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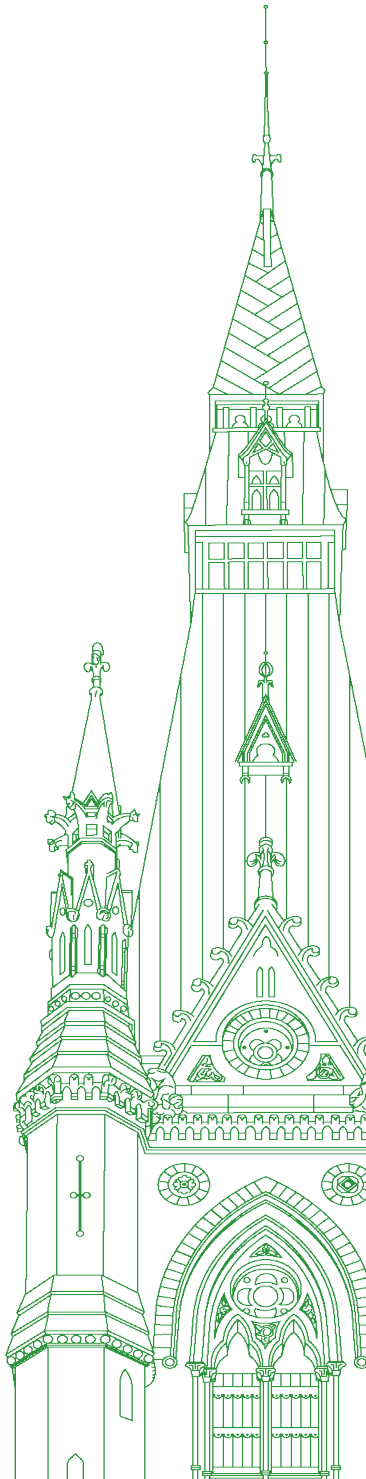

Chair: Mr. Ron McKinnon

Standing Committee on Public Safety and National Security

Thursday, May 30, 2024

● (0815)

[*English*]

The Chair (Mr. Ron McKinnon (Coquitlam—Port Coquitlam, Lib.)): I call this meeting to order.

Welcome to meeting number 109 of the House of Commons Standing Committee on Public Safety and National Security.

Pursuant to the order of reference referred to the committee on Wednesday, May 29, 2024, and the motion adopted by the committee on Monday, May 27, 2024, the committee commences its study of Bill C-70, an act respecting countering foreign interference.

Before we begin, I would like to ask all members and other in-person participants to consult the cards on the table for guidelines to prevent audio feedback incidents.

Please take note of the following preventive measures in place to protect the health and safety of all participants, including the interpreters: Use only an approved black earpiece; the former grey earpieces must no longer be used. Keep your earpiece away from all microphones at all times. When you are not using your earpiece, place it face down on the sticker placed on the table for this purpose.

Thank you all for your participation.

Today's meeting is taking place in a hybrid format, pursuant to the Standing Orders.

I would like to make a few comments for the benefit of members and witnesses. Please wait until I recognize you by name before speaking. As a reminder, all comments should be addressed through the chair.

I would now like to welcome our witnesses today.

From the Department of Public Safety and Emergency Preparedness, we have Sébastien Aubertin-Giguère, associate assistant deputy minister, national and cybersecurity, and Richard Bilodeau, director general.

From the Canadian Security Intelligence Service, we have Sarah Estabrooks, director general, policy and foreign relations, and René Ouellette, director general, academic outreach and stakeholder engagement.

From the Department of Justice, we have Heather Watts, deputy assistant deputy minister; Mark Scrivens, senior counsel; and Karine Bolduc, counsel.

I thank you all for coming here on such short notice.

I now invite Public Safety Canada to make an opening statement of up to five minutes.

Go ahead, please.

Mr. Sébastien Aubertin-Giguère (Associate Assistant Deputy Minister, National and Cyber Security, Department of Public Safety and Emergency Preparedness): Thank you, Mr. Chair.

[*Translation*]

As you know, Canada and allies face numerous geopolitical challenges that threaten to destabilize democratic nations and the global economy. Every day, the strength of Canada's national security and public safety is being tested. Notably, threats from China, Russia and Iran continue to threaten our national security and social cohesion.

What has captured the attention of many Canadians is the insidious threat of foreign interference. This remains a critical threat to our national security.

[*English*]

Foreign interference encompasses malign activities undertaken by foreign states, or those acting on their behalf, to advance their own strategic goals to the detriment of Canada's national interest and that of our allies.

Foreign interference targets the integrity of our political system, democratic institutions, social cohesion, academic freedom, economy and long-term prosperity.

The threat of foreign interference is not new, but it has increased in recent years as the world becomes more competitive, interconnected and digital.

The Government of Canada is best served when engaging with those directly affected by national security threats on potential solutions. For this reason, we consulted with a diverse group of Canadian stakeholders and partners on potential updates to modernize our counter-foreign interference tool kit in a way that balances various important considerations, such as privacy and charter-protected rights and freedoms.

On May 6, 2024, the Government of Canada introduced an act respecting countering foreign interference, known as Bill C-70, that reflects the valuable input received through consultations with stakeholders across Canada.

The changing global threat landscape and the way in which foreign interference materializes necessitated a modernization of Canada's tool kit for countering foreign interference in all its forms. While others will speak to the various amendments to the CSIS Act, to the Security of Information Act and to the Criminal Code aimed at better detecting and disrupting the strategic threat, I would like to highlight part 4 of the bill for you, the foreign influence transparency and accountability act.

As mentioned, foreign interference takes many forms, but malign foreign influence, a subset of foreign influence, remains particularly difficult to detect and counter. Some governments and their proxies may leverage individuals or entities to undertake non-transparent influence activities that are intended to shape Canadian policy outcomes or public opinion, deliberately obfuscating the foreign ties.

The intent of the foreign influence transparency and accountability act is to promote openness and transparency around ties to foreign states and, in doing so, to deter and to introduce robust consequences for those who seek to exert influence in non-transparent ways.

Foreign influence transparency registries are increasingly considered an international best practice. We've engaged with our closest allies and like-minded partners to learn from their experiences in designing our own registry.

There are three criteria that, when taken together, would trigger the requirement to register under the FITAA.

The first is when an individual or an entity enters into an arrangement with a foreign principal and the individual or the entity acts at the direction of, or in association with, a foreign principal to engage in foreign influence activities.

Second is when that person or entity undertakes any of the following foreign influence activities: communication with a public office holder, communication or dissemination of information to the public, or disbursement of money or things of value.

Third is when activities are undertaken in relation to a political or government process.

I want to be clear that it's not the foreign principals who would be required to register. Instead, those individuals or entities acting at the direction of or in association with those foreign principals would have the registration obligation. There's no registration obligation imposed on anyone who is the subject of this influence activity either.

Before turning to my colleague, I would note that the registry was designed to be country-agnostic, and it's a tool to protect, not persecute, communities of diverse ethnic and cultural backgrounds in Canada.

With that, I look forward to your questions.

Thank you.

● (0820)

The Chair: Thank you.

We now invite CSIS to make an opening statement of up to five minutes as well.

Go ahead, please.

Ms. Sarah Estabrooks (Director General, Policy and Foreign Relations, Canadian Security Intelligence Service): Good morning. Thank you for the opportunity to be here in support of this important study.

Since its creation 40 years ago, CSIS has had to adapt to major changes in the threat landscape to protect Canada and Canadians. From our inception at the height of the Cold War to today's era of global cyber-enabled threats, CSIS has had to continuously evolve its operations.

Although foreign interference is not new, the complexity of the modern threat, fuelled by technology, highlights the need for appropriate tools and authorities.

[*Translation*]

Gaps in the authorities of the Canadian Security Intelligence Service, or CSIS, which have become more acute with rapid technological change, limit CSIS's ability to detect, investigate, and respond to, foreign interference in a timely way to protect Canada's interests.

Bill C-70 proposes a set of focused amendments that will improve CSIS's operational response to foreign interference with three objectives.

● (0825)

[*English*]

First, the targets of foreign interference extend well beyond the federal government. They include Canada's diverse communities; democratic processes at all levels of government; Canada's rich research system; our private sector, which drives the innovation economy; and the critical infrastructure upon which we rely. Amendments would authorize CSIS to equip national security partners outside the federal government.

We have learned from Canadians—especially other levels of government, businesses, diaspora and minority communities—that they would like more information about the threats they face so they can build resilience against them.

[*Translation*]

Second, amendments seek to ensure that CSIS can operate successfully in a digital world. CSIS has adapted to and embraced technology through its history, but the pace of technological development today is creating blind spots and vulnerabilities that foreign state adversaries and violent extremists are exploiting every single day.

Finally, amendments would enable CSIS to keep pace with emerging and rapidly evolving threats.

[*English*]

The proposed amendments address five areas of the CSIS Act.

Amendments to current disclosure authorities would authorize information sharing outside the federal government to build resiliency to national security threats.

New judicial authorizations are proposed that are tailored to the requirements of modern digital investigations.

To better leverage data in investigations, amendments are proposed to CSIS's existing data authorities.

A tactical amendment to CSIS's foreign intelligence collection mandate to account for the borderless nature of data would better equip CSIS to collect on the intentions and capabilities of foreign states.

Finally, a review of the CSIS Act by Parliament every five years would ensure that CSIS can continue to adapt to emerging threats and changing technology.

All of the proposed amendments were designed with strong safeguards in mind. We heard the importance of this from Canadians during our consultations.

[*Translation*]

As well, CSIS remains accountable to the Minister of Public Safety, who can issue specific direction on any aspect of CSIS's activities.

Certain CSIS activities will also continue to be reviewed and approved by the intelligence commissioner.

All CSIS activities can also be subject to review by the National Security and Intelligence Review Agency or the National Security and Intelligence Committee of Parliamentarians.

[*English*]

By maintaining strong review and oversight, including the vital role of the Federal Court, the legislation would ensure that all CSIS activities to protect Canada and Canadians comply with the Charter of Rights and Freedoms.

With that, I welcome the opportunity to discuss any aspect of the proposed amendments to the CSIS Act.

Thank you.

The Chair: Thank you.

We go now to the Department of Justice for remarks for up to five minutes, please.

Ms. Heather Watts (Deputy Assistant Deputy Minister, Department of Justice): Good morning. Thank you very much, Chair.

I'm here to speak to the Department of Justice Canada proposals in Bill C-70 that amend the Security of Information Act, the Criminal Code and the Canada Evidence Act.

The Security of Information Act, or the SOIA, as I'll call it, is the primary legislation dealing with foreign interference. Part 2 of Bill C-70 would create three new offences in the SOIA.

The first is a general foreign interference offence. This would make it an offence to do any surreptitious or deceptive act for a foreign entity knowing that it would cause harm to Canadian interests.

The second is the commission of an indictable offence for a foreign entity, which would apply when someone commits an indictable offence for a foreign entity. It could be any indictable offence, such as extortion or bribery.

The third proposed offence is an interference with democratic processes offence. The bill would create a new offence of committing a surreptitious or deceptive act at the direction of, or in association with, a foreign entity to influence a political process or educational governance in Canada. This offence would apply to all levels of government—territorial, provincial, indigenous and municipal—and would apply to the nomination processes of political parties. This offence would apply at all times, including outside of the formal election period.

The bill also amends some of the existing offences that we already have in the SOIA. Section 20 already deals with threats or violence in relation to a foreign entity. Bill C-70 would make it easier to prove this offence by removing the necessity for prosecutors to prove the offence was committed for the purposes of aiding a foreign entity or was likely to harm Canada. This is a significant modification to section 20 that would aid in the investigation and prosecution of persons involved in transnational repression, because the intimidation of critics of foreign regimes doesn't always engage the interests of the Canadian state in a direct way.

There is also a proposed amendment to section 22 of the SOIA, which deals with preparatory acts.

The bill would increase the maximum penalty for the commission of a preparatory act from two years to five years and would expand the application of that penalty to most of the offences in the SOIA, including the new ones proposed in this bill. For all of the SOIA offences, including the new ones, there will be a requirement to obtain the Attorney General's consent before commencing a prosecution.

Bill C-70 also contains a proposed amendment to the definition of "special operational information" in the SOIA to address the inappropriate sharing of military technology and knowledge.

I'll turn now to the Criminal Code, which currently contains an offence of sabotage that has not been revised since 1951.

The amendments in Bill C-70 would modernize this offence. The bill would create a new sabotage offence, focused on conduct directed at essential infrastructure, and it contains a list of what would constitute essential infrastructure for this purpose, including transportation, energy, health and communications infrastructure, among other categories. The current sabotage offence already provides for exemptions from criminal liability for work stoppages related to labour action or safety concerns; the proposed new offence would also recognize, for greater certainty, the right to advocacy, protest and dissent.

Finally, the bill would add a new companion offence to criminalize making, possessing, selling or distributing a device to commit the offence of sabotage. The maximum penalty for these three sabotage offences is 10 years.

As with the new offences in the SOIA, the bill would add an additional safeguard by requiring the Attorney General's consent before a prosecution for the offence of sabotage can be commenced.

Turning now to the amendments to the Canada Evidence Act and the Criminal Code in Bill C-70, currently the Canada Evidence Act provides a regime that protects sensitive information from disclosure in court proceedings but generally does not allow the courts to consider that information when deciding the matter before them.

● (0830)

[*Translation*]

However, there are some stand-alone regimes that allow for the protection and use of sensitive information in administrative proceedings. Judges can take the sensitive information into account when making their decision.

[*English*]

Such stand-alone regimes exist on judicial review—for example, in connection with charities' registrations and revocations, terrorist entity listings, the passenger protect program and some passport revocations and refusals.

[*Translation*]

The bill repeals these existing stand-alone regimes and establishes a universal process.

[*English*]

This is a universal procedure for the use of information and administrative proceedings that we call a secure administrative review proceeding. This would apply to federal administrative proceedings, such as judicial reviews and appeals to the Federal Court and the Federal Court of Appeal when sensitive information is part of the record.

Finally, with regard to criminal proceedings, the bill makes two specific changes involving interlocutory appeals and sealing orders to improve efficiency and limit delays in the criminal process.

Thank you for having us, and I'm happy to take any questions.

The Chair: Thank you all for your remarks.

We'll start our questioning with Mr. Cooper for six minutes.

Mr. Michael Cooper (St. Albert—Edmonton, CPC): Thank you very much, Mr. Chair.

I will direct my questions to the Public Safety officials.

How long will it take to implement the foreign influence registry after Bill C-70 receives royal assent?

Mr. Richard Bilodeau (Director General, Department of Public Safety and Emergency Preparedness): It's something that is currently before Parliament, and we're going to see where it goes. It is going to be a priority for us to set up the office based on the legislation, if and when it is adopted through Parliament.

We recognize there's significant interest in making sure it is up and running before the next federal election. It is going to be a priority for us to set it up.

There are numerous pieces of work that need to be done in terms of bringing in regulation to support implementation of the act before we can bring it into force. It will be up to the Governor in Council to determine that coming into force.

Mr. Michael Cooper: Thank you for that.

Through you, Mr. Chair, there is regulation that needs to be set out. As well, the commissioner who's going to oversee the registry needs to be set up.

Would it be fair to say this would take a number of months? My understanding, at least from the technical briefing, is that it may in fact take up to a year. Am I correct?

● (0835)

Mr. Richard Bilodeau: It could take up to a year.

Not to get too into the weeds in terms of bringing in regulations, but there's a process, as the chair is aware. There's also a need in the legislation. The commissioner for transparency would be obligated to publish a registry to make known those individuals who have registered. There is going to be a need to stand up a system so people can register. The commissioner can then publish that registry online to make that information available.

During the technical briefing, we indicated that a year is what we're working towards. It is the goal we will attempt to meet.

Mr. Michael Cooper: Thank you very much for that.

There's clearly a lot of work to be done. When I look at the calendar, it's May 30. There are only a few more weeks left before the House rises for the summer. Looking at the next election, we see that it's in October of 2025. That's about a year away right now, having regard for the fact we only have a few sitting weeks left. This underscores a real concern I have that this will not be in place in time for the next election.

It's as a result of a government that has dragged its feet and was dragged kicking and screaming to finally introduce a foreign influence registry, despite calls for years by security experts, by diaspora communities and by Conservatives. Indeed it is, I would submit, not a coincidence that this legislation was introduced the first sitting day after the damning report of Madam Justice Hogue, a damning report, an indictment of the government and an indictment of the Prime Minister. This is nothing more than an attempt by this government to use this bill for political cover in the face of conclusions that demonstrate that we have a Prime Minister who turned a blind eye to foreign interference.

I have to say that the delay is unacceptable, because consultations for a foreign influence registry ended one year ago, and therefore, had the government introduced legislation a year ago, we would have a foreign influence registry in place well ahead of the next election, but because these Liberals have delayed and failed to act, here we are with the very real possibility we won't have a foreign influence registry in place. If there is one in place, it will be right at the time the election is called, which raises questions about its effectiveness during the campaign period.

Given the timeline we have, Conservatives believe it is absolutely imperative that we move this legislation forward quickly. It's why my colleague Mr. Chong, the member for Wellington—Halton Hills, introduced a motion yesterday in the House of Commons to see that this bill would pass through all legislative stages in the House by June 12, but incredibly, yesterday in the House, the government's coalition partner, the NDP, blocked Mr. Chong's motion.

Here we have the coalition partner of the Liberals, who have dragged their feet for years, now obstructing moving this bill through Parliament. I can't help but wonder why that is.

It certainly demonstrates that Jagmeet Singh, once again, is an unserious leader, having regard for the fact that he—

The Chair: Thank you, Mr. Cooper.

Mr. Michael Cooper: —doesn't see the need—

The Chair: Thank you, Mr. Cooper.

Mr. Michael Cooper: —to move this along, and it raises questions—

The Chair: Mr. Cooper, come to order, please.

Mr. Michael Cooper: —that the NDP is doing the government's dirty work.

The Chair: Mr. Cooper—

● (0840)

Mr. Chris Bittle (St. Catharines, Lib.): Follow the rules. You're new to the committee. Follow the rules, please.

An hon. member: You follow the rules.

Some hon. members: Oh, oh!

The Chair: Thank you, Mr. Cooper.

We'll going now to Ms. Zahid.

Mr. Chris Bittle: You're heckling me for heckling.

An hon. member: That's right.

Mrs. Salma Zahid (Scarborough Centre, Lib.): Thank you, Chair.

The Chair: Gentlemen, settle down, please.

Ms. Zahid, please go ahead for six minutes.

Mrs. Salma Zahid: Thank you, Chair.

Thank you to all the witnesses for appearing before the committee on this important legislation.

My first question is for the CSIS department.

Bill C-70 proposes amendments to the CSIS Act that would, among many other things, expand its warrant capabilities. I have some concerns about this expansion of authority, given concerns regularly raised by the courts about CSIS not abiding by its duty of candour in warrant applications.

Could you please outline reforms you have taken around your duty of candour to the courts and building trust with minority communities, who have in the past felt targeted by CSIS and are the very communities often targeted by the foreign interference we are trying to guard against in this legislation?

Ms. Sarah Estabrooks: Thank you for the question.

The service has put a significant amount of effort in place to address previous concerns about significant gaps in our duty of candour. It is a duty that we take very seriously. The Federal Court and review bodies have pointed to concerns, and we have taken significant measures—including training, the development of a professional affiant corps, and embedding legal counsel in various operational activities—in order to understand and fully meet the duty of candour to the service.

We recognize this is a failing that is unacceptable and that it creates gaps in trust for Canadians.

I'm going to pass it to my colleague René to speak to the second part of your question, if that's okay.

Thank you.

Mr. René Ouellette (Director General, Academic Outreach and Stakeholder Engagement, Canadian Security Intelligence Service): The first thing we want to point out is that since 2019, we've created a program that significantly expands how the service does outreach and engagement with communities across the country, recognizing that it's our responsibility and our duty to protect all Canadians. We have deployed significant resources, time and effort in rebuilding trust where trust had been lost or fractured, acknowledging and atoning for some of the mistakes that we've made in the past with communities.

We have made some significant progress in building that trust. It takes time, it takes patience and it takes humility. We have brought all of that to bear in our efforts to build these relationships. We continue to have daily conversations, weekly meetings—face-to-face or over the phone—emails and everything to make sure that we are available to communities when they need to talk to somebody about the service or about threats they're feeling. We do recognize, especially in the context of foreign interference, that often the first victims of that activity are the communities themselves—diaspora communities and marginalized communities.

It's really important to us to make sure that we are protecting the interests of all Canadians.

Mrs. Salma Zahid: Thank you.

This legislation also enhances the CSIS capability to collect and use datasets. The protection of personal information, data management and abiding by privacy protections are going to be very important here.

Can you please outline the steps being taken to address privacy concerns and to ensure data is properly obtained and is reliable before it is used?

Ms. Sarah Estabrooks: Thank you for the question.

The dataset authority in the CSIS Act is an extremely complex regime that thoroughly embeds privacy protection at every step. It requires ministerial accountability and oversight. The collection, retention and use of data is undertaken through strict controls. For example, only designated officials are able to handle data in the evaluation period and it must be segregated from other CSIS holdings. There are a number of different steps in the approval process. The retention of Canadian data must go to the Federal Court for approval.

The scheme itself is heavily embedded with the appropriate safeguards for the privacy rights of Canadians, recognizing that the essential need for data is to understand dynamics in our threat environment while at the same time protecting the privacy of Canadians.

The amendments that are proposed in the bill make some significant changes in terms of the process, but they do nothing to change the safeguards. In fact, in some ways they enhance safeguards. For example, currently, when the service seeks to retain a dataset that contains both foreign and Canadian data, it goes through two tracks. We're proposing an amendment that would see all data in mixed circumstances like that be applied at the Canadian standard, which would mean it goes to the Federal Court.

None of the safeguards in the existing regime will change. The roles of the Federal Court and the intelligence commissioner remain, as well as ministerial approval for classes of Canadian datasets and designations. It's a significant improvement in process to enable us to better make use of data, but with no change with regard to the safeguards that the scheme already has in place.

● (0845)

Mrs. Salma Zahid: Thank you.

My next question is for the Department of Public Safety.

Can you outline the concerns you have heard from the diaspora communities in regard to foreign interference?

What steps are you taking to ensure they are not inadvertently victimized or stigmatized by the efforts to combat foreign interference?

Mr. Sébastien Aubertin-Giguère: Thank you.

We've received significant feedback from different communities across Canada. I'm not going to go into the specifics, and not the contributions, obviously, which have been summarized in the "What We Heard" report.

There are very clearly concerns around foreign repression, transnational repression, and the need for more protections for these communities. We've heard also that they may have some concerns around being stigmatized. It's pretty clear that the legislation was designed to be country-agnostic, making sure that it offers the right protections but does not identify or stigmatize a community.

We also heard that any effort to counter foreign interference needs to be accompanied by clear messages around anti-racism. We've been working very closely with Canadian Heritage to make sure that we align with their efforts for countering racism in Canada.

The Chair: Thank you. I have to cut you off there now.

[*Translation*]

I now give the floor to Mr. Villemure for six minutes.

Mr. René Villemure (Trois-Rivières, BQ): Thank you, Mr. Chair.

I would like to thank all the participants for being with us this morning.

I will put my first questions to the representatives of the Department of Public Safety and Emergency Preparedness.

In putting together the registry, you obviously looked to other registry models, such as those in England and Australia. There are a number of models.

There was something that intrigued me. I thought I could find it in the registry, but I couldn't. I'm referring to dual registration, where the foreign principal, by your definition, has to register and the public office holder at the other end also has to register. That way, if either one of them fails to register, there will still be a way of inferring that something happened.

Why not include dual registration in the registry process?

Mr. Richard Bilodeau: I'd like to thank the member for his question, Mr. Chair.

The registry was proposed in such a way as to focus, as you noted, on the person who has an arrangement with a foreign government for influence activities in Canada. The registry encompasses a number of situations, as we know, such as when public office holders are targeted by a foreign agent or when people receive money to carry out influence activities. However, it also includes communication activities that are not necessarily directed at a specific person or even a specific organization, but rather at public opinion in general.

The bill therefore proposes to focus on the person who has an arrangement with the foreign government. We are also trying to give tools to the commissioner and the people in the commissioner's office who will administer the registry in order to be able to identify people who may not have registered. For example, these employees will be able to handle complaints and keep people informed. They will be able to identify registration violations. They could also receive information enabling them to report situations where someone has not registered. There are a number of compliance tools that will be aimed at identifying registration violations. The bill really seeks to focus on the person who engages in the influence, as is the case with a number of other registries.

● (0850)

Mr. René Villemure: Let's assume, as you mentioned, that the person does not register and secretly communicates with a public office holder. There may be a complaint, perhaps a whistle-blower, and the commissioner will intervene. However, the fact remains that, if the public office holder was registered and reported the activity and the other person was not registered, it would trigger an alert. That would indicate that something was going on and that it might be worth investigating, even in the absence of a complaint or whistle-blower.

Mr. Richard Bilodeau: Thank you, Mr. Chair.

One of the components of the bill, and the mandate of the future commissioner, would be education. It will be necessary to educate people on the registry and its obligations. In the example the member gave, a public office holder is approached by an individual. The public office holder, who is properly informed and suspects that the individual is operating under the control of a foreign state, would be able to check whether that individual is registered. They could consult the registry and see that the person is not registered. Then, if the commissioner is doing their job of informing and educating, the public office holder could notify the commissioner if they thought they'd had an interaction with someone operating on behalf of a foreign state. This is another way in which the commissioner could be notified of a registration violation and could take action accordingly.

Mr. René Villemure: Is there any resistance to the idea of this bill requiring public office holders to register?

Mr. Sébastien Aubertin-Giguère: In our view, imposing a registration requirement on public office holders would create an unacceptable regulatory burden. It would be even more difficult to apply to subnational governments.

In this case, the purpose of the act is to create a tool that will serve public office holders. They can consult a regime to see who is working for a foreign government. However, creating a registration requirement would probably be a burden.

Mr. René Villemure: It's due to the regulatory burden, I see.

Correct me if I'm wrong, but under the proposed legislation, a foreign citizen who exerts influence on a public policy is required to register. Is that correct?

Students, or at least agents of the Chinese government, were working at the Winnipeg lab without being registered, of course. Were they engaged in influence activity? I think instead that they were appropriating trade secrets. Were they influencing public policy? The answer is no. However, there was still interference with our intellectual property.

Does the registry provide for that kind of situation or would it fall between the cracks?

Mr. Sébastien Aubertin-Giguère: The registry is meant to provide transparency in public policy activities and government business.

Activities related to working for a foreign government and potentially appropriating information fall instead under the Security of Information Act. We are talking about potentially criminal foreign interference activities. That's not the intent—

Mr. René Villemure: I gather that's not the purpose of the registry.

Mr. Sébastien Aubertin-Giguère: No. The intent of the registry is transparency in the public domain in terms of activities to change public opinion or influence a government process.

Mr. René Villemure: Thank you.

The Chair: Thank you, gentlemen.

[*English*]

We go now to Mr. MacGregor for six minutes.

Mr. Alistair MacGregor (Cowichan—Malahat—Langford, NDP): Thank you, Chair.

Before I begin my questions, I need to intervene and address the points that were made by Mr. Cooper.

First of all, there are not many public office holders who know more intimately the noxious nature of foreign interference than Jagmeet Singh. It has affected him personally. It has affected his family. It has affected where and when he can go in public. To make those kinds of allegations at this committee, frankly, is incredibly disrespectful. I think the committee should take note of that.

The other part I want to make note of, Mr. Chair, is that I had conversations with Mr. Chong yesterday in the House of Commons. I thought they were conversations that were quite respectful. The NDP was quite prepared to program this bill through various committee stages. Just because we didn't go as far as the Conservatives wanted, they decided to make those kinds of allegations. That kind of misinformation is really unfortunate. It's unbecoming of the seriousness of the topics that we're discussing here. I think that needs to be cleared up and put on the record.

With that, Mr. Chair, I want to turn to a few questions.

This is more to CSIS.

Having a public registry is one thing, but as members of this committee, we can only surmise that there are an incredible number of clandestine operations in which a public registry would have no effect. Those actors are not going to take the time to register themselves and comply with the provisions of part 4 of this bill.

I know you are limited in what you can say at this public hearing of the committee, but this is a question I posed to the minister yesterday during debate: Can you at least talk about how successful we've been with existing laws in laying charges and getting convictions? Is there anything you can provide to help inform this committee as we look at this legislation before us?

● (0855)

Ms. Sarah Estabrooks: As you know, the service is not a law enforcement agency and is not ultimately responsible for the laying of charges or the prosecution thereafter.

The foreign interference space is indeed a particularly complex one. Much of the activity, as we've discussed in numerous fora recently, is extremely grey. It is not always directly linked back to a hostile actor. There are often several degrees of separation. There can be all sorts of legitimate activity, and a fragment of that could be illegitimate.

The detection, the investigation, and the ultimate downstream prosecution in these cases can be complex. Part of that goes to the package of amendments before you. Part of it goes to the offences, which I'll let my Justice colleagues speak to, and part of it goes to the challenge of using highly sensitive intelligence and disclosing it to the RCMP in such a way that they can use it to launch an independent and parallel investigation, and then protecting that sensitive information when it comes to a court proceeding.

Some of the measures we're talking about today will make incremental movements to improve that scenario.

I'll pass it to my Department of Justice colleagues, who could pick up the back end of that question.

Ms. Heather Watts: Thanks, Sarah,

As my colleagues have said, the idea in Bill C-70 is to really build the tool kit for the government to respond to foreign interference. The work that Public Safety Canada has done to establish a registry is one piece, and obviously the proposed offences we have in the Security of Information Act are another part of that.

Some of the activity that we've seen reported in the media may already be conduct that is criminal activity, but some of it may not. One of the things that Bill C-70 is trying to do is to bridge that gap a little bit.

In particular, I would point you to the new proposed offence that would be in 20.3 of the SOIA, which is conduct or an omission or committing an offence for a foreign entity. The underlying conduct there doesn't itself already have to have been a criminal offence. There's a distinction between two of the offences we're proposing. Part of what we seek to do is make things that are tied to foreign entities, that are a threat to Canada, that harm communities, offences in a way that is not currently captured by the law.

Mr. Alistair MacGregor: Thank you.

This is to Public Safety Canada.

In part 4, under “Definitions”, the definition of "arrangement" talks about being “in association with a foreign principal”. It can cover just communicating with a public office holder.

I know this act is country-agnostic, but certainly there's a hierarchy in terms of the Canadian public's perception of certain countries. There's a concern in the interpretation of the words “in association".

Can you comment more on how you interpret that?

Mr. Richard Bilodeau: The definition of "arrangement" is, as you point out, general in the sense that it would not require.... I'll preface it by saying that the interpretation of all this would be up to a commissioner and eventually to a judge of the Federal Court if a decision were to be challenged.

An arrangement wouldn't need to be a written contract. It wouldn't necessarily need to be spelled out on paper. It can be a verbal understanding. Ultimately, it would be up to the commissioner, based on the facts available to them, to determine whether there was an understanding, an arrangement, an agreement to conduct these influence activities. It's purposely drafted in a way to not limit it to just that one contract that says I will pay you X to do Y.

● (0900)

The Chair: Thank you.

We'll start our second round now. We'll go right now to Mr. Caputo for five minutes.

Mr. Frank Caputo (Kamloops—Thompson—Cariboo, CPC): Thank you very much, Chair.

I'm very grateful to have the expertise around the table that we have. I thank all the witnesses for being here.

I generally don't put my questions to one person in particular, because I know that there's a lot of overlapping expertise. Please, among you, just feel free to chime in if you feel like you have a good answer to the question.

My first line of inquiry looks at what we've colloquially called the foreign influence registry. When it comes to that, what would be the minimum amount of time that it would take to set up something like this? What would be estimated? I think one year was thrown around, but I'd like to get to a bit more of a solid answer, if I could.

Mr. Richard Bilodeau: A year is what we are currently estimating it would take to set up the registry. That's taking into account—just to get into some level of detail—regulations that are required to launch the operation of the regime. There are some pieces of regulation that are necessary to do that.

For example, there's the information that must be provided to the commissioner by a registrant, and then there's the information that the commissioner shall make available on a registry, just to give two examples, but there are others.

It requires building an IT solution to do that. It requires developing investigative capabilities. It also requires hiring—the commissioner was referenced earlier—and standing up the physical organizational structure.

It is a significant amount of work; therefore, a year is what we are estimating would be required to start the operation of the registry.

Mr. Frank Caputo: Therefore if this bill does not receive royal assent in the fall, and the election must occur by a date in October of 2025—moved back a week, I might note, so that the leader of the NDP can get his pension—

Mr. Alistair MacGregor: I have a point of order.

I have great respect for Mr. Caputo, but if he wants to have a proper line of questioning without interruptions, he can probably just stay on the topic at hand.

The Chair: Thank you.

Mr. Frank Caputo: When it comes to the timing of the election—and we do have issues with the timing of the election, regardless of what others at this table may agree with or not agree with—we're looking at an October 2025 election. If this bill does not receive royal assent before we break, or at least we have substantially done the work and we are into the fall, we could then not even be in a place to have this in place and functioning prior to the next election, if it were to occur in the fall of 2025. Is that accurate?

Mr. Sébastien Aubertin-Giguère: We're estimating about a year to put in place the registry, the commissioner and the office around it. We can look at how timelines could be accelerated.

What I want to mention is that the new SOIA offences and amendments would come into force 60 days after royal assent, and that would be well in place for that timeline.

Mr. Frank Caputo: I'm sorry; could you repeat that last part, please?

Mr. Sébastien Aubertin-Giguère: The SOIA amendments and the Criminal Code amendments will be in place 60 days after royal assent.

Mr. Frank Caputo: Right, so the amendments will be in place, but I think what concerns people—me anyway, and the people around this table—is that there's no use in having a registry if what it is aimed to combat really can't be combatted because we ran out of runway, which really does speak to Mr. Cooper's earlier points.

I mean, we had Bill C-282 from a former colleague in this House, MP Kenny Chiu. Fairly clearly, there was electoral interference that may have cost him his seat, and we could be running into that very thing. That's of concern to me.

I'm going to ask a few other questions about the appointment of the foreign influence and transparency commissioner. Am I correct that the appointment occurs through an order in council?

● (0905)

Mr. Richard Bilodeau: That's right.

Mr. Frank Caputo: Okay, and at this point, there has to be consultation with the House and the Senate. Is that accurate?

Mr. Richard Bilodeau: That is correct.

Mr. Frank Caputo: Okay. Now, for other officials—and I don't want to draw a parallel between the officials—sometimes there has to be some sort of approval by Parliament and the Senate, as opposed to simple consultation, because consultation can be ignored. Would it strengthen the independence of the foreign influence and transparency commissioner if there was a requirement in the legislation to have formal approval by the House and the Senate?

The Chair: That's your time, but the witness may answer.

Mr. Richard Bilodeau: Amendments to the bill will be up to Parliament. The legislation proposes a number of elements that would make the commissioner independent in their decisions to pursue action, and those are built into the legislation.

Mr. Frank Caputo: Thank you.

The Chair: Thank you.

We go now to Mr. Bittle for five minutes.

Go ahead, please.

Mr. Chris Bittle: Thank you so much, Mr. Chair.

My first questions will be for CSIS.

What operational gaps does this legislation look to fill?

Ms. Sarah Estabrooks: Really, there are quite a few. There are four aspects of the current CSIS Act that are significantly impacted by the proposed amendments.

Operationally, for the service, one of the biggest activities we're coming up against limits on is the sharing of information and the equipping of national security partners and stakeholders outside of the federal government. Across Canada, every day, CSIS officers are engaging with communities and businesses and with provincial, municipal and territorial governments, and they're encountering significant limits in how they can share information to meaningfully build resilience. This bill would address that gap with some proposed amendments.

The second aspect I would highlight relates to judicial authorizations. Currently the service has a single warrant authority that is tailored to highly intrusive techniques and very much appropriately built for that purpose, with high safeguards and significant requirements. However, today in the digital world we operate in, there are a vast number of fairly routine and basic investigative activities. Here I would point to, for example, identifying the individual behind an online disinformation campaign believed to be driven by a foreign state.

For the subscriber, the identifying information of an account holder online is something for which we would need to go to the Federal Court for a warrant. That warrant requires the same elements that intercepting phone calls does, so you can see that it's not really appropriately tailored to the kind of data we would be getting. Therefore, one of the proposals in the bill today includes a production order. There are two others in that suite that would allow for much more tactical and regular approaches to the Federal Court earlier in investigations, and we anticipate that this could yield significant operational value and a much more nimble investigative posture.

Mr. Chris Bittle: Thank you.

In designing the legislation, what lessons, if any, did you take from the enabling legislation that exists in other Five Eyes countries?

Ms. Sarah Estabrooks: For CSIS, we certainly always consider our allies, especially the Five Eyes and their legislative schemes. Obviously, they're all very different.

The U.K. has done some important work on data, which has informed elements of our data authorities. It just recently amended its data authorities after about a similar amount of time, recognizing the incredibly dynamic pace at which the data and digital world is advancing. We always understand the authorities of our partners when it comes to, for example, engaging with stakeholders and looking at the disclosure of information.

You may also want to go to others at the table with that question.

● (0910)

Mr. Chris Bittle: Could Public Safety Canada answer?

Mr. Sébastien Aubertin-Giguère: On the creation of the registry, we've consulted very closely with the U.S., Australia, and the U.K. The U.K. just introduced the new registry, and we've learned a lot from it. Also, the U.K. and Australia have significantly revamped their national security legislation in recent years, the U.K. most recently. We've taken a close look and we had good collaboration with them on shaping our legislative package.

Mr. Chris Bittle: Thank you so much.

To stick with Public Safety Canada, did you consult with indigenous, provincial and territorial governments? If so, what feedback did you receive during the consultation process?

Mr. Sébastien Aubertin-Giguère: We did. We have engaged with national intelligence organizations and also rights holders across Canada.

Overall, we've received very positive feedback. The registry is a tool that they will be using for the conduct of their activities as governments. We're looking to this tool as a very positive step in the right direction.

Some concerns were presented by some of the stakeholders around application and respecting of the rights of these governments. Obviously the bill has been designed in that context to protect these rights and to support their operations as governments.

Mr. Chris Bittle: Thank you so much.

The Chair: Thank you, Mr. Bittle.

[*Translation*]

Mr. Villemure, you have the floor for two and a half minutes.

Mr. René Villemure: Thank you, Mr. Chair.

Mr. Aubertin-Giguère and Mr. Bilodeau, I know that some choices will be made by regulation. However, when you wrote the work of poetry that is Bill C-70, you must have had in mind a certain skill set for choosing the person who would become the transparency commissioner.

Can you comment on the experience and expertise the commissioner should have?

Mr. Richard Bilodeau: Thank you for your question.

Ultimately, after consultation, the Governor in Council will choose the person who becomes the transparency commissioner. That's what's provided for in the bill. Then it will be up to the authorities to decide on the experience and skills that person should have. That will be provided for in the proposed foreign influence transparency and accountability act.

There is no prescribed set of requirements for the role. It's not one of the regulations that's being considered. I don't have in-depth knowledge of how it works, but I do know that there is a fairly well-established process for selecting these types of commissioners.

Mr. René Villemure: I still think a transparency commissioner needs to satisfy a specific set of job requirements. You would never consider hiring a poet, a plumber or an electrician. I am not forcing you to give me an answer, but can you give me an idea of the type of people being looked at, based on commissioners who perform other duties?

Mr. Richard Bilodeau: Thank you for your question.

It's really not up to me or my colleagues to make that decision, but you can still look at the job requirements for other types of commissioners who hold similar positions. That might give you an idea of what kinds of skills and experience are being sought.

Mr. René Villemure: Thank you.

I would like to make a suggestion. The other commissioners are often judges or former judges. I would just like to submit that judges are excellent candidates for commissioner positions, but they are not the only possible candidates. People with other types of experience and expertise could certainly be considered.

I would like you to take that into account in future discussions you might have.

[*English*]

The Chair: Witnesses may answer quickly.

Mr. René Villemure: Can they, with two and a half minutes?

● (0915)

The Chair: The time is up.

A voice: I'll provide it.

The Chair: Maybe I'm confused. I thought you asked a question. I'm sorry. I may have zoned out there. I apologize.

Voices: Oh, oh!

The Chair: We go now to Mr. MacGregor for two and a half minutes.

Mr. Alistair MacGregor: Thank you, Mr. Chair.

I have a very quick technical question for Public Safety Canada on part 4 of the bill, on section 4 of the proposed foreign influence transparency and accountability act, where it's talking about the application of the act.

You mentioned the “federal political or governmental processes” and the “provincial or territorial” ones. Are municipal and regional governments not mentioned because they're creatures of the provinces and we can assume they are covered by this? I just want to make sure that we're not leaving anything out.

Mr. Richard Bilodeau: That's correct.

Mr. Alistair MacGregor: Okay. Thank you very much.

My next question is for CSIS.

I know you've already discussed the dataset regime. I read the National Security and Intelligence Review Agency's report on the CSIS dataset regime, and I think it's safe to say that the report was pretty scathing. In multiple instances NSIRA is finding that “CSIS did not comply with the...provisions of the CSIS Act”. It's just littered right throughout their report.

We were talking at the second-reading debate of this bill yesterday about bringing what essentially is an analog law into the digital realm, and I understand that the complexities of data these days warrant an upgrade to the act. However, can you see that from my point of view as a legislator, if CSIS has been unable to comply with an existing statutory framework, I might have some hesitancy or questions going forward in updating the act? I guess we're looking for an assurance from CSIS that if we're going to give you these new provisions, we're not going to see a future NSIRA report like this.

Ms. Sarah Estabrooks: Thank you for the question.

Certainly one of the principal objectives of the amendments is to provide a very clear, transparent law when it comes to datasets to maintain the safeguards that are in place and also to ensure that it can be implemented lawfully and appropriately. Currently, the complexity of the regime—as you said, and I think I've written that line before about the analog nature of the law when it comes to very complex, messy, unorganized data—is an extremely challenging space. Many of the amendments seek to provide clarity, reduce duplication in process, and, as I mentioned already, allow for a single application for a mixed dataset, which would take it to the Federal Court for approval rather than having to parse data and take two parallel tracks and risk that there is undetected data in one half of that dataset, etc. A great deal of the amendments will in fact achieve the objective of ensuring clear and straightforward law that can be carefully adhered to.

Absolutely, it is a challenging space. We've seen from our U.K. partners that they've also dealt with certain challenges in implementing their new law and have already amended it as well. It is novel legislation.

The Chair: Thank you, Mr. MacGregor.

We go now to Mr. Genuis for five minutes, please.

Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC): Thank you, Chair.

Winston Churchill apparently once quipped, “You can always count on Americans to do the right thing, only after they’ve tried everything else.” In this case, the Liberal government has definitely tried everything else to avoid action on foreign interference over nine years. With Bill C-70, they've finally responded to pressure from the opposition and from the public. Conservatives don't want to let the government get away with sitting on this bill. After nine years, we've had enough delays. We will push for anti-interference measures to be passed and in place as soon as possible.

One important flashpoint for the foreign interference conversation is Hong Kong. Hong Kong's national security law makes absurd claims of universal jurisdiction, even claiming that if a Canadian in Canada makes statements that are deemed to violate Hong Kong's national security law, they could be charged and even rendered to Hong Kong while travelling in a third country. The manager of the Hong Kong Economic and Trade Office in London has been charged with spying. I've heard concerns from the Canadian Hong Kong community about the activities of the ETO in Canada. Hong Kong is no longer meaningfully separate from the mainland, which raises questions about whether these offices have any legitimacy anyway.

Is the government reviewing the activities of the ETO as they relate to foreign interference?

Mr. Sébastien Aubertin-Giguère: Mr. Chair, this question would be better addressed by Global Affairs Canada.

Mr. Garnett Genuis: Do no officials have a response on that? Okay. I would welcome a response in writing, if you're able to communicate with your counterparts, because I do think it's relevant to our work today.

I have a specific question for CSIS about a personal example on information sharing. As you know, my personal email was targeted as a result of my involvement with the Inter-Parliamentary Alliance on China. The Government of Canada did not have my back. They didn't tell me about this threat or how I could protect myself. I'm a vocal member of the opposition, often critical of the government, and the government didn't report the information to me in a way that would have helped me protect myself from foreign interference. The government didn't have my back, but our institutions should have. Unfortunately, CSIS did not have the legal authority to share information directly with me, as per the current law.

If the changes of this bill had been in place, using my experience as an example, would CSIS have had the authority and been able to simply communicate directly with me right away about these threats and what I could do about them?

● (0920)

Ms. Sarah Estabrooks: I think there's a specific question about the incident itself. Clarity needs to be provided a little bit, insofar as the service is not the lead for cybersecurity for the Government of Canada. As well, I think this issue is relevant to another committee study, so I won't address that specific fact.

On the broader question around information sharing, certainly the service has some significant limitations in the disclosure of information collected in its duties and functions with anyone outside the federal government beyond law enforcement, effectively. With amendments in the act, there would be a clear authority to engage outside the federal government for the purpose of building resiliency to threats. That could be an early, preventive, proactive kind of disclosure of information, informed by our investigations.

Where information has a personal or private element, the minister would determine that the information could be disclosed if it were in the public interest. I don't want to really speculate on a specific scenario such as this one, with hindsight, but I do think this would improve our ability to engage.

Mr. Garnett Genuis: I understand, but just to drill down, if you became aware of a threat to me as an opposition member of Parliament, it sounds like even after this bill is passed, you would need the minister's determination that telling me was in the public interest before you could tell me. You wouldn't have the discretion to say, “Mr. Genuis needs this information right away because it's relevant to his life.”

Ms. Sarah Estabrooks: I would correct that presumption. In fact, if there were a manifest threat occurring under the service's threat reduction mandate today, it could disclose information for the purpose of reducing an threat when the threat is unfolding and active.

The amendments in the bill do something different. They enable an earlier and broader engagement for the purpose of building resiliency to threats before the threat is real.

Mr. Garnett Genuis: Is that with ministerial consent, though, or not?

Ms. Sarah Estabrooks: No.

Mr. Garnett Genuis: No?

Ms. Sarah Estabrooks: No ministerial consent is required, but there's no disclosure of personal information.

Mr. Garnett Genuis: Okay. That seems like a gap to me, but I'll go on to one more thing.

Following my general skepticism about the government's will to address this, why is there the requirement of the Attorney General's consent? What would happen in a case when the Attorney General might be in a conflict of interest, such as when the Attorney General might have personally benefited from foreign interference in his or her own riding?

Mr. Mark Scrivens (Senior Counsel, Department of Justice): Thank you for the question.

The requirement of the Attorney General's consent already exists in the SOIA, so for the new offences that would be integrated into the SOIA, that requirement would continue to apply.

In general, the requirement for the Attorney General's consent applies to ensure that there is the proper assessment of the key elements of whether there's a reasonable prospect of conviction and if there's a public interest in proceeding with a prosecution, and that assessment is taken at an appropriate level, given the context of the interests at stake.

In practice, in our system, that Attorney General's consent is usually exercised by the director of public prosecutions.

The Chair: Thank you, Mr. Genuis.

We'll go now to Mr. MacDonald. You have five minutes.

Mr. Heath MacDonald (Malpeque, Lib.): Thank you, Chair.

Thank you to the witnesses for being here today.

I just want to follow up on the regulatory framework with each of your departments. Can you provide any examples of the regulatory framework that you're dealing with?

Mr. Richard Bilodeau: Is your question directed at the regulatory framework that would apply to the foreign influence transparency registry?

● (0925)

Mr. Heath MacDonald: Yes.

Mr. Richard Bilodeau: The regulatory framework that will underpin it will need to be developed. Parts of this need to be further identified. For example, administrative monetary penalties are a tool that will be available to our commissioner, who can impose an amount of penalty if—

Mr. Heath MacDonald: Excuse me. I have a point of order, Chair. I can't hear him.

The Chair: I apologize.

Please repeat your answer, if you could.

Mr. Heath MacDonald: Could you start again, please, if you don't mind?

Mr. Richard Bilodeau: Absolutely.

We've spoken, Chair, about a few things in the legislation for the foreign influence transparency registry that would require the bringing into force of regulation.

For example, individuals who are required to register will have to supply the commissioner with a certain type of information. That will be designated by regulation and could include things like, very obviously, name, address and things like that, but also the nature of the agreement and who the agreement is with.

It would also establish via regulation what kind of information the commissioner would be obligated to publish online in a registry to basically render the transparency effective. It would also determine the amount in monetary penalties a commissioner can impose once they have issued a notice of violation.

Those are some of the key examples of things that would be brought in via the regulatory framework. It would also specify the parameters for sharing information with other agencies.

You will have noticed there are very few exemptions in the bill that would apply if the bill is adopted. The regulations allow the Governor in Council to bring in more exemptions, although the bill is designed in such a way that there are very few exemptions, because we wanted the bill to create the minimum number of gaps or ways of escaping registration.

Some of those examples are what would be required in terms of a regulatory framework to implement the legislation.

Mr. Heath MacDonald: Thank you, Mr. Bilodeau.

I'm going to change direction a little bit. Can someone briefly describe, for the people at home, some of the defence mechanisms that could be used?

I also want to state that CSIS has been around a long time and has been doing great work, obviously, when we had over five million cyber-attacks from September to December in 2023. I think it's really important to identify the work that you've presently done. Obviously, technology is changing very quickly in the digital world. I want to identify something else, too, that someone said, and it's in the bill, I believe—a five-year review. Is that correct? Is that too long?

Mr. René Ouellette: The five-year review is proposed there, and it's consistent with what exists in legislation.

We mentioned earlier viewing what other partners are doing around the world, and Five Eyes particularly, so that's a proposal there. It wouldn't, of course, preclude Parliament's ability to study or to bring legislation beforehand. What it does do, though, we think, and the reason it's proposed, is that it allows the government to propose legislation on a clock. It also allows for a review to ensure that CSIS's authorities are fit for purpose, whether its authorities remain justified and provide a regular review outside, hopefully, of emergency situations.

It also allows for civil society and stakeholders to galvanize as well to prepare themselves to contribute to that debate and that discussion in the hope of maturing a national security conversation in the country.

The Chair: You have half a minute.

Mr. Heath MacDonald: I don't have much time, but I did mention defence mechanisms. Perhaps I won't get to all of it, but is there anything in particular that stands out from CSIS that maybe the general public should be aware of when they're reading the stuff in the media and the misinformation that sometimes has been directed from other sources?

Mr. René Ouellette: I think the provisions that would stand out the most, or that would be of most interest to Canadians generally, are the information-sharing provisions and the amendments in the act with respect to that. The ability of CSIS to share information outside of the federal government is something that we think a lot of Canadians, especially those in important sectors of the economy—for example, in the academic sector and in communities as well, who are victims of disinformation campaigns, misinformation campaigns.... We think that will help build that resilience and help protect Canada's democratic health as well.

● (0930)

The Chair: Thank you, Mr. McDonald.

That brings round two of questions to a close. The following round will be the same pattern as the one we just had, but I'm suggesting we take a short break.

Is the committee in favour of a five-minute or 10-minute break?

A voice: Keep going.

The Chair: Okay. We go now to Mr. Shipley for five minutes.

Mr. Doug Shipley (Barrie—Springwater—Oro-Medonte, CPC): Thank you, Chair. I'm going to build on of what a couple of my colleagues, Mr. Cooper and Mr. Caputo, were speaking about.

Time is of the essence with this bill. We are aware that in the last few elections or more, there have been foreign interference situations in different electoral districts across Canada. We know that there's a looming election. We heard the date this morning—October 2025. That's not that far away.

We've also heard that it's going to take approximately a year to implement this registry and get it set up. In my pre-political life, I was in the private business world, and in a much shorter time than a year, you could incorporate a company, find a facility, bring in inventory, hire employees, get customers, ship products and start making profits. Could maybe someone from each department please enlighten me about how this implementing could possibly take close to a year or more?

Mr. Richard Bilodeau: Thank you, Chair, for—

Mr. Sébastien Aubertin-Giguère: Just for context, the amendments to SOIA will be in force 60 days after royal assent and CSIS, so that doesn't require the timeline. If we're creating a new regime, which is the commissioner, then there's some delay. I just want to have a broader perspective on the bill.

Mr. Richard Bilodeau: Thank you for that, Sébastien.

The estimate of a year is based on the number of regulations that need to be brought forward and promulgated by the Governor in Council. It also requires actually setting up an office. While the proposal in the bill is to establish it within a department, it does require staffing up an office, for example, and hiring a commissioner.

We are going to be dealing with Canadians' private data in establishing the registry. That requires a privacy impact assessment to make sure we're dealing with that data in a way that is appropriate and consistent with privacy laws. It also requires establishing an IT platform to receive information for the registry and then publishing that information back out to the Canadian public so that they can consult the database.

It will require developing guidance for Canadians in terms of expectations. For example, if we look over at our friends in the U.K., the law received royal assent last summer, in 2023. They issued guidance in February of this year that is intended to educate people on their obligations with regard to the registry.

The goal of the registry is to increase transparency. One of the key ways of doing that is by clearly communicating to Canadians who might be in arrangements with foreign states. Because it is country-agnostic, that encompasses every foreign state.

What are their obligations in terms of registering? There's a significant part of this that is educating the Canadian public on their obligations. Building in guidance will make sure people know what their obligations are.

Those are some of the steps that need to be put in place so that we have a proper functioning registry when it gets launched.

Mr. Doug Shipley: Thank you for that.

Is there anything specific this committee could do here today or in our meetings coming up to help you or anybody in speeding this up at all? Is there anything specific we could do?

Mr. Richard Bilodeau: I think we're at your disposal. We will be here to support the work of the committee and answer your questions. We will stand ready at any point in time to support that work.

Mr. Doug Shipley: Thank you for that. Hopefully, it goes as quickly as possible.

Speaking of the registry, there's been some concern that some foreign governments may be able to exploit diaspora communities by enlisting volunteers rather than paid agents, which may bypass the need to register in the foreign agent registry.

Has that been thought of at all? Is that factual?

● (0935)

Mr. Richard Bilodeau: The registry does not require the payment. The bill does not require the payment of monies for an arrangement to be captured by a registration obligation. It can be an understanding of doing a favour or anything like that. It does not require payment.

Mr. Doug Shipley: Thank you.

Has a charter statement been completed on this legislation?

Ms. Heather Watts: As is the normal practice, the Minister of Justice will be tabling a charter statement that will outline the potential implications on rights and freedoms protection under the charter from Bill C-70. I don't believe it's been tabled yet, but as per the practice, that would be our expectation.

The Chair: Thank you, Mr. Shipley.

We go now to Mr. Gaheer. Go ahead for five minutes, please.

Mr. Iqwinder Gaheer (Mississauga—Malton, Lib.): Thank you, Mr. Chair, and thank you to the officials for appearing before the committee.

My question is for all the witnesses and whoever thinks they can best answer this question.

We know that under the proposed framework, individuals or entities who enter into an arrangement with a foreign principal and undertake activities to influence a government or political process in Canada would be required to publicly register.

Could the witnesses talk about the penalties or the consequences that could be imposed if that entity or individual does not register?

Mr. Richard Bilodeau: The legislation proposes a compliance regime or some number of compliance regimes, but I'd like to start the answer by giving an example. It might be the best way of appreciating how the bill proposes this to work.

Somebody may, for example, forget to register their activity. It's a good faith error. The commissioner would have an ability to, if they so desire, issue a notice and tell the individual or company that they should have registered under the foreign influence transparency registry. Then, that person brings themself into compliance by registering.

I'm sure there will be instances when somebody will deliberately not register or obfuscate. The commissioner at that point will have a decision to make following an investigation as to whether or not to deal with that breach or that contravention either from a civil perspective or a criminal perspective. If the commissioner decides that the best course of action is to issue a notice of violation, in addition to issuing that notice of violation, they could impose administrative monetary penalties, the amount of which will be determined by regulation. The commissioner would then also be obligated to publish that notice of violation so that Canadians are made aware that an individual or a company failed in their obligations to register.

Of course, at that point, there's also the ability of an individual found to be in violation to refer to the Federal Court for judicial review. That part is proposed in the bill. Finally, there are criminal sanctions that could be imposed. If the commissioner believes that the breach is so severe that it warrants criminal investigation, the commissioner could then refer the matter to a police force of jurisdiction—the RCMP, for example—and the law enforcement agencies would investigate and then work with prosecutors; however, that would be done independently by the police at that point.

That gives you a bit of an idea of the scope. Obviously, one big part of that is education up front. We're hoping to make sure that people comply as much as possible.

Mr. Iqwinder Gaheer: That's great. Thank you for that comprehensive answer.

I'll posit my own hypothetical. Let's say that there is an individual who is a foreign agent and that there is a potential conviction that could arise that could lead to jail time. What level of arrangement is required between that person, that individual in Canada, and that foreign principal that is overseas? Knowing that there are probably layers of separation between them, what level of arrangement is required? Is it implicit? Does it have to be explicit? What is that bar?

Mr. Richard Bilodeau: That's a very good question.

Chair, I'll leave issues of beyond a reasonable doubt and things like that aside. Establishing whether an arrangement exists between an individual and a foreign state will be a matter of the facts of the situation. The commissioner will have investigative tools and the ability to compel information to try to determine the relationship between an individual and a foreign state. It is not always easy. I think you are correct in making that statement, but there will be tools. There will be the ability to work with intelligence services and law enforcement to get information to try to make that determination.

At the end of the day, it will be a collection of facts to determine whether or not there is an arrangement. As I said earlier, it does not need to specifically be a written contract, although, obviously, that makes it a lot easier. It can be a totality of factual circumstances that can lead to a conclusion that there was an arrangement. Ultimately, it would be up to a court to decide whether or not that burden has been met.

● (0940)

Mr. Iqwinder Gaheer: That's great.

Chair, how much time do I have left?

The Chair: You have 35 seconds.

Mr. Iqwinder Gaheer: I just want to end with a statement saying that it does worry me that foreign agents could operate through a chain of command, and it's very hard to trace that chain of command back to the individuals who are overseas and acting as a foreign principal. There should be emphasis placed on the actual conviction, because if you can't get a criminal conviction for an individual who is engaging in these acts, then what's the deterrence? The deterrence is basically just the legal expenses and dealing with the embarrassment and inconvenience of a trial. They're not going to get convicted if that chain of command can't be traced back.

Thank you, Chair.

The Chair: Thank you.

If anyone wishes to respond, they may.

Mr. Richard Bilodeau: We take note of the concern, and I would say that the element of all of this that is key to the foreign influence transparency registry is bringing transparency. Even bringing sunlight to associations is a key valuable tool, and I know that the service agrees with that as well.

Mr. Iqwinder Gaheer: Thank you.

The Chair: Thank you.

[*Translation*]

Mr. Villemure, you have the floor for two and a half minutes.

Mr. René Villemure: Thank you, Mr. Chair.

Mr. Bilodeau, my questions will be for you again. I only have two and a half minutes. That's not a lot of time.

Earlier, during the briefing, you were asked why the position of foreign influence transparency commissioner would fall under Department of Public Safety and Emergency Preparedness. You replied that there was a lot of work to be done and that the department already had the necessary resources in place.

That worries me. Earlier, I mentioned dual registration and I was told that it was too much work. I understand that the commissioner, whether completely independent or not, will have a lot of work to do. That's clear. However, to me, being independent means not being dependent on anyone. I do not presume that the minister will interfere, given that I hold that office in the highest regard. I am simply saying that I would be more reassured, and so would the public, if the commissioner were completely independent. That would require the House to be not only consulted when the person is appointed, but also involved in their selection, as is the case for other positions.

I wonder if you could comment on that.

Mr. Richard Bilodeau: I thank the member for his question, Mr. Chair.

As I mentioned earlier, it will ultimately be up to Parliament to pass the bill with any potential amendments.

However, I would say that the bill ensures independence for the commissioner in terms of decisions related to enforcing the regime. The commissioner will decide whether or not to pursue an investigation and whether a case should result in administrative monetary penalties or criminal charges. All of that work will be done independently—

Mr. René Villemure: I'm sorry to interrupt. I don't have a lot of time.

The commissioner would have independence of action. That's clear. However, they would not have independence in terms of their obligation to be accountable.

Mr. Richard Bilodeau: The bill provides that the commissioner will have to submit an annual report to the minister, which the minister will have to table in Parliament.

Mr. René Villemure: Then I guess the commissioner would be accountable to the minister.

Mr. Richard Bilodeau: Ultimately, they would also be accountable to Parliament.

Mr. René Villemure: Okay.

Why not include political parties in the bill?

Mr. Richard Bilodeau: The bill provides for consultation with recognized political parties on the appointment of the commissioner.

Mr. René Villemure: I'm talking about the bill overall, specifically about funding, foreign agents and political parties.

Mr. Richard Bilodeau: The political processes set out in the bill include the nomination of candidates for political parties. Foreign activity related to a political party's nomination process would need to be registered with the commissioner.

Mr. René Villemure: Okay.

Thank you for reassuring me.

The Chair: Thank you, Mr. Villemure.

[*English*]

Mr. MacGregor, please go ahead for two and a half minutes.

Mr. Alistair MacGregor: Thank you, Mr. Chair.

At risk of repetition, I want to delve again into the definition of "arrangement".

Just for argument's sake, let's say that I'm an ordinary private citizen and, by virtue of my last name, I have an association with the Scottish government and I communicate with a public office holder about a proceeding in a legislative body. I'm just trying to see what level of association would trigger my having to register.

● (0945)

Mr. Richard Bilodeau: It's a good question to make what I think is an important point: This legislation isn't about regulating what people can say or not say in advocating for positions. I want to make sure that is completely clear. It imposes a degree of transparency when that advocacy is being made on behalf of a foreign state or in association with a foreign state. The best answer to that is if you are a private citizen, Mr. MacGregor, and you want to meet with a deputy minister because you think that exposition by your government would be helpful, and you're not doing it on behalf of a foreign state but you're doing it out of love for your country, for example, that doesn't require registration.

However, when you have an understanding with a foreign state that you're doing that for them or in association with them, that is what triggers the requirement to register.

Mr. Alistair MacGregor: Thank you.

To go on to proposed section 27, which is about regulations, can you walk me through those in terms of the different classes? Is there obviously going to be a listed difference between someone who has an association versus someone who's acting overtly under the direction of a foreign entity?

Mr. Richard Bilodeau: Proposed section 27 sets out the regulations. Proposed paragraph 27(a) adds potential classes of individuals who would fit the definition of "public office holder". It's meant to identify classes, not to identify countries or organizations. It's meant to make sure that there's enough flexibility in the legislation, through regulation, that if we believe that a certain group of people should be captured by the registration obligation, there's an ability in the regulations to do that.

The definition of "public office holder" is well known. It's established in the Lobbying Act. It is fairly broad, but if we were to come to realize that it would need to capture other classes, this would be the way to do it.

The Chair: Thank you, Mr. MacGregor.

We go now to Mr. Cooper for five minutes, please.

Mr. Michael Cooper: Thank you very much, Mr. Chair.

For the public safety officials, the coming into force of the foreign influence registry is subject to the issuance of an order in council by the cabinet. Is that correct?

Mr. Richard Bilodeau: That's right.

Mr. Michael Cooper: There's no date prescribed for when that order in council would be issued, is there?

Mr. Richard Bilodeau: That's correct.

Mr. Michael Cooper: There is no date, so it would be correct to say that there's nothing in the legislation that would prevent the government from dithering in issuing that order in council.

Mr. Richard Bilodeau: It is up to the Governor in Council to decide when that is.

Mr. Michael Cooper: Then the answer is, yes, there's nothing to prevent the government from dithering.

Mr. Richard Bilodeau: Yes. It's up to them to decide when.

Mr. Michael Cooper: Okay. Thank you.

Much has been left to regulation, including with respect to administrative penalties as well as the contents of what must be disclosed to the commissioner. Once the bill passes—assuming that it does, and I think it will—is there going to be another lengthy consultation process for what should be included in the regulations?

With respect to other bills that have been introduced and passed, we have seen that they have been been delayed in implementation because of another extensive consultation process. Is that in the works?

Mr. Richard Bilodeau: Sébastien, I don't know if you want to answer first.

Mr. Sébastien Aubertin-Giguère: Thank you.

I just want to say that I sort of disagree with your premise. I think this bill, FITAA, doesn't leave a whole lot to regulations. A lot is in the statutes. The regulatory framework will be quite contained, compared to other pieces of legislation.

In terms of the process, go ahead, Richard.

Mr. Richard Bilodeau: Thank you.

Some of them are simpler than others—determining the amount of penalties that corporations or individuals might have to pay in terms of an administrative monetary penalty. Sometimes there's a differentiation in regime. That's fairly straightforward.

To answer your question about consultation, some of them might require consultation more than others. Some of them are very technical. For example, if we were to consider adding classes of exemptions or another exemption to the regime, you can imagine that it would require consultation.

Mr. Michael Cooper: The bottom line is that you would anticipate that there would be some sort of consultation process that could potentially take some time, because certain aspects of it may be more complex than others.

Mr. Richard Bilodeau: It is possible that there will be some consultation activities on some regulations.

Mr. Michael Cooper: I think this just underscores that we have more delay, and it underscores why time is of the essence. It underscores that we should never have been here. The reason we are here is that this government failed to act and failed to move forward with establishing a foreign influence registry a year after the consultation process ended. Only now are we beginning to study a bill that as of yesterday had the first day of debate at the second reading stage.

I'll move on to the foreign influence registry provisions, and specifically the definition of "public office holders". I note that, for instance, appointees of the federal cabinet constitute a public office holder, but provincial cabinet appointees, or appointees of provincial cabinets, are not included. Similarly, officers, directors and employees of federal boards, commissions and tribunals constitute a public office holder, but the same would not seem to apply with respect to directors or employees of provincial or municipal government corporations or agencies.

Why were those left out?

● (0950)

Mr. Richard Bilodeau: I would point out that the legislation provides that it would apply to provincial-territorial governments when it is brought into force. It's the same thing with indigenous governments. It would apply to them when it is brought into force.

Mr. Michael Cooper: I understand that. It applies to federal government as well, but I cited two specific sections in terms of what constitutes public office holders. There appears to be a gap there. I want clarity as to whether or not I'm correct in that interpretation. If I am, why were those left out?

Mr. Richard Bilodeau: I'd have to go back and look at the language of the provisions. I would say that the legislation allows, through the regulation, adding classes of people. If we became aware that a class of people needed to be captured, it could be done through that.

Mr. Michael Cooper: Just very simply—

The Chair: Thank you, Mr. Cooper—

Mr. Michael Cooper: —appointees of the federal cabinet but not appointees of provincial governments....

The Chair: Thank you, Mr. Cooper.

Mr. Richard Bilodeau: Definitely, that would be part of the conversation. The reason we brought the provincial and territorial components into force separately was to ensure collaboration in considering that with our provincial and territorial colleagues, so that we could do it in an orderly way. That can be part of those conversations. I'm not saying it won't be. I'm just saying that right now we're not there.

Mr. Michael Cooper: So there's more delay—

The Chair: Thank you, Mr. Cooper. That's enough.

We go now to Mr. Arya for five minutes, please.

Mr. Chandra Arya (Nepean, Lib.): Thank you, Mr. Chair.

My question is generally to all three witnesses in all three departments.

I know you mentioned that the foreign interference laws passed by our allies, the Five Eyes, including Australia, have been looked into. Are you guys aware of the first case in Australia that was tried, which was reported by The New York Times on March 16 of this year?

We can start with CSIS.

Mr. René Ouellette: We are aware of that article, yes.

Mr. Chandra Arya: You are aware of that article.

I'll just mention what The New York Times said. It's not me, but what the article said. It said, "The first case tried under Australia's foreign interference laws has raised tough questions about the breadth of the regulations."

I'll just quote some sentences from the article, and I would like to know from you guys if that is what can happen here in Canada under this new law.

The fundamental thing about that case is that:

> The police officers asked the man what he meant when he said that involving an Australian government minister in a charity event could benefit "us Chinese" [within the courts]. Was he talking about mainland China and the Chinese Communist Party, or the local Australian Chinese community?

Depending on the judge, the jury or the government officials, whether, when he says "us Chinese", he means the Chinese government or the Chinese diaspora, depending on the answer, yes or no, he could face 10 years in prison.

This event is about "a $25,000 donation to a community hospital", which, according to prosecutors, "would at some point have become the basis for a pro-China pitch to a local member of Parliament."

My question is this: Do you think it is possible that this case can happen in Canada under this proposed law?

● (0955)

Ms. Sarah Estabrooks: One of the discussions around this, of course, is the very grey nature of foreign interference and making those connections. What is included in this bill is a package of measures that together seek to provide transparency around foreign interference activity and help us—

Mr. Chandra Arya: I'm sorry, but my time is limited. Maybe I can ask the Department of Justice.

Mr. Sébastien Aubertin-Giguère: I don't have the details of the case specifically, but what I can say is that if there's an arrangement being made within the foreign principal and someone in Canada—

Mr. Chandra Arya: Please look up the case and get back to the committee with an answer.

Mr. Sébastien Aubertin-Giguère: Sure, absolutely.

Mr. Chandra Arya: I'll ask the Department of Public Safety and Emergency Preparedness.

Mr. Mark Scrivens: Thank you for the question.

I'm speaking on behalf of the Department of Justice, but I can address the question.

Certainly, we have benefited from having seen the experiences of the Australian legislation, and the bill reflects efforts to learn from the experiences of Australia. In particular, some of the definitions in the Australian legislation have been criticized as being vague and not providing sufficient detail to guide law enforcement and prosecutors. We took note of that in the design of the current legislation.

Mr. Chandra Arya: Again, I'm quoting from the article. It says:

> ...it has become a cautionary tale for the country's large diaspora communities.... In theory, the new laws were an effort to defend democracy against foreign influence. In practice, they have raised tough questions about when such intentions might drift into xenophobia....

How do we give assurance to the diaspora communities in Canada that this will not happen here in Canada?

We'll start with CSIS again.

Mr. René Ouellette: I can start by saying that the consultations that preceded the introduction of the legislation were extensive and included discussions with a wide range of diaspora communities' leadership, including, for example, the cross-cultural roundtable on security.

We've heard these concerns. They've been expressed loud and clear during the consultation phase of the bill. That input that was provided by these communities and by our partners and stakeholders has been incorporated into the drafting of the legislation in a way that we expect will prevent the kinds of issues that you're raising this morning.

The Chair: Okay.

Thank you, Mr. Arya.

That wraps up the third round. We'll start a fourth round following the same pattern, except this time I think we'll run out of time by the time we finish with Mr. MacGregor, so we'll end it there.

Also, before we rise, I want to encourage all parties to get witness lists to the clerk—hopefully by noon tomorrow—in some priority fashion so that we have a sporting chance of setting up meetings for next week. The clerk will do his best to organize things in terms of who is available and when they can get here, given the priorities that we provide to him.

Having said that, I will now go to Mr. Caputo for five minutes.

Mr. Frank Caputo: Thank you, Mr. Chair.

Mr. Bittle pointed out that I was incorrect during my last round, so I should correct the record: The NDP leader's pension will vest prior to that date. It was 25% of his caucus that I should have been referring to.

Now, in any event, when we're talking about sabotage and the sabotage-related offences, we are speaking about infrastructure and critical infrastructure. I'm going to see if I can find the exact wording of the provision that talks about essential infrastructure and the definition of that essential infrastructure. My question is whether.... For instance, under proposed subsection 52.1(2) of the Criminal Code, we're talking about “transportation infrastructure”, “information and communication technology infrastructure”, etc. There are eight enumerated grounds, and then the regulations can add other infrastructure.

Would the offence of sabotage apply only to infrastructure that has actually been completed—in other words, an existing rail line or an existing telecommunications line? What about when a private company or the government is in the process of planning or constructing that infrastructure? Would the offence of sabotage apply to that as well?

● (1000)

Ms. Heather Watts: What I would draw your attention to is the definition of “essential infrastructure” in the bill: “a facility or system, whether public or private, that provides or distributes services that are essential”. I think it would be a question of the specific facts and the operational state of that infrastructure.

In theory, something that is still under construction is not actually at that point providing or distributing, which is what we've defined as essential infrastructure here. Obviously, interference with that type of thing may be covered under other offences in the code but may not necessarily fall within the offence of sabotage related to essential infrastructure as in the bill.

Mr. Frank Caputo: Okay, that's interesting. To me, that's a bit of a gap, because foreign interference could certainly seek to undermine that which is being built in Canada for infrastructure. That might be an area that should be considered for amendment.

One of the questions I have is in relation to the offence of sabotage as well. The offence has a five-year maximum. This, to me, feels like a fairly serious offence. Is there a reason that there isn't a higher maximum for the sentence?

Ms. Heather Watts: I'll just correct you. It's a maximum 10-year sentence for sabotage when committed by way of indictment.

Mr. Frank Caputo: Oh, okay. I'm sorry. I thought it went from two years to five years, but I must have misread that. I apologize. Okay, thank you.

I believe Mr. Genuis is really chomping at the bit here to get in a last couple of questions, so I'll cede my time to him.

Mr. Garnett Genuis: Always. Thank you, Mr. Caputo.

One gap in terms of the response here has been around people facing coordinated discrimination based on political activity and people in diaspora communities who are involved in pro-democracy activity, for example, who then face various forms of discrimination that may be officially or unofficially coordinated from abroad. One instance I heard of recently was someone involved in pro-democracy activism related to Hong Kong who faced negative consequences from their landlord as a result of it.

Now, I have a private member's bill, Bill C-257, that would add political belief and activity as prohibited grounds of discrimination, which I think is one solution. That wouldn't apply in provincial jurisdiction, but it would apply in federal jurisdiction. You can imagine similar models being adopted provincially.

However, I think this is one problem that Bill C-70 does not solve. I'd be curious for your feedback—especially the Department of Justice officials' feedback—on this and what steps could be taken to protect people from discrimination that may be coordinated from abroad and may respond to political activities they're involved in here in Canada.

Ms. Heather Watts: I'll make a few remarks, and if my colleague has more to supplement them, he can do that.

I will admit that I am not familiar with your private member's bill, but I'm going to guess, based on how you've described it, that what you're talking about is adding political belief to the Canadian Human Rights Act. Is that correct?

Mr. Garnett Genuis: Exactly.

Ms. Heather Watts: Okay. The Canadian Human Rights Act is a bit different, in the sense that it applies to relationships between private individuals and discrimination that may take place there. The stuff we have in the bill would not cover those scenarios unless there is a link to a foreign entity, if that makes sense.

Mr. Garnett Genuis: If there is a link to a foreign entity, will it be covered? If the person who was doing the discriminating was involved with or connected to a foreign entity in some way, but it was in a private relationship, would the bill impact that, and how?

The Chair: That is your time.

The witness may answer.

Ms. Heather Watts: Perhaps I'll just clarify the terms. Discrimination, normally, is how you provide goods and services in the sense of the Canadian Human Rights Act.

My colleague can supplement this, but I think what could potentially apply here is if, for example, you are doing something as the landlord, the direction and benefit from and association with the foreign entity could potentially be covered by the new general foreign interference offence.

The Chair: Thank you.

Mr. Mark Scrivens: Just briefly, if the form of the discrimination rises to intimidation, threats, violence or coercive behaviour that doesn't give the victim a choice in the matter, then certainly, the new and newly amended offences in section 20 and proposed sections 20.1 and 20.2 could apply to those circumstances.

The Chair: Thank you.

We'll go now to Mr. Gaheer for five minutes, please.

Mr. Iqwinder Gaheer: Great. Thank you, Chair.

I understand the sensitivities around asking this question, but could the officials please speak to the intelligence-gathering mechanism to establish that there is an arrangement between a foreign principal and an individual or entity here in Canada? What's involved in that intelligence gathering?

● (1005)

Mr. Richard Bilodeau: Thank you for that question.

I can start. I won't speak to the collection capabilities of intelligence partners, but I will speak from the perspective of a client or a consumer of intelligence.

We have intelligence shared with us, and that can be informative. Again, it depends on the nature of the intelligence in terms of its corroboration and value, how it can be relied upon or caveats associated with its use. There is a structure around intelligence and how it's shared with law enforcement. I am not an expert in that field. I would defer to my colleagues from the service or from the Department of Justice on that to clarify it or take it away.

The commissioner has investigative powers to collect information, but could also receive intelligence that has been collected by partners, so there is a distinction there. Obviously, when you get intelligence, there are limits to how it can be used, which are imposed by the process.

Mr. Iqwinder Gaheer: Okay.

Is there a mechanism to ensure that there is information sharing between different government agencies?

What if different agencies have different pieces of the pie? What mechanism is there to ensure that they combine that information to see the entire picture? Maybe that reaches the point where they can launch an investigation.

Ms. Sarah Estabrooks: The service, for example, is unlimited in the disclosure of information and intelligence to the Government of Canada. That's its principal client, and of course it can disclose intelligence widely.

Are there processes in place for ensuring that the sharing is wide? Yes. Are they perfect? No. This is a point that came up in the recent public inquiry report, and I think we have a significant commitment to address some of the issues in this respect.

When it comes to sharing with a particular body, it's slightly different for more routine intelligence gathering and sharing. I assume—and I'm guessing—we'll have to have some mechanisms, an MOU, a process or a structure for doing this, but not until the bill becomes law. That's not the current focus.

However, the broader integration of the security and intelligence partnership and key clients is very strong at all levels, and the sharing of intelligence is a huge priority, but there are some process improvements that can be made.

Mr. Sébastien Aubertin-Giguère: What I can say is that essentially the service has the legal authority to share. The legislation for FITAA sets out that the commissioner can receive the information, consume it and use it. There will need to be arrangements and MOUs established between the two organizations to receive the information and make sure that the classified systems are in place to receive and store the information.

That's one of the reasons the commissioner would be housed in a department. It's to make sure that we optimize the use of the information-sharing arrangements and the infrastructure that is there for the intelligence to be shared with the commissioner.

Mr. Iqwinder Gaheer: That's great. Thank you.

The Chair: Mr. Gaheer, you have one minute left, if you wish.

Mr. Iqwinder Gaheer: Another question I want to ask is this: Who are the entities that the government believes are most likely to register under this new act? Is there a preconception of who is likely to register?

Mr. Richard Bilodeau: Chair, we would expect anybody who has an arrangement to register. Obviously, there are people who, by the nature of their business, work with foreign governments legitimately and would want to register or will be required to register. If you are in the business of advocating on behalf of clients and you're doing that on behalf of a foreign state, you will have to register, if the bill is passed, with the foreign influence transparency office. We expect, obviously, that the group of people who are well versed in registering for the Lobbying Act to also be required to register when they're in an arrangement with a foreign principal.

That would be one example.

● (1010)

Mr. Iqwinder Gaheer: If they have registered, what's the bar for those individuals and their activities being monitored to see if they are now abiding by the laws that this country has, or if they are skirting the law even though they have registered?

Mr. Richard Bilodeau: I think it's a good question, Chair. The legislation does have provisions requiring the updating of information to the commissioner on their activities. That will be detailed in regulation.

The Chair: Thank you, Mr. Gaheer.

[*Translation*]

Mr. Villemure, you have the floor for two and a half minutes.

Mr. René Villemure: Thank you, Mr. Chair.

I have a few more questions for the officials from the Department of Public Safety and Emergency Preparedness.

When I read part I of the Canadian Security Intelligence Service Act, I realize that CSIS will be able to share information with universities that receive Canadian funding. However, I am not sure that these universities are included in the entities that are required to register with respect to foreign principals.

Is that the case?

Mr. Richard Bilodeau: I thank the member for his question.

I'll use your example. If a university has an arrangement with a foreign government to carry out one of the three activities listed in the bill—communicating with a public office holder, communicating information about a political or governmental process or disbursing money for the purpose of influencing—the university will have to register, because it has an arrangement with a foreign state. It all depends on the relationship, the activities the university conducts and the context. Whatever the example, it is a matter of determining whether one of these three conditions has been met. Whether it's a university or a private company doesn't make a difference.

Mr. René Villemure: That's for the registration of the university itself, but the foreign principal would also have to register in that case.

Mr. Richard Bilodeau: No, not necessarily, because the person who conducts the influence activities is the one who has to register. If the university is doing it on behalf of a foreign government, yes, the university will have to register. Obviously, the commissioner will publish that information, and there will be some transparency about the fact that the university has an arrangement with the foreign state in question to conduct foreign influence activities.

Mr. René Villemure: If a foreign principal influenced a university in order to change a public policy effort, for example, would they be required to register?

Mr. Richard Bilodeau: They probably wouldn't be. It always depends on the facts and how that influence is exercised. For example, if someone is hired to exert that influence, they might be. However, as we said, other provisions of different acts could apply in this context, beyond the registry.

Mr. René Villemure: Do you see that this might require clarification? Even I'm not sure what I'm reading when I look at this.

Mr. Richard Bilodeau: The bill is quite clear as to what triggers the registration requirement and who needs to register. I think it's section 3 or 4 of the proposed act, if I'm not mistaken, that clarifies that. I would add that the commissioner will be able to clarify that in briefing documents. That is how the commissioner will be able to educate and inform people about what is expected of them, and how the commissioner interprets the act and their obligations under it. This is common practice in the regulatory environment.

Mr. René Villemure: Thank you.

The Chair: Thank you, Mr. Villemure.

[*English*]

We will go now to Mr. MacGregor for two and a half minutes.

Mr. Alistair MacGregor: Thank you, Mr. Chair.

This question will probably be for the Department of Justice.

I'm just flipping through the different sections of this bill, and the theme of my question is on legislative harmony and consistency. I want to draw your attention to the amendments to the SOIA specifically on page 32, where it's talking about the application of the act. There it makes specific mention of “municipal political or governmental processes”, but in part 4, that is excluded.

Likewise, if you look on page 31 of the bill, the definition of “public office holder” is quite thorough and very defined, whereas in part 4, the definition of “public office holder” is not as thorough.

From the Department of Justice's point of view, if we're looking at possible amendments to this act, what is the preference in terms of making sure these two acts are in harmony? Would you like us to be as specific as what's included in the SOIA when we amend part 4? I'd just like to have some guidance on that, please.

● (1015)

Mr. Mark Scrivens: Thank you for that question.

The definitions that are used in SOIA are with the context of SOIA and the offence itself in mind and were clearly inspired, as you note, by other provisions and other categories of public office holders, so the offence of interference with political processes or governance involves a category of public office holder that I agree is quite extensive. In fact, as it's defined, it is open-ended to a certain extent. That works well within the context of SOIA and within the context of that particular provision.

The other categories of public office holder are designed to work well with the other regime. That's what I would say. Yes, there are similarities and yes, there are differences, but those are intentional.

The Chair: Thank you, Mr. MacGregor.

That brings our questioning to a close. I'd like to thank our witnesses for being so enormously helpful and for showing up on such short notice. It's really appreciated.

Mr. Villemure would like a few words with the committee, but before that I want to make sure to remind everyone that we need witness lists. Each party should submit its witness list to the clerk in a prioritized manner. In order to schedule for Monday, he'll need those witnesses by noon.

Mr. MacGregor, do you have a question?

Mr. Alistair MacGregor: Yes, Chair.

Given how heavy our workload is going to be next week, and given the timelines we're dealing with on Bill S-210, I'm just wondering if we have unanimous consent from this committee to ask for a formal extension so that we can give Bill S-210 proper study, because Bill C-70 is obviously going to take priority in this committee.

Can I get unanimous consent for that?

The Chair: There's no unanimous consent, but thank you.

Mr. Alistair MacGregor: Thank you.

The Chair: Mr. Villemure, please go ahead for a few minutes.

[*Translation*]

Mr. René Villemure: Thank you, Mr. Chair.

Given the pace at which the committee will be working, I would like to get the unanimous consent of the members on the possibility of resetting the speaking times after the first hour in the case of a single two-hour panel.

[*English*]

The Chair: Do we have unanimous consent to do that?

Mr. Garnett Genuis: I think maybe that requires a longer discussion. We'll lose time on it.

The Chair: I should point out that what we've done today is fairly unusual for us. We were kind of rushed. The routine motions that we are operating under proceed in this manner. I'm not sure if there is willingness to adopt that on unanimous consent at this point.

Mr. Garnett Genuis: Can we bring it back next time?

The Chair: You could bring it back next time.

Mr. Garnett Genuis: Yes, we'll have some discussion among ourselves.

The Chair: Thank you for your suggestion.

Thank you once again to the witnesses.

With that, we are adjourned.