamentary committee, which will have a responsibility to make recommendations for legislative change.

You would be working in tandem. They would be dealing with the daily issues; you would be dealing with the systemic issues. What they learn on the ground on a daily basis, that experience, should be transferred up to you in terms of your law-making.

**Ms. Dianne L. Watts:** Am I correct in hearing you say that SIRC would remain in place, and it would work with the experts?

**Mr. Paul Cavalluzzo:** No, we would have a new body.

**Ms. Dianne L. Watts:** Back to my original question, to do away with all the oversight bodies and then have an independent body of experts....

**Mr. Paul Cavalluzzo:** Yes, this independent body would have all the powers—

**Ms. Dianne L. Watts:** Over all the agencies....

**Mr. Paul Cavalluzzo:** —SIRC, the CSC commissioner, the RCMP, and so on. It would be one body dealing with all the agencies, so they can effectively review what's going on, because all of these investigations are joint investigations. When you have CSIS, RCMP, CBSA, and Immigration Canada involved, you need a full-fledged—what's called a “cross-government” or “all-of-government”—review body.

**Ms. Dianne L. Watts:** That would be my next question.

Would you see the panel of experts being government experts?

**Mr. Paul Cavalluzzo:** No.

**Ms. Dianne L. Watts:** Outside the realm of government...and the only government body would be the parliamentary committee.

**Mr. Paul Cavalluzzo:** That's right, but the independent experts would have to be appointed by government. They are like judges. They would be appointed by government, but they would be independent, act independently, and make recommendations to you as the parliamentary committee. At the same time, they would make findings on complaints. For example, if I complained about something that CSIS or the RCMP did, I could have a hearing before this independent body, and it would make findings.

**Ms. Dianne L. Watts:** Who would appoint them? Would that come out of the Prime Minister's Office or the House of Commons?

**Mr. Paul Cavalluzzo:** It would be like a judicial appointment. The executive would make the appointment. You could change that. For example, if you wanted the parliamentary committee to have more power, maybe the parliamentary committee could appoint the independent body. That's a question of mechanics.

The key thing is that once they are appointed, they are independent, just like a judge. A judge could be appointed by whatever Prime Minister, but the fact is that, hopefully, once the judge is appointed, he or she is independent.

• (1550)

**Ms. Dianne L. Watts:** Right. Okay.

What you are saying, then, is that the independent body would do an annual report to Parliament.

**Mr. Paul Cavalluzzo:** That's correct.

**Ms. Dianne L. Watts:** Okay, and what interaction would they have with the parliamentary committee of oversight?

**Mr. Paul Cavalluzzo:** That would be a question of practicality. I think what should happen is that they meet at least once or twice a year. There should be an interrelationship there, because you're going to be involved in the policy-making in respect of CSIS and these other bodies, and the on-ground experience that they have should be shared with you, so I would think there should be a number of meetings held during during the year.

**Ms. Dianne L. Watts:** Back to your point there, if the goal is to develop our public policy without an interaction with the independent body that's doing a significant review, then there's such a huge gap, you're missing the whole point of setting up the whole committee structure.

**Mr. Paul Cavalluzzo:** That's right. You're going to have a wealth of experience there, and you should draw on it.

**Ms. Dianne L. Watts:** Okay.

**Mr. Larry Miller:** Ms. Ataogul, when you talked earlier you touched on Bill C-51 and what have you. One of the concerns I have there is that no legislation, it doesn't matter what, is ever perfect. I believe it's put in with the best of intentions, and even Mr. Cavalluzzo pointed out some faults with Bill C-22. In order to give police or authorities the power to detain someone who they have a pretty good idea could commit terrorism, if the clauses in Bill C-51 aren't perfect in your belief, what could be there to still give police the powers to do what they have to do?

**Ms. Sibel Ataogul:** I want to be clear, I don't think my threshold is protection. My threshold is the Canadian charter, and that allows the legislator to draft in a number of fashions. Unfortunately, here I think the drafting is pretty clearly going against it.

There are already provisions in the Criminal Code that allow for preventive arrest. I'm not here to say whether they are okay or not okay, but they're already there, and they allow for preventive arrest if the agent believes that the person will commit a crime, and they have to get a mandate from a judge to do so unless they're unable to do so. That's already in place.

Now what we've done is change that threshold. Now I'm translating freely because I don't have the legislation in English in front of me, but it's if the person may commit.... That to me is not

about protection; that is really too large. I think it's important to give law enforcement a clear indication of what they can and cannot do. I think what it does is actually create more problems for law enforcement because these will be contested. There will be legal procedures that stem from these, and then that's what the whole issue becomes. It doesn't become about security.

I think that's important when you're doing your work. My work is to see if there's a violation. Your work is to see if it is justified under section 1, and it's to ask what the necessity is to change it. When we're changing that, are we trying to actually stifle dissidents, or is there a risk that that's the way it appears? Are we really in need of it being more efficient? I don't think that demonstration has been made. I think it really goes too far.

**The Chair:** Okay, thank you.

I have to end you there. You're going to get another time.

Monsieur Dubé.

[*Translation*]

**Mr. Matthew Dubé:** Thank you very much, Mr. Chair.

Thank you for your remarks on this, Ms. Ataogul.

I'd like to know the following in relation to information-sharing, especially in the realm of human rights.

Some people say that Canadians have less protection when they're outside the country. The example that obviously comes to mind is the U.S., with its information collection under the Patriot Act. People who are not Americans don't have the same legal protections in this regard. They have no protection for their private data, for example.

I don't know if you have any comments about information-sharing with other countries, even our allies, and the problems this can cause by virtue of the powers granted by Bill C-51.

• (1555)

**Ms. Sibel Ataogul:** I certainly have some comments on the subject.

It obviously ties in with what the Honourable Nicola Di Iorio said about best practices in this regard.

We must always bear in mind that although we can draw inspiration from these practices, there's not necessarily a Charter of Rights and Freedoms in other countries, even some very developed ones. So we must be careful when importing what we consider to be other countries' best practices. It poses a problem.

We saw with Mr. Arar, and with everything the commissions showed, that information can be obtained under torture. Such practices are prohibited in Canada. However, the information can be shared and used by CSIS against people. Moreover, with Bill C-51, a chain can be established. It can justify an arrest, because it's believed the person could commit a terrorist act. Charges can be based on information of dubious origin, using secret procedures.

In short, this is what happens.

[English]

If the threshold for the consequences is reduced, that means whatever information you get under torture or under conditions that aren't acceptable in Canada can lead to consequences that are much more grave for the person involved.

[Translation]

That, I think, is where the problem is. If information has been obtained through torture, we must be careful not to make the consequences even more grave. That's what Bill C-51 does.

Furthermore, Bill C-51 allows all agencies and all governments to transmit the information as well, even though we don't exactly know where the information is from. That's even more problematic.

**Mr. Matthew Dubé:** Thank you.

My next question is for all the witnesses. It's the same question I asked our first set of witnesses. In my view, CSIS, among others, must show that it needs the powers, and that there's really something lacking.

Once again, the question is for all of you. Do you think that proof has been made, and that the powers granted by Bill C-51 were necessary to ensure public safety, considering what existed before?

**Ms. Sibel Ataogul:** Briefly, I think provisions of this type are often enacted after an incident, in a way that's too hasty and not particularly well thought out, and at a time when people are afraid. I, for my part, have not even seen the beginnings of proof. When these powers are granted to CSIS, it's said that the RCMP is not effective enough, and that it's not able to provide answers. But I have never seen that, and there is no basis for the assertion. On the contrary, I think that with all the problems we've had with CSIS, we need clearly established limits, and that as Mr. Cavalluzzo said, there needs to be a good review and oversight process.

[English]

**Mr. Paul Cavalluzzo:** Let me respond in two ways. First of all, in respect of best practices relating to the sharing of information with foreign agencies such as the CIA and the FBI, I'd ask you to look at the Arar report. In 2006, Mr. Justice O'Connor made a number of recommendations in respect of the sharing of information, sharing of information with friendly nations such as the Americans or nations with poor human rights records such as Syria, Egypt, and so on. He talked about a number of restrictions that you should put on the sharing of information. There are two parts to the Arar report. If you look at volume I, it deals with a number of recommendations relating to the sharing of information.

Secondly, in respect of CSIS's powers and whether they need new powers, whether they need new powers they clearly don't need the powers that Bill C-51 gives them. Bill C-51 is unique in the history of this country, and indeed, in the history of any legal system similar to ours, in the sense that it attempts to empower a judge to authorize the violation of the Charter of Rights. That's what it does, and it's clearly unconstitutional. It gives CSIS that power. Certainly, CSIS doesn't need that power.

Whether it needs any new powers that are constitutional, I agree that what should happen is that we should be satisfied that the previous regime is inadequate. Did CSIS have adequate powers

before Bill C-51? If it didn't, then those powers should be given to it under Bill C-51, but certainly not along the strain that Bill C-51 presently does, because as I said, it's just an unbelievable power that any constitutional lawyer will tell you is unconstitutional on its face.

• (1600)

[Translation]

**Mr. Matthew Dubé:** Thank you.

I'd like to ask you one last question. You've spoken at length about Bill C-22. As the chair said, we will have the opportunity to study the bill, and I hope we'll be able to hear from you at that time.

Nonetheless, I'd like to take advantage of this opportunity to ask you a question, because I think it's important. You spoke about the importance of making the committee independent. A rather simple example, one that readily comes to mind, is the choice of a committee chair, which is made by the Prime Minister right now. We would propose to have the chair elected by the committee members, as is done in the United Kingdom.

Does this proposal make sense to you? Could it be an initial solution aimed at making the committee independent?

[English]

**Mr. Paul Cavalluzzo:** Certainly the ultimate purpose in having an independent committee is that it will have legitimacy with the public. The more independent the committee is from the government, the more legitimate it will be with the public. What that means is that what we have to be careful about—and I'm not suggesting that anyone is trying to give anyone arbitrary powers or anything—is what this committee is doing, who the committee is reviewing.

The committee is reviewing CSIS and the RCMP. CSIS and the RCMP and other agencies report ultimately to the Prime Minister, so the more separation there is between the Prime Minister and the executive and the parliamentary committee, the more independent it will be, the more accountable it will be to the public, the more transparent it will be.

**The Chair:** Thank you.

Mr. Mendicino.

**Mr. Marco Mendicino:** Thanks, Mr. Chair.

Thus far, I think what we've heard from today's witnesses, and indeed from all witnesses who have spoken about accountability through oversight, has to do with a review of the options. The area I'm struggling with is mapping out the statutory gateways we need, both the committee and parliamentarians, to whatever final version this is going to be legislated in, along with whatever other independent expert review that will exist on the other side of the ledger, in order to reconcile those two notions.

The options I have written down thus far are these. First, we have just a committee of parliamentarians. I don't think anybody on this panel favours that option, although we heard from Senator Hugh Segal that this is what he prefers in the long run.

The second option would be to have a committee of parliamentarians and a series of independent review bodies, including SIRC, the Civilian Review and Complaints Commission for the RCMP, and the Communications Security Establishment commissioner. This would essentially be the existing apparatus on the other side, the two together.

The third option would be would be the committee of parliamentarians plus a super-SIRC, which would oversee all of the existing subject matter and independent review bodies.

The fourth and final option we heard a little bit about today from Mr. Cavalluzzo. This would be a committee of parliamentarians plus just a super-SIRC, which is what I think you are advocating. Am I right about that?

• (1605)

**Mr. Paul Cavalluzzo:** Yes.

**Mr. Marco Mendicino:** When I look at the mandates that have been carved out for the committee of parliamentarians under Bill C-22, along with the existing mandates of all of the independent review bodies, what I'm having trouble with is how we get the two sides of the accountability coin co-operating together.

I took down from your comments, Mr. Cavalluzzo, that you see the committee of parliamentarians to be focused on efficacy, blue sky. As it exists, the mandate does say that one of the primary functions the committee of parliamentarians is to look at is the legislative policy and regulatory framework. At the same time, it speaks, in very broad language, about the new legislative body's ability to review the activities of any matter that relates to national security. The goalposts are very wide, in my opinion.

That overlaps with the existing mandates of all of the independent review bodies that currently exist as they have been statutorily rendered. What I want to hear from you, Mr. Cavalluzzo, is how you see us disentangling those two mandates. The best we have right now under Bill C-22 is under what would be clause 9, where we talk about co-operation for the purposes of reducing duplication of work.

**Mr. Paul Cavalluzzo:** That's one of the problems with Bill C-22. The stated purpose of the relationship between the existing bodies like SIRC and the parliamentary committee is to avoid duplication. That's the duty to co-operate in order to avoid duplication. I think you should be able to work together. One of the problems I see with what you refer to occurs in clause 8, which empowers the parliamentary committee to investigate national security activities. The problem is that the minister can say "No, you're not going to do that because it's injurious to national security." The parliamentary committee has a very truncated jurisdiction. It's totally dependent upon the minister responsible.

**Mr. Marco Mendicino:** Can I stop you there, because I think that's a separate conversation. I think we can study that more when we're looking at Bill C-22 specifically.

Having served as commission counsel on the Arar inquiry, I'm curious to know how you think Justice O'Connor...and you envisioned co-operation between a committee of parliamentarians and whether it's just SIRC or SIRC and existing independent bodies working. Again, just focus on the overlap in reviewing activities. In

my view, the committee doesn't have a lot of help at this stage to map that out by way of a recommendation to the minister.

**Mr. Paul Cavalluzzo:** Just a couple of comments.

The Arar inquiry, the Air India inquiry and so on, are very good examples of a situation that shows the inadequacy of the present review system. For example, in Mr. Arar's case, SIRC couldn't have reviewed that situation. The RCMP complaints commissioner couldn't. You need a public inquiry. What we're looking at is a review body that would be very similar to the Arar inquiry, that would have jurisdiction over all the national security agencies, to do an effective review.

As to the interrelationship with a parliamentary committee, you're the elected people. You're accountable to the people. You're in a position where you should be making strong recommendations to the government as to what the national security legislation should be.

I think that there has to be a relationship between the review bodies. It's just like the Arar inquiry. It looked at a situation. It made a number of recommendations. I see the same thing with a review body, which is all across government having a similar relationship with the parliamentary committee in terms of the policy and systemic recommendations you would be making. I think you should be less involved in reviewing national security, so I would take that power away.

**Mr. Marco Mendicino:** That's as close as we've gotten to what I think is some clear evidence on how we need to scope the different mandates of the committee of parliamentarians versus the other component of this, which is an independent subject-matter expert review.

Does either Monsieur Tassé or Madam Ataogul have anything to offer on the subject?

**The Chair:** Thirty seconds, please.

**Mr. Roch Tassé:** I want to re-emphasize that parliamentarians are very busy doing their job as parliamentarians. You have a lot of responsibility as legislators. You do not have the time, the energy, the resources, to do investigations around complaints. It took two or three years for the O'Connor and Iacobucci inquiries dealing with four cases, all within one single national security operation. You cannot go in depth like that with a parliamentary committee. You need an expert body that does exactly what those two commissions were able to do.

**The Chair:** Thank you.

Mr. Miller, for a few minutes.

**Mr. Larry Miller:** Thank you, Mr. Chair.

Ms. Ataogul, we got cut off before our discussion—

**Ms. Sibel Ataogul:** Sure did.

**Mr. Larry Miller:** In a comment you made to a question from Mr. Dubé, you said there's no evidence that CSIS has enough power. I would dispute that, respectfully, because so-called experts in the field—and I'm not one of them—have said that Private Vincent, here in Montreal, Corporal Cirillo, in Ottawa, probably would still be alive today if CSIS had the powers that they now have, and in all likelihood there probably would have been more deaths with Mr. Driver, the would-be terrorist in Strathroy.

What we are hearing is that there are some flaws in the bill. That's fine. That happens. What we need are suggestions to fix it, not just "It's no good" or whatever. Anyway, that's just a comment.

Mr. Cavalluzzo, you talked a little bit about the no-fly list. I'd like you to enlarge a bit on it, on how it could be fixed. I'll tell you experiences that I've had in my own riding.

I don't know the exact number, but I'm going to say around five constituents have contacted me over the last 12 years. Most of them have been put on that list because their name was identical to someone, or their name was similar and their birthdate was the same, or something like that. My experience has been that if I go to work with them on it, we've been pretty successful in fixing what was a mistake. Outside of that, what kind of improvements to the no-fly list could we make so that maybe there are fewer mistakes?

• (1610)

**Mr. Paul Cavalluzzo:** There are two key ones that I would recommend. First of all, as was stated before, to appeal the decision of the minister you have to establish that the minister was unreasonable. It shouldn't be unreasonableness. What it should be is he or she was correct. It's too important in terms of the intrusive power it has on the citizen. The second improvement I would recommend is that much of the hearing on the appeal will be heard in secret. You're going to have the government lawyer there and you're not going to have anybody representing the individual. In Bill C-51, if you're going to have a no-fly list, I would have a provision that says there is a special advocate who will be in the hearing representing the interests of the person whose name is on the no-fly list, so at least we have some kind of an adversarial debate within the secret hearings of the Federal Court. That's not there now. That should be there.

**Mr. Larry Miller:** Thank you for that.

Mr. Chairman, I know we're over time so I'm going to end it at that.

Thank you.

**The Chair:** Thank you.

Thank you for your testimony.

I'm going to give advance notice to the committee that I have an idea in my head, which is always dangerous. We're beginning to get some different models of oversight presented to us at different meetings. I think maybe we need to host them to come together.

I think it was not quite fair to say Mr. Segal wanted to get rid of the oversight, he wanted a very beefed-up bureaucracy underneath the parliamentary oversight committee, the committee of parliamentarians. It could be like a super-SIRC that has experts, and there are all kinds of models. I think we're probably going to end up with three or four different models of oversight that we're going to have to test Bill C-22 against. I think a different format of meeting could be quite interesting where we have a panel of people who engage in a different way than we're normally doing. We're getting some fascinating expert opinions, and we as non-experts are going to have to make recommendations. You've inspired us today and we thank you for your work, not only today but always, in the pursuit of justice.

Thank you.

We're going to adjourn this meeting and we're going to reconvene at 5:30.

[*Translation*]

You are cordially invited to attend the public consultation meeting this evening.

Thank you.

The meeting is adjourned.

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