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Chair: Mr. Ron McKinnon



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• (0815)

[English]

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

Welcome to meeting number 113 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, and the motion adopted by the committee on Monday, May 27, the committee resumes its study of Bill C-70, an act respecting countering foreign interference.

Before we begin, I would like to ask all members and in-person participants to consult the cards on the table for guidelines on preventing audio feedback incidents. Please take note of the following preventative measures in place to protect the health and safety of all participants, particularly the interpreters. Only use 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're not using the earpiece, place it face down on the sticker placed on the table for this purpose.

Today's meeting is taking place in a hybrid format.

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. All comments should be addressed through the chair.

I have some specific comments on Bill C-70. I would like to remind members that amendments to Bill C-70 must be submitted to the clerk of the committee by 4 p.m. Eastern Standard Time tomorrow, Friday, June 7. It is important for members to note that, pursuant to the order adopted by the House on May 30, the 4 p.m. deadline to submit amendments is firm. This means that any amendments submitted to the clerk after the deadline and any amendments moved from the floor during the clause-by-clause consideration of the bill will not be considered by the committee.

I would like now to welcome our first witnesses today. We have with us the Hon. Dominic LeBlanc, PC, MP, Minister of Public Safety, Democratic Institutions and Intergovernmental Affairs. We also have the Hon. Arif Virani, PC, MP, Minister of Justice.

[Translation]

Mr. René Villemure (Trois-Rivières, BQ): I have a point of order, Mr. Chair.

[English]

The Chair: Go ahead on a point of order.

[Translation]

Mr. René Villemure: I would simply like to make sure that the required sound tests have been carried out, for the sake of the interpreters.

[English]

The Chair: Yes, they were. Thank you.

Carrying on with our witnesses, we have officials as well. From the Department of Justice, we have Shalene Curtis-Micallef, deputy minister and deputy attorney general of Canada, and Heather Watts, deputy assistant deputy minister. From the Department of Public Safety and Emergency Preparedness, we have Shawn Tupper, deputy minister, and Richard Bilodeau, director general. From the Royal Canadian Mounted Police, we have Mark Flynn, deputy commissioner of federal policing. Finally, from the Canadian Security Intelligence Service, we have Sarah Estabrooks, director general of policy and foreign relations, and David Vigneault, director.

Thank you to all for being here today for this study and on such short notice.

I now invite Minister LeBlanc to make an opening statement of up to five minutes.

Please go ahead, sir.

• (0820)

Hon. Dominic LeBlanc (Minister of Public Safety, Democratic Institutions and Intergovernmental Affairs): Mr. Chair and colleagues, good morning. Thank you for inviting me to be with you this morning for Bill C-70. It's a vital part of our government's and Parliament's efforts to counter foreign interference.

Thank you, Mr. Chair, for introducing the senior colleagues from the department, the RCMP and the Canadian Security Intelligence Service who have joined me this morning.

I think we can all agree that the government and, by conclusion, Parliament have no greater obligation than the protection of the Canadian people and our democracy.

[Translation]

Like us, Canadians are aware of and rightly concerned about the pervasiveness and increasing complexity of foreign interference. They also know that foreign interference poses a real and serious threat to our country, our democratic processes and our institutions.

State actors seek to exploit Canada's vulnerabilities by targeting governments at all levels, our open academic systems, private enterprises, and even communities and individuals. And we must close those vulnerabilities in the face of ever-increasing and, as many others have said before me, ever more complex threats.

[English]

Our response includes engaging with those directly affected on potential solutions. That's why the Government of Canada engages with private companies, researchers and the health sector, for example, to inform them of threats and help them better understand how they can protect their work. It provides mechanisms for public reporting through various websites and national security threat phone lines. It engages with at-risk communities in Canada to help them better protect themselves against foreign threats. It helps critical infrastructure operators defend the critical cybersecurity systems that Canadians properly rely on. It coordinates and shares information with the Five Eyes and other allies, such as G7 and NATO partners, on foreign interference and other threats. It also enhances collective resilience to disinformation by helping Canadians and individuals in Canada become better informed about disinformation tactics and actors and by enhancing transparency.

Based on what we heard through a diverse and robust consultation process, we introduced Bill C-70, an act respecting countering foreign interference, earlier last month. In order to bolster our ability to detect and disrupt foreign interference threats, Bill C-70 proposes important and necessary amendments to modernize the Canadian Security Intelligence Service Act, the Security of Information Act, the Criminal Code and the Canada Evidence Act.

Moreover, Bill C-70 introduces the foreign influence transparency and accountability act, which is designed to increase transparency by creating a foreign influence transparency registry for individuals and entities acting on behalf of foreign principals that are seeking to influence activities within our political and governmental processes. All individuals or entities who enter into an arrangement with a foreign principal and who undertake activities to influence a government or political process in Canada would be required to publicly register these activities.

[Translation]

To be clear, the registry creates a positive registration obligation for individuals or entities who are in a foreign influence arrangement with a foreign principal. Individuals and entities would be required to show more transparency about their connections to foreign states and support Canada's national security objectives.

• (0825)

[English]

However, we recognize that the foreign influence transparency and accountability act is by no means a single solution to foreign interference. That's why Bill C-70 also introduces measures and tools to help our law enforcement and intelligence agencies detect, deter, decrease and disrupt threats of foreign interference at their early stages, while of course being mindful of the rights and privacy of Canadians. The foreign influence transparency and accountability act would build on the government's ongoing and long-

standing efforts to protect Canada against the threats of foreign interference.

I can assure the committee that the government will continue to work with all our partners, including those in other jurisdictions in Canada, affected communities, academia and civil society, to address foreign interference together.

Mr. Chair, I want to thank you and your colleagues on this committee for the work you've been doing so exhaustively over recent days with respect to this legislation. We look forward to your deliberations on amendments that might improve and strengthen this legislation.

I want to acknowledge what I think is an important, non-partisan, collective effort from all parties in the House of Commons to work together on something important to Canadians. I thank all of you for your efforts in this regard.

The Chair: Thank you, Minister.

I now invite Minister Virani to make an opening statement of up to five minutes.

Hon. Arif Virani (Minister of Justice): Thank you very much, Chair.

I'm very pleased to be here today to speak to you about the threat of foreign interference in Canada and how this bill, Bill C-70, aims to help detect, disrupt and protect against the threats to our country and its institutions by foreign actors.

Bill C-70 modernizes Canada's laws to better protect our democracy and protect people in Canada against new and evolving threats. We are particularly concerned about members of diaspora communities who are disproportionately targeted by those who engage in foreign interference. The reforms to our criminal laws proposed in the bill are strong, measured and direct.

Looking first at the Security of Information Act, this bill would amend the existing offence of using intimidation, threats or violence on behalf of foreign states against Canadians and people living in Canada. It would simplify prosecutions by removing the requirement to prove that the prohibited act resulted in harm to Canadian interests or helped a foreign state. All that would be required is that the threat or violence was done on behalf of or in association with a foreign state.

The bill would also ensure that these protections extend to people working outside the country or travelling to visit loved ones. It would ensure that the law addresses threats by foreign states against family members of Canadians. This captures instances where family members are being threatened to exert pressure on someone to do or not do something, like protesting a foreign government. This is a significant step in addressing transnational repression and some of the fears we heard from community groups and stakeholders during the consultations we have already undertaken.

The bill would create a new offence for committing an indictable offence for a foreign entity, as well as a new general foreign interference offence when a person knowingly engages in surreptitious or deceptive conduct for a foreign entity. We are also strengthening protections for our democratic institutions. The new offence of political interference for a foreign entity criminalizes interfering with a democratic process and would apply at all times to all levels of government—this is a significant change—and, importantly, to the nomination process of political parties.

[Translation]

In terms of the Criminal Code, the bill proposes to modernize the existing offence of sabotage, which hasn't been revised since 1951. We also propose adding two offences to protect critical infrastructure and to criminalize the creation and distribution of devices intended for sabotage.

[English]

This is to clarify that the offence applies to the public and private infrastructure that is essential to the health, safety, security and economic well-being of people in Canada—for example, the private and public infrastructure systems that enable transportation or communications, or support the delivery of health and food services.

[Translation]

During public consultations, Canadian association and industry stakeholders made clear the need to protect critical infrastructure. The proposed amendments would expressly recognize the right to freedom of expression and the right to peaceful assembly, protected by the Canadian Charter of Rights and Freedoms, and confirm that individuals acting under these rights without the intent to commit an act of sabotage do not fall within the scope of the offence.

I will now speak to part 3, which amends the Canada Evidence Act and the Criminal Code.

● (0830)

[English]

This section of the bill would create a new, standardized mechanism with robust procedural protections to ensure the protection of national security information in the judicial review of government decisions.

Through these important legislative proposals, our government is taking concrete action to protect all people in Canada, our institutions and our democracy from foreign interference. These changes have been built with the input of Canadians, including members of many diaspora communities. They are balanced, they are fair and they are necessary.

At this point, along with Minister LeBlanc, I would be pleased to answer your questions.

Thank you very much.

The Chair: Thank you, Minister.

We'll start our questions with Mr. Caputo.

Go ahead, please, for six minutes.

Mr. Frank Caputo (Kamloops—Thompson—Cariboo, CPC): Thank you. I appreciate all of the witnesses for being here.

I'll direct the following questions to Minister LeBlanc.

The NSICOP report that was recently released reveals that parliamentarians, including members of our House, the House of Commons, knowingly and deliberately assisted a hostile foreign state to the detriment of the people of Canada. This places a cloud of suspicion over every single member of the House—elected members.

Do you know the names of these people?

Hon. Dominic LeBlanc: I am updated regularly and in a complete way by our intelligence agencies, the RCMP and the Department of Public Safety, so I am very comfortable that I have the information I need to do the work I have to do. However, you'll understand that discussing the details, particularly of the most sensitive information, is not something we want to do publicly.

Mr. Frank Caputo: I'm not asking you to discuss sensitive information. I'm asking whether you know the names. Do you know the names, yes or no?

Hon. Dominic LeBlanc: I know that a number of names surfaced in various intelligence products I have seen, but I was not in the room when the committee of parliamentarians did its work. I don't have the exact details of which documents it saw and didn't see, but I am very comfortable that I have access to all of the most important intelligence information, which would include, in some cases, names.

Mr. Frank Caputo: Okay. People are alleged, in some cases, according to our intelligence communities, to have committed some of the most serious offences known to Canadian law. Are you prepared to release their names, yes or no?

Hon. Dominic LeBlanc: No.

Mr. Frank Caputo: You will not release the names of elected members operating in the House of Commons. Do you think Canadians have a right to know, yes or no?

Hon. Dominic LeBlanc: It's important for Canadians to understand that these names are contained in intelligence reports. In some cases, it's uncorroborated or unverified intelligence information.

I think we need to be very careful to understand, as the director himself has said, that intelligence is often a series of puzzle pieces. One particular piece of the puzzle, an intelligence source or information, may not have context or may be discredited or altered by subsequent information. The idea that there is a perfect list of names that is entirely reliable—

Mr. Frank Caputo: Minister, sorry—

Hon. Dominic LeBlanc: —and should be released to the public is simply irresponsible.

Mr. Frank Caputo: Minister, the NSICOP report doesn't equivocate like you just did. The NSICOP report is incredibly clear on names.

Do you think Canadians have the right to know—

Hon. Dominic LeBlanc: It's not actually clear on names.

Mr. Frank Caputo: I'm not done my question, Minister.

Do you think Canadians have the right to know, when they cast an X next to the name of somebody in the next 15 months—the very thing that we're dealing with here in Bill C-70—whether a member is under the influence of a hostile foreign state, yes or no?

Hon. Dominic LeBlanc: I think Canadians know, and I'm confident they have every reason to be reassured, that our intelligence agencies and the RCMP take their responsibilities extraordinarily seriously and have the resources necessary to investigate. Should the RCMP, for example, in its wisdom, decide that charges should be laid in consultation with the appropriate prosecutors, that's our system in a rule-of-law democracy. It's not simply releasing a series of names or, as Mr. Caputo says he's concerned about, casting aspersions on everybody by pretending that there's some perfect list of names that the government is not releasing. No other western democracy knows this.

Mr. Caputo knows that in the government of Mr. Harper, even that kind of conversation wouldn't have been conceivable, so I think there's a certain disingenuous element in Mr. Caputo's theatrics this morning.

• (0835)

Mr. Frank Caputo: Under Mr. Harper's government, we did not get a report that said foreign state actors had infiltrated—

Ms. Jennifer O'Connell (Pickering—Uxbridge, Lib.): It's because you didn't support setting up NSICOP.

Mr. Frank Caputo: Under Mr. Harper's government, we did not have reports saying that foreign state actors had dealt with this. Under current legislation, you can disclose top secret information when it's in the public interest. What would be more in the public interest than a person who could be elected and is under the thumb of a hostile state actor? You can do that.

You talk about being disingenuous, and you can do this. Why won't you do so before the next election?

Hon. Dominic LeBlanc: Speaking of being disingenuous, in Mr. Harper's government the National Security and Intelligence Committee of Parliamentarians didn't exist because Mr. Harper's government didn't believe that parliamentarians should have access to this information or be able to review the work of our intelligence agencies. During Mr. Harper's government in 2013, CSIS publicly iden-

tified an increasing risk of foreign interference in our democratic institutions—

Mr. Frank Caputo: It didn't identify names.

Ms. Jennifer O'Connell: Don't interrupt.

Hon. Dominic LeBlanc: —and the Harper government did absolutely nothing.

Again, I think it's important to have context for these comments.

Mr. Frank Caputo: Then you are okay with people going into an election and putting an X beside a name when they have a cloud of suspicion for every single one of us.

Let's face it, Minister. I think if there were six Conservatives on that list and no Liberals, we would have the names. Let's be honest here.

The Chair: Thank you, Mr. Caputo. The minister may answer.

Mr. Frank Caputo: Pardon me; I think I have another minute.

The Chair: No, you don't.

Mr. Frank Caputo: Okay, thank you. I'm sorry.

The Chair: The minister may answer if he wishes.

Hon. Dominic LeBlanc: Mr. Caputo makes something up in saying that if there were six Conservatives and no other political parties on the list, of course we would release it. I'm not going to violate the Security of Information Act and risk prosecution for a political stunt, and I think Mr. Caputo knows better.

The Chair: We go now to Mr. Gaheer for six minutes.

Mr. Iqwinder Gaheer (Mississauga—Malton, Lib.): Thank you, Chair.

Thank you to all the witnesses for appearing before the committee.

Minister, I want to focus on foreign interference and its impact on diaspora communities, something that Mr. Virani touched on in his opening testimony. I know that you've spoken about it in the past as well. Different—

Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC): I have a point of order, Chair.

The Chair: Go ahead, Mr. Genuis, on a point of order.

Mr. Garnett Genuis: Thank you, Chair.

During Mr. Caputo's round at the end, Ms. O'Connell was shouting at him across the floor, and now she's saying, "Boo hoo, get over it."

Respectfully, Chair, I think you should call this member to order.

Ms. Jennifer O'Connell: That's not a point of order.

Mr. Garnett Genuis: It is a point of order. You're shouting at another member.

The Chair: Mr. Genuis—

Mr. Garnett Genuis: No, sorry, I have a point of order.

The Chair: Speak to the chair, please.

I hear your point of order. I would encourage all members not to talk across the table and to talk through the chair when they are recognized. It would be helpful to us all.

Mr. Garnett Genuis: I hope you call Ms. O'Connell to order, because she wasn't crosstalking; she was shouting to disrupt Mr. Caputo's round of questions.

The Chair: Mr. Gaheer, go ahead, please.

Mr. Iqwinder Gaheer: Thank you, Chair.

I want to focus on foreign interference and its impact on diaspora communities. We've had different groups come here and raise that concern. One of the groups was the World Sikh Organization. They were largely in favour of this bill. They said that more needs to be done to counter foreign interference and that, in that respect, Bill C-70 is a step in the right direction. They did want to highlight, however, that CSIS would have the ability to disclose information to any person or entity should CSIS deem that relevant. This would be a great step, but they are concerned about whether foreign consular officials in Canada would count as entities, what kind of information could be disclosed to them and whether diaspora communities could be put at risk because of that disclosure.

Hon. Dominic LeBlanc: Thank you for highlighting what I think all of us would properly be concerned about—the impact on diaspora communities in Canada. You're absolutely right. They are often victims and targets of foreign interference.

We've seen publicly reported cases that should worry all of us. That is one of the reasons it would be terrific if Parliament was able to strengthen, in the appropriate way with the right safeguards, the ability of our agencies to protect these communities, to protect Canadians.

You and I had a chance, Mr. Gaheer, to talk about this specific element about what information could properly be shared with different foreign governments or consular agents. I know there are agreements that govern, and properly so, these kinds of sharing arrangements. I think we can agree that the kind of information—and I'm speaking for my RCMP and CSIS colleagues, and I hope they won't disagree—we might share with, for example, Five Eyes partners is different from what we might share with a particular country that's interfering in an illegal and inappropriate way in Canadian affairs.

If you'll allow it, Mr. Chair, the director of CSIS, Monsieur Vigneault, will be able to give, I hope, the precise answer to Mr. Gaheer's very proper question.

• (0840)

Mr. David Vigneault (Director, Canadian Security Intelligence Service): Thank you, Minister.

The member points to something extremely important in the debate on foreign interference. There was a lot of focus on electoral

interference, but minority communities have been targeted and continue to be targeted by foreign states. That's why it's so important that we have the proper tools.

In terms of information sharing, I can assure the member that there are very specific and reviewable guidelines under the Avoiding Complicity in Mistreatment by Foreign Entities Act that govern the way we share information. It is reviewed annually by the National Security and Intelligence Review Agency. We take this extremely seriously to make sure that we do not share information that would potentially harm Canadians.

Mr. Iqwinder Gaheer: That's great. Thank you. What I'm hearing is that there are proper checks and balances before information is disclosed.

The other point that was raised is that there's a framework for cooperation on countering terrorism and violent extremism between Canada and India. That is still active. I think it was 2018 that the agreement was signed. When that agreement was signed, members of different diaspora communities—the Sikh community, for example—had certain hesitations about it, and fears were heightened when news came out of Hardeep Singh Nijjar's killing in B.C. When the Prime Minister stood up in Parliament, we all witnessed it.

The community and the WSO are asking whether that agreement is still active and what information is being shared under it. Is information being shared, or could information be shared, that puts individuals in danger, whether they're here in Canada or with their families overseas in India?

Hon. Dominic LeBlanc: It's a very good question.

It's important to reassure the community that the appropriate protocols are in place. Their interests and security are obviously paramount in any decisions that our security agencies might undertake.

Perhaps that's for the director of CSIS or the deputy commissioner of the RCMP. There would be, I assume, in the case of a criminal investigation—for example, Mr. Nijjar's—versus a terrorism investigation....

Mr. Chair, with your indulgence, I think the director of CSIS and the deputy commissioner of the RCMP could provide exactly the information our colleague wants.

Deputy Commissioner Mark Flynn (Deputy Commissioner, Federal Policing, Royal Canadian Mounted Police): I'm happy to take that question.

I know that my colleagues at CSIS and other departments have similar processes. Within the RCMP, we have a process that ensures there is a proper risk assessment. Independent individuals who are not part of those investigations are brought in to analyze the information, the requests for information and our responses to them to ensure that any information we are going to share with any foreign entity is properly assessed and does not cause jeopardy to any individual. That's any individual, whether Canadian or otherwise.

I recognize the concern that was raised. It's something that we, as law enforcement and security and intelligence officials, have to deal with every day. It is a global community. Many problems are global in nature. The reality is that we have to communicate with people and with countries that do not have the same values and ethics that Canadians and Canada as a whole do. However, I can assure you that we take all of those engagements very seriously. We exercise extreme caution in all of those engagements.

The Chair: Thank you, Mr. Gaheer.

[*Translation*]

Mr. Villemure, you now have the floor for six minutes.

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

Thank you all for being here this morning, and so many of you, too; it's impressive. I'm going to ask Mr. Virani some questions, but I'm going to start with Mr. LeBlanc, if I may.

Mr. LeBlanc, I've been following the foreign interference file very closely for a very long time, and I fully understand your answer when you say you can't answer Mr. Caputo or give a list of names.

By its nature, classified information marked "top secret" cannot be disclosed; we already understand that. We don't require it to be made public, because we know it can't be made public. However, we are wondering what might happen. Could you give us a bit of an overview of what might happen?

In fact, we have the impression that, in the past, people have been a little slow to react. We don't want to say it like that, but we almost felt that there was avoidance, whether it was by the special rapporteur or because certain documents weren't shared with the Hogue commission.

Given the importance of this issue, which you highlighted in your opening remarks, and knowing that you can't pass on the information, what's going to happen?

● (0845)

Hon. Dominic LeBlanc: That's an excellent question.

The Chair: Excuse me for interrupting, but there's no interpretation on the Zoom application.

One moment, please.

[*English*]

It looks like we're good to go.

[*Translation*]

You may continue, Mr. Villemure.

Mr. René Villemure: Mr. LeBlanc, how would you answer my question?

Hon. Dominic LeBlanc: Thank you for the question, Mr. Villemure.

I also want to thank you for the work you and your party are doing to support and improve the bill. I understand your question very well, and I know that you are asking it sincerely. I assure you that we want to get things right.

Having said that, you're right. You talked about why it wasn't possible to magically give a list of names. You're right that it's important to reassure Canadians. Democratic institutions and our country's highest democratic institution, the House of Commons, where we are privileged to sit, are immune from foreign interference to the greatest extent possible. Those who choose to participate in such scenarios must be held accountable.

As Minister of Public Safety, I had the privilege of seeing the work of the Royal Canadian Mounted Police, or RCMP, and the Canadian Security Intelligence Service, or CSIS, up close. I have no doubt that those who choose to break the law and act against Canada's interests will be held accountable. In the context of elections, the Canada Elections Act comes to mind. There are a number of mechanisms at play.

You referred to the Hogue commission, and rightly so. I was pleased to work with Mr. Therrien, the House leader of your party, last summer to create the Hogue commission. I have full confidence in its work, and I look forward to seeing the commissioner's recommendations. We had a report from the National Security and Intelligence Committee of Parliamentarians this week as well as the report from the National Security and Intelligence Review Agency.

I hope the will of Parliament is to improve the bill and get it passed. It's up to you to decide whether amendments should be proposed to improve it. However, the idea is to reassure Canadians and to strengthen national security institutions and agencies so as to counter interference.

We're awaiting the recommendations that will come out of the Hogue commission at the end of the year, and we're looking closely at the recommendations of the National Security and Intelligence Committee of Parliamentarians. We can work together next winter to improve the bill or introduce a new one.

We're on the lookout, and we're trying to do everything we can to reassure Canadians. I think it's important not to give the impression that there are members of Parliament who aren't subject to the act. Everyone is subject to it. I'm sure that the process will be done properly.

Mr. René Villemure: Thank you for your answer.

In the past, solutions have sometimes been a long time in coming, which has undermined public confidence. I think Bill C-70 can be summed up in three words: trust, transparency and exemplarity. That's what we're looking for.

I'm going to ask you a question that's more related to the bill. Oddly enough, the bill doesn't seem to define foreign interference. There are a few occurrences in a part where it can be inferred, but it isn't defined at the outset. What isn't defined doesn't exist.

What are your comments on that?

● (0850)

Hon. Dominic LeBlanc: You're right.

The same question seemed reasonable to me in my discussions with my colleagues from the department or security agencies.

There will obviously be prosecutions and criminal prosecutions as the years go on. The courts will properly define the elements of a criminal offence. That's how the law in Canada evolves, and it is entirely appropriate. There are also new tactics. The threat is literally changing month by month, year by year, because of technology.

A definition would have been a way to limit the ability to interfere, but I understand the concern of some if it's not defined. It can go in two directions. I have full confidence in the courts, in the Canadian Charter of Rights and Freedoms and in our national security agencies.

Mr. René Villemure: Okay, thank you very much.

Mr. Virani, I'm not an expert in criminal law, and few are. Yesterday, we heard testimony from a criminal lawyer who told us to be careful. For example, in her view, section 20.4 of the Canadian Security Intelligence Service Act and section 52.1 of the Criminal Code, among other things, were too important and too imprecise to be dealt with so quickly.

I must admit that, as a member of the committee who is not a criminal lawyer, I'm uncomfortable with the idea of making such amendments to the Criminal Code at such a pace. I can't argue about each of the clauses, but the concern yesterday was related to the fact that there were vagueness and generalities and that unintended consequences could materialize.

What could you do to help us do our job properly? Personally, I think that, in this case, haste is a poor guide.

Hon. Arif Virani: Thank you for the question, Mr. Villemure.

I'll mention a few things.

First, as a result of the change we made to the act in 2016, I believe, it's necessary to table a statement in the House concerning any bill that contains an aspect that affects the Canadian Charter of Rights and Freedoms. So that statement has already been tabled in the House.

In that document, you can see a context where certain rights and freedoms, protected by the charter, are at stake. In terms of the criminal law protections, I think this bill reflects a lot of the consultations we had. We're in a rather delicate situation, but it's important. This is a priority for Canada, but it's also a priority if we want to modernize aspects of the act, particularly with respect to the offence of sabotage.

Mr. René Villemure: Don't you think that's a bit quick for parliamentarians to be able to properly assess these elements?

The Chair: Thank you, gentlemen.

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

The Chair: I'm sorry.

[*English*]

That finishes our first round. We will start our second.

I'm sorry. I'm way ahead of myself.

Mr. MacGregor, please go ahead for six minutes.

Mr. Alistair MacGregor (Cowichan—Malahat—Langford, NDP): The consequence of these new, long table set-ups is that I get lost in the mix.

Thank you to our witnesses for joining us and helping guide the committee through this really important study.

Minister Virani, I'd like to start with you. I have some questions about the amendments to the Security of Information Act, otherwise known as SOIA.

In the existing SOIA, under section 24, it says “No prosecution shall be commenced for an offence against this Act without the consent of the Attorney General”—meaning you. There are some very consequential amendments to the SOIA in this bill, particularly proposed section 20.4, which is going to be added under “Political Interference for a Foreign Entity”.

I'm just looking ahead. The position of Attorney General is filled by an elected member of Parliament. Would it not be safe to remove the requirement for the consent of the Attorney General given that you're dealing here with offences that are of a political nature? Would it not be better to leave that to a senior civil servant? Do you have any thoughts on that?

• (0855)

Hon. Arif Virani: I do. Thank you, Mr. MacGregor. It's an important point. I'll say a couple of things.

One is that AG consent is in various places throughout the Criminal Code. We can talk about the context of a prosecution for some of the hate propaganda offences, for example. It's in the code for specific reasons, but primarily as a safeguard. When we express an understanding, we want the code to reflect the understanding that the interests in play are very significant. When you're talking about potential restraints of charter rights in the context of something that might have been orchestrated by a foreign nation, you're talking about very serious crimes, as opposed to a simple break and enter or uttering threats.

I appreciate your point. We had a pretty extensive analysis of the division between the roles of AG and the Minister of Justice. That was done by a former attorney general, Anne McLellan. She talked about how the system we have can continue to work.

Having somebody—such as a person in my role right now—reflecting on this is important, since when we're dealing with foreign interference, we're potentially dealing with very sensitive information of the type described by Minister LeBlanc. It deals with sensitive state relation matters, both with the state at issue and with other states that may have been co-operating with us to provide us intelligence. Given that aspect, I think it's very important for somebody who has a political lens to provide input as to whether a prosecution should or should not proceed.

Mr. Alistair MacGregor: Thank you for that.

I have another question dealing with the same clause in the bill, clause 53. It's a very big clause. The amendment to section 20 of the SOIA talks about intimidation, threats or violence. We have the word "intimidation" inserted in there.

I've heard concerns from some groups that intimidation is not defined in the SOIA. That could be hugely problematic because it could be open to interpretation. For example, if you have two groups that have foreign association but are at different ends of the political spectrum, is there not a danger that governments of differing political natures may see those two groups in different lights? How do you define intimidation? Is it problematic not to narrow it down further?

Hon. Arif Virani: To reflect on the previous question, I want to underscore that AG consent can always be delegated down, as is done in some provinces, to what's called the director of public prosecutions.

To your second question, we're guided by intimidation case law, as it's been interpreted by the courts. It's a term used in the Criminal Code and entrenched in the Criminal Code.

You raise a really important point, Mr. MacGregor, which is the idea of ensuring that lawful dissent and protest, including labour work stoppages at an important piece of infrastructure, are protected and remain protected. That's why the language has been deliberately inserted into the bill. We don't want this to turn into a situation where ideology motivates whether people come under the penumbra of prosecution initiatives. It is always when there is an element of foreign interference and something is not proper lawful dissent and protest, but transfers into something more reprehensible that's trying to influence Canada and subvert Canadian interests.

Mr. Alistair MacGregor: I think I have time to get one more question in.

When I read through Bill C-70, there's obviously a thematic nature to most of the amendments. We have important amendments to the CSIS Act, the SOIA and the Canada Evidence Act, and, of course, it enacts a new act to deal with a foreign registry. What seems to stick out, though, are the amendments to the Criminal Code, particularly as they relate to sabotage. I'm wondering if you could provide some rationale to this committee as to why it seems so important to update the definition of "sabotage" in the Criminal Code in a bill that's primarily dealing with foreign interference.

Hon. Arif Virani: With frankness, Mr. MacGregor, it's reflective of what we heard in consultations and where we are as a nation. It troubles me that the sabotage provision hasn't been amended in 75 years, since 1951. That is a tremendously long time to not update an important definitional provision in our laws. It's also reflective of what we're seeing in the work you guys are doing at this committee, what we're seeing from NSICOP and what we've seen from Madam Justice Hogue's inquiry.

What we're learning is that foreign interference is very present, and it affects essential infrastructure. It affects various levels of influence and various components of Canadian society. I think modernizing the sabotage offence is what we need to do to make sure we're being responsive to the threats we're facing and to ensure that Canadians have confidence in the approach we're taking to what is a very pernicious issue.

• (0900)

Mr. Alistair MacGregor: Thank you.

The Chair: Thank you, Mr. MacGregor. Once again, I apologize for redacting you earlier.

We're going to start our second round. We will be terminating our second round after Mr. MacGregor. I have a request for the ministers to stay another few minutes beyond that. Then we can give the Conservatives and the Liberals additional two-and-a-half-minute slots.

Mr. Cooper, if you please, you have five minutes.

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

Minister LeBlanc, you said moments ago that the House of Commons must be safeguarded from foreign interference. I completely agree with you in that regard, yet the NSICOP report released this week unequivocally states that elected officials, including certain members of Parliament, are working wittingly—and I emphasize the word "wittingly"—with hostile foreign states, including frequently communicating with foreign missions, providing foreign diplomatic officials with privileged information and sending secrets to intelligence officers of foreign states. I would submit that, as long as the Prime Minister continues to cover up the names of these compromised MPs, a dark cloud will continue to hang over this place.

I'll put this to you again: What are the names of these compromised MPs? Who are they?

Hon. Dominic LeBlanc: I'll repeat the answer I gave to Mr. Cooper's colleague. The release of that sensitive, highly secret intelligence information is governed by law. I think Mr. Cooper knows very well that the latest—

Mr. Michael Cooper: Minister, with respect—

Ms. Jennifer O'Connell: I have a point of order.

Hon. Dominic LeBlanc: Mr. Chair, I was trying to answer the question.

The Chair: Go ahead, Ms. O'Connell, on a point of order.

Ms. Jennifer O'Connell: Mr. Chair, perhaps you need to provide a reminder to committee members that questioners must give an equal amount of time for witnesses to answer.

Stop with your pretending to—

Mr. Garnett Genuis: On the same point of order...

Ms. Jennifer O'Connell: —read the book.

The Chair: Ms. O'Connell—

Ms. Jennifer O'Connell: I know you're favourite thing to do on a Friday night is pretend to be chair.

Mr. Chair, please give a reminder of the decorum in this committee when dealing with witnesses.

The Chair: Thank you.

Mr. Genuis, go ahead.

Mr. Garnett Genuis: On the same point of order, Mr. Chair, there's no requirement whatsoever for equal time. It's the member's time. That's well established. Whether you read the book on a Friday night or a Saturday night, it will say the same thing on that.

The Chair: We're getting into debate. Let us continue.

Mr. Cooper, I would appreciate it if you give the witnesses a chance to answer the questions you ask.

Go ahead, sir.

Mr. Michael Cooper: With respect, Minister, I'm not asking you to release the intelligence. I'm not asking you to release sources and methods. I'm simply asking you to release the names. There is no legal impediment preventing you from doing that or preventing the Prime Minister from doing that.

Why is the Prime Minister continuing to cover up the names and shield the MPs who are compromised by hostile foreign states?

Hon. Dominic LeBlanc: Far from it. The Prime Minister and our government have strengthened Canada's ability to detect and counter foreign interference.

We're discussing today landmark legislation that the committee is working on that would strengthen the ability of our intelligence agencies and the Royal Canadian Mounted Police to do the important work of holding those who violate Canadian law to account. Again, I have every confidence that—

Mr. Michael Cooper: Minister, we already know that one former Liberal MP, the member for Don Valley North, received help from Beijing to secure the Liberal Party nomination. We know that the Prime Minister was briefed about that during the 2019 election, before the member was elected and while he was a Liberal candidate. The Prime Minister did nothing about it and covered it up for nearly four years, until he got caught when it was reported in *The Globe and Mail*.

The Prime Minister has a disturbing track record of putting the partisan interests of the Liberal Party ahead of transparency and protecting our democracy and national security. Isn't the real reason the Prime Minister won't release the names that some or all of the compromised MPs happen to be Liberals?

• (0905)

Hon. Dominic LeBlanc: I congratulate Mr. Cooper on the clip he probably just tried to get for social media. The simple answer is no.

Mr. Michael Cooper: How many compromised MPs are there? Since you won't release the names, how many are there? Just give a number.

Hon. Dominic LeBlanc: Mr. Cooper knows full well that the information that underlies the conclusions of our intelligence agencies or the RCMP is highly protected, sensitive information that often comes with caveats from foreign partners.

Mr. Michael Cooper: Minister, I asked you simply for a number. How many compromised MPs are there?

Hon. Dominic LeBlanc: I get the theatrics. Mr. Cooper is very good at that. I think he should perhaps be given a gold star for theatrics. He knows—

Mr. Michael Cooper: Minister, this is about as serious as it gets. We have members of Parliament working for hostile foreign states. You won't release the names. At the very least, Canadians deserve to know how many MPs are compromised. How many are there?

Hon. Dominic LeBlanc: I explained earlier this week—and perhaps if Mr. Cooper is interested, the director of CSIS or others can explain it—the challenge of taking—

Mr. Michael Cooper: Minister, perhaps we can—

Hon. Dominic LeBlanc: He's obviously not interested.

Mr. Michael Cooper: Are any in cabinet? Are any of them sitting around the cabinet table?

Hon. Dominic LeBlanc: Mr. Cooper can pretend to be a prosecutor if he wants. I was—

Mr. Michael Cooper: I'm not pretending to be anything. I'm asking you a very straightforward question as to how many compromised MPs there are and whether there are any in cabinet. Just give an answer.

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

The minister may answer if he wishes.

Hon. Dominic LeBlanc: No. Mr. Cooper doesn't seem to be interested in the answer. He's more interested in interrupting, so we'll go to the next question.

Mr. Michael Cooper: You haven't provided an answer.

The Chair: We go now to Ms. O'Connell for five minutes.

Ms. Jennifer O'Connell: Thank you, Chair.

Thank you to the witnesses for being here.

Minister LeBlanc, has the leader of the official opposition, Mr. Poilievre, received his security clearance?

Hon. Dominic LeBlanc: Ms. O'Connell, no, he has not. We've offered, as I think colleagues know, on a number of occasions to process the appropriate clearance for the Leader of the Opposition so he can perhaps see some of the information that his colleagues seem so interested in us releasing, but he has not made such a request.

Ms. Jennifer O'Connell: Is the offer to provide that opportunity for a security clearance still available to him?

Hon. Dominic LeBlanc: Of course it is, Ms. O'Connell.

We were very pleased that, for example, the leader of the New Democratic Party accepted our offer. We think that's a collaborative, constructive way to increase the confidence that Canadians have in our democratic institutions.

Ms. Jennifer O'Connell: Minister LeBlanc, Mr. Cooper just said this issue is “as serious as it gets”, yet his leader refuses to receive a security clearance that would allow him to have the full information that, frankly, NSICOP members have. It would allow him to go to Canadians and his own caucus and say that he's reviewed the information and that while he can't reveal the details, he feels confident that some information is uncorroborated. He could say that he feels confident that other information is being further pursued by law enforcement, and he feels confident in our democratic institutions.

Instead, with an issue that's “as serious as it gets” according to the Conservatives, they purposefully decide to be ignorant of it. Instead, they throw around fake, sanctimonious accusations about numbers of compromised MPs and what that might mean. What the sanctimony of pure, chosen ignorance by the Conservative Party will create is mistrust and distrust in our democratic institutions, without the ability to be informed.

Their own leader has the ability to be fully informed of what's going on in this serious matter. Instead, he chooses blind ignorance, which creates mistrust and distrust. Who benefits most from mistrust in our democratic institutions? It's foreign states that hope to influence them.

Minister, accusations have been thrown out about influence in the Leader of the Opposition's own leadership race. However, is it not completely inappropriate to start making accusations about some pieces of intelligence and, funny enough—

An hon. member: Is there a question?

Ms. Jennifer O'Connell: It's my time and I can make comments.

It's funny enough that they leave that accusation out of their comments.

Do you find it irresponsible for a leader of the opposition who hopes to be prime minister one day to be so ignorant and blind to an issue that's “as serious as it gets”?

• (0910)

Hon. Dominic LeBlanc: Ms. O'Connell, you're absolutely right. If the Leader of the Opposition was serious in understanding the information underlying the NSICOP report....

Ms. O'Connell has served on this committee of parliamentarians so would know this better than I do. The committee produced two reports. It produced a top secret report for the Prime Minister and for our intelligence agencies, and it produced a report that was released publicly earlier this week. The report released publicly was, of course, subject to all of the appropriate legislative protections. Mr. McGuinty has spoken about this publicly.

If the Leader of the Opposition was interested in seeing the highly sensitive information that the committee of parliamentarians saw that informed their top secret version of the report, he would simply have to indicate that he is prepared to receive the appropriate security clearances. Then he would have access to that information in the way that, for example, the leader of the New Democratic Party can. In the difficult world of intelligence information, which comes with caveats and the need to protect sources and methods, that, to

me, is a responsible, thoughtful way to do it. It's not the path that Conservatives have chosen.

I thought your speculation as to some of the reasons, Ms. O'Connell, was absolutely valid.

Ms. Jennifer O'Connell: Minister, the Conservatives would like to pretend that this is somehow a cover-up. However, the information that is protected and deemed secret or that has top secret status would be governed by law and legislation.

Were law and legislation in place during previous governments or is this somehow new law, like the espionage act?

Hon. Dominic LeBlanc: As to the protection of this information, the director of CSIS and the RCMP have spoken about why it's important for us to do this work and the law that governs it. It's no different from conversations I've had with Five Eyes colleagues and other allies of Canada.

In terms of the particular legislation that's existed, perhaps the director can give you a quick sense, Ms. O'Connell, of the different pieces of legislation that govern the release of this information and how long they've existed.

I know we're celebrating CSIS's 40th birthday this year. I'm sure the director will invite all of you to the party in a second.

Perhaps David wants to add something.

Mr. David Vigneault: Yes. Thank you.

The legislation is quite clear and has been in place for some time. The Security of Information Act is there to protect sources and methods and to protect against disclosure of information that would be injurious to people. I think we have seen the impact of leaks, and when classified information is released, there are challenges that come with that. We try to make sure that in a democratic environment, we address national security threats and that we also do it in a manner that is respectful of the law.

Ms. Jennifer O'Connell: Thank you.

The protection of people is not the protection of some opposition leader or some parliamentarian. It's those serving our country by collecting this information who could be put in danger by the release of sensitive information. Is that accurate?

The Chair: Ms. O'Connell, I'm sorry. I was distracted by other things, but you're way over your time, so we'll have to cut it off there.

[Translation]

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

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

I'll try to do my best in two and a half minutes.

Mr. Virani, I would ask you to give me short answers, please.

You've had many consultations on Bill C-70. How much time did you spend on it?

Hon. Arif Virani: The most recent consultations lasted a few months. In terms of the consultations before I arrived in cabinet, I'll have to ask the officials accompanying me to help me.

• (0915)

[English]

Ms. Heather Watts (Deputy Assistant Deputy Minister, Department of Justice): The consultations on the justice parts of the bill ran from November to February, I believe, and prior to that, there were consultations done by our colleagues in Public Safety on the registry. I believe they started in May 2023, if memory serves.

Mr. Richard Bilodeau (Director General, Department of Public Safety and Emergency Preparedness): It was in March 2023, for two months.

[Translation]

Hon. Arif Virani: So the consultations on the public safety aspects lasted two months, and the consultations on the other aspects lasted about three months.

Mr. René Villemure: That's why I find it difficult to review this bill in four days, frankly. The subjects addressed are very serious and very important, and the implications are significant. I find that the review is a bit rushed.

Mr. LeBlanc, I'm going to go back to an answer you gave a little earlier. It's true that party leaders can request the appropriate security clearance so that they can review the information. In doing so, however, they're also bound to secrecy in perpetuity. For us, at least, the offer is appreciated, but it's not very useful.

Is there another mechanism that could help us, apart from that?

Hon. Dominic LeBlanc: Again, I appreciate the sincerity of your question, and I share your sentiment.

For example, let's say a party leader has access to the secret report of the National Security and Intelligence Committee of Parliamentarians, the version that could not be made public. He can then use the information contained in that report to make decisions related to his responsibilities as party leader.

You're absolutely right that a political party leader is always required not to disclose information, as are we here, and as are my agency colleagues.

That said, the information consulted by the party leader can still be used to make the necessary decisions on candidacies, for example.

Mr. René Villemure: So it's possible to make a decision while respecting the need to maintain secrecy.

Thank you very much.

Hon. Dominic LeBlanc: Thank you.

[English]

The Chair: Mr. MacGregor, you have two and a half minutes.

Mr. Alistair MacGregor: Thank you, Chair.

Very quickly, Minister Virani, we've heard the term “transnational repression” come up from a few witness groups. Are you satisfied that the amendments to the SOIA in this bill cover what groups we're concerned with on transnational repression?

Hon. Arif Virani: I am. We've listened to that concern, and I think we've addressed it in as flexible a way as possible to capture as much transnational repression as we can.

Mr. Alistair MacGregor: It's something I've been wondering about as a committee member.

Minister LeBlanc, I want to turn to you.

From the exchanges we've had, I think there's an obvious difference between intelligence and evidence, and there can be a real struggle using intelligence to get to evidence because of the secret nature of the sources. I understand all that. I also understand that our leader, Mr. Singh, took the briefing because, of course, foreign interference has directly impacted him personally. We know that it has affected his personal life—where he can go, his family and so on. I think that's very much public knowledge.

I want to get your thoughts on part 4 of this bill and creating the public registry. There's a definition in the bill of “arrangement”, which reads, “under the direction of or in association with”. This is going to be a public registry, but there's a very real difference between being under the direction of a foreign principal and in association with a foreign principal. I would like to hear from you on how you see the difference between those two terms. As this is going to be a public registry, it could have some severe implications for the people put on it, even if they're just in association with a foreign principal.

Hon. Dominic LeBlanc: Mr. MacGregor, I think you're right to identify your leader's thoughtful approach to this issue. I think Canadians, because it was part of the public record, were understandably upset that he and his family were potentially targeted in some of these contexts. I certainly continue to share a concern around his ability to do his work as a parliamentarian.

You raise a good question, Mr. MacGregor. I know that Mr. Bilodeau has worked on the details of the registry regarding the principals. Why we are all, I hope, in favour of the registry is well known, so I won't repeat that. The specific distinction between “in association with” and “under the direction of” I get. I can think about a solicitor-client relationship, for example, and how that might be different.

Maybe Mr. Bilodeau can give you a precise answer to that question, because it's a good one.

Mr. Richard Bilodeau: Thank you, Minister.

The answer is that the bill is intended to capture a broad variety of arrangements. It's not required that they be in writing, but the commissioner would still need to show that there is some sort of understanding between a foreign state and an entity in Canada to conduct the influence activities. It was built this way to allow the commissioner the flexibility to enforce the legislation.

To the point about individuals being identified on the registry by virtue of that arrangement, there are recourses within the legislation. For an individual who felt that they should not be listed, there is an opportunity for judicial review of that decision. The safeguards are built into the legislation.

The last point I would make is that the commissioner will have the ability to issue interpretation and guidance. That could inform what they consider an arrangement.

● (0920)

The Chair: Thank you.

Hon. Arif Virani: Mr. Chair, I'll add that the registry is not a stigmatizing entity that is implying criminal conduct or inappropriate conduct. It's a transparency document. That's an important distinction.

The Chair: Thank you, Mr. MacGregor.

We're substantially over time, but since I messed up with Ms. O'Connell and gave her substantially more time, I'm going to give Mr. Motz one minute for a question.

Mr. Glen Motz (Medicine Hat—Cardston—Warner, CPC): Thank you very much, Chair.

Thank you, Ministers.

Given the importance of Bill C-70, we know that Parliament has been doing its job. Now we want the government to do theirs. Will each of you ministers commit today to having Bill C-70 in place and fully implemented before the next election, yes or no?

Hon. Dominic LeBlanc: That's certainly our objective. We recognize the urgency. That's why we appreciate, as I said in my opening comments, our House's work. We don't know what the Senate will do, but as to the elements that are within government control, I can assure our colleagues that we will ensure they're in place with the implementation of the legislation.

Mr. Glen Motz: Quickly, how do you plan to implement it? Would it be by order in council or some other thing? Officials have said that it could take a year. We may not have a year. Would an order in council suffice to make sure it gets done before the next election?

Hon. Dominic LeBlanc: I'm not an expert on the order in council. For certain provisions of the legislation, like the appointment of the commissioner—all of these things—we'll be proceeding expeditiously and consulting Parliament, of course. Maybe Mr. Virani can speak to the question of an order in council coming in.

Mr. Motz, it's a very good question. I think colleagues should be under no illusion: We very much, as I think you do, want to have this in place before the next election. That's why we're so encouraged by the work that's going on here.

Arif, did you want to add something?

Hon. Arif Virani: Yes.

Minister LeBlanc and I will work co-operatively to prioritize this legislation. It's very important, as has been underscored.

I would just note, Mr. Motz, that the coming-into-force provisions are 60 days after royal assent. We can't control the Senate process, but we'll do everything in our power to ensure that legislation of this nature is prioritized.

Mr. Glen Motz: Thank you.

The Chair: Thank you, Mr. Motz.

Thank you, Ministers, for all your great testimony today. It's been most helpful.

We will be losing a few of our officials and getting a few new ones. We'll suspend as we replace the panel.

● (0920)

(Pause)

● (0931)

The Chair: I call this meeting back to order.

I would like to welcome the new officials joining their colleagues at the table. From the Privy Council Office, we have Nathalie Drouin, deputy clerk of the Privy Council and national security and intelligence adviser to the Prime Minister. With the Department of Justice, we have Mark Scrivens, senior counsel, and Karine Bolduc, counsel.

I understand that officials will not be making opening statements, so we will now open the floor for questions. We will go first to Mr. Caputo for six minutes.

Mr. Frank Caputo: Thank you, Chair.

Thank you to the officials for being here.

I will pose a question generally. We have officials, and whoever feels they can answer it best, please feel free to chime in.

There was some discussion about a security briefing and whether somebody who has a clearance can receive a security briefing. For instance, the leader of the NDP has said that he would like to get a briefing. Can anything be divulged from the information in a briefing if a person receives it? Can somebody question the government based on the information in that briefing?

Mr. David Vigneault: It's a really important question. It speaks to the fact that, as a nation, we're going through an evolution in how we address national security issues. This is a bit of uncharted territory. In my experience, we have never seen politicians and leaders having classified security clearances and being in a position to receive information.

We have seen in the past that people who have received classified briefings have spoken publicly about what they were told. That creates an issue because the information may not be exactly as it was divulged. Also, the ability to protect sources, methods and the people gathering this information might be at risk, so I believe an evolution is required. That said, there are absolutely limits to what a leader in the opposition would be able to say. The question is whether there is an ability to reduce the threat of foreign interference by having the information and being able to make decisions. I think this is the discussion point, and the evolution of our system is required now.

Mr. Frank Caputo: Mr. Vigneault, if I receive a briefing tomorrow, could I ask questions in the House of Commons specific to, perhaps, names of people or what I saw? I'm seeing your colleague shake her head. In other words, there's a proverbial muzzle based on what is learned in that briefing. Is that right?

Mr. David Vigneault: I would probably use a different characterization. I would say the law would prevent the member from speaking.

The challenge we have is that there's the law, and there's also privilege in the House of Commons. Again, in terms of the evolution of how the system should work, if someone gets information in a privileged way and then uses the privilege of the House to divulge information, we are in uncharted territory for how this would be done. That's why, as a professional intelligence person, my advice would be that there is a need for a lot of discussion about this to create a new *modus vivendi* for Canadians.

• (0935)

Mr. Frank Caputo: I understand that. Perhaps when I say “muzzle”, I mean that the law would muzzle.

I'll ask the question in a different way. If an opposition MP receives a top secret classified security briefing and learns top secret classified information, including the raw intelligence that Minister LeBlanc just referenced, would the MP be able to act on that top secret information, or would acting on it potentially violate national security law?

Ms. Nathalie Drouin (Deputy Clerk of the Privy Council and National Security and Intelligence Adviser to the Prime Minister, Privy Council Office): I'll take that question.

Yes, of course they can act on it. This is why recently I offered to all parties to have a representative, in particular the leader, receive information so they can, for example, act during a by-election, act during a general election, manage their caucus and equip themselves to look at how they behave, what kind of events they are attending and what kind of relationships they are keeping. There are a lot of things they can do when they are armed with information without disclosing publicly the information they have received.

Mr. Frank Caputo: My point is that they can't discuss the information. When I say “act”, I'm saying to deal with this information publicly, as in ask the government the hard public questions and ask the government specific questions on what is in the briefing. You can't do that. That's my point.

Ms. Nathalie Drouin: Minister Virani explained the legislation we have for preventing that, and behind that legislation, there are some fundamental principles. Collecting information through intel-

ligence processes is not a contradictory process, and the targets of those collections are not in a position to defend themselves. That is why we talked about having the right balance between a very effective legislative framework when it comes to intelligence and national security and protecting human rights. I believe disclosing names that have been collected through intelligence processes would be contrary not only to our privacy principles, but also to our human rights principles.

Mr. Frank Caputo: The minister can disclose classified information when it is in the public interest. What could be more in the public interest than whether a person is putting an X on their ballot next to the name of somebody who has been compromised by a foreign state actor?

Ms. Nathalie Drouin: One thing I can say is that there are a lot of mechanisms to reduce the threat. For example, CSIS can do a threat reduction measure, a defence briefing. A leader can manage his or her caucus. We can do a *démarche* for foreign actors. We can name what we call a PNG, *persona non grata*, for a consulate. A lot of things can be done to reduce the threat.

Mr. Frank Caputo: I understand that. I'm sorry; I'm not trying to interrupt. I have just a bit of time.

The Chair: Thank you, Mr. Caputo.

Mr. Frank Caputo: What I'm asking is, what could be more in the public interest than that?

The Chair: Mr. Caputo, that's it. Thank you.

We go now to Mr. Bittle.

Mr. Bittle, you have six minutes.

Mr. Chris Bittle (St. Catharines, Lib.): According to Mr. Cooper, my time is running out. I think that was a veiled threat.

I have six minutes, so my time isn't running out, Mr. Cooper. That's adorable.

Anyway, my questions will be for the Department of Public Safety.

We heard testimony from witnesses who raised a concern that the provisions found in the bill won't apply to national political leadership races and conventions. Is that indeed the case? What is your interpretation of that?

Mr. Richard Bilodeau: The act includes government and political processes. There is a list of what they include. It is a non-exhaustive list.

Our interpretation of the bill is that it captures leadership contests because they're political processes. Ultimately, it will be up to the commissioner, but that is the intent of the bill.

• (0940)

Mr. Chris Bittle: One of my colleagues has been asking witnesses their thoughts on the use of the word “association” in triggering registration obligations. Some have raised concerns that the word “association” is too broad. Can you comment on why it was chosen and how you believe it will be interpreted?

Mr. Richard Bilodeau: Sure.

The definition of “arrangement” was chosen to identify situations where an individual is acting “in association with” or “under the direction of”.... It's meant to communicate that there must be some form of understanding between an entity that is conducting the influence and the foreign power. There has to be some sort of understanding or agreement.

It was purposely not narrowed because we wanted to make sure that no type of arrangement, if that understanding has occurred, escapes the registration obligation because this is about transparency. There is a limit, obviously, if somebody decides to say something on their own without talking to anybody and without an understanding. There's no registration obligation at that point, but it's meant to capture a broad set of circumstances.

Mr. Chris Bittle: Another topic this committee has spent time thinking about is the independence of the commissioner. We know from the bill that the commissioner would be housed within Public Safety Canada. Why was that decision made and what benefit does it provide?

Mr. Richard Bilodeau: The model proposed in the bill is intended to situate the commissioner in the Department of Public Safety but with the ability to act independently in their mandate. The reason that was put in the bill was to benefit from the infrastructure that exists within the Public Safety portfolio more broadly with CSIS and the RCMP to facilitate information sharing, because the commissioner will ultimately need to rely not just on complaints or their own investigative work, but on intelligence that might be shared with them to inform their investigations. By placing the commissioner within Public Safety, there is an increased ability to do that, both from authorities to share the information and from physical infrastructure to receive that information. Ultimately, however, the decisions the commissioner will make are their decisions and the reports are their reports.

Mr. Chris Bittle: Is there any way for the minister to direct those reports or what the commissioner is doing?

Mr. Richard Bilodeau: The bill indicates that the minister must cause the report to be tabled, but ultimately it is the report of the commissioner. The minister would not have the ability to change that.

Mr. Chris Bittle: Are there any logistical challenges in making the commissioner an independent officer of Parliament?

Mr. Richard Bilodeau: I'm not a machinery-of-government expert. I would defer to people who are.

That would require a different approach and would be more complex than setting it up within the Department of Public Safety. It could take more time.

Mr. Chris Bittle: I agree with the opposition members who raised that they want to see this in place before the next election. If

we amend the legislation to make the commissioner an independent officer of Parliament, could that delay implementation of the bill until after the election?

Mr. Richard Bilodeau: It's a difficult question to answer because, as I said, I'm not a machinery-of-government expert in setting up offices of Parliament.

To speak to my area, setting up the infrastructure would definitely be easier to do within the Department of Public Safety.

Mr. Chris Bittle: That's fair enough.

If I can turn to CSIS, I think I'm sympathetic to some of the arguments made, like releasing the names and needing openness and transparency. However, we've seen individuals' names leaked in the past through the media with no context added. I'm thinking of the Arar case, which is going back probably 20 years.

What are the consequences of sending names out into the ether without any context behind it?

Mr. David Vigneault: I think the example the member is using is quite different from what we're talking about here, to be precise. The issue here is releasing classified information without context and without the ability to protect the information. A lot of this information comes from very sensitive sources. The ability to protect Canada is about being able to collect intelligence.

Releasing information can damage the reputation of individuals who have no ability to defend themselves. It can also damage the ability of the agencies, including CSIS, to do their work in the future. That would therefore damage Canada's national security.

I think unauthorized disclosure always has very significant negative consequences.

• (0945)

The Chair: Thank you, Mr. Bittle.

[*Translation*]

It's Mr. Villemure's turn now.

You have six minutes.

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

When I look at Bill C-70, the three words that come to mind are very positive: “trust”, “transparency” and “exemplarity”. If we try to compare this bill to the situation my colleagues are discussing this morning, the report of the National Security and Intelligence Committee of Parliamentarians, or NSICOP, we find a paradox, the paradox between the need for secrecy and the need for transparency.

Ms. Drouin, how do you reconcile the two elements of this paradox?

Ms. Nathalie Drouin: There are a number of ways to reconcile them.

We started working very hard on that. Employees of the Canadian Security Intelligence Service, or CSIS, and those of the Communications Security Establishment, or CSE, will increasingly meet with various stakeholders and will make public documents to increase Canadians' awareness, to ensure that they understand the various mechanisms used by foreign actors. Therefore, transparency depends a lot on knowing what schemes are being used and how to equip yourself to deal with them. Being transparent does not necessarily mean disclosing all the details, such as names, specific incidents; rather, it is explaining to Canadians what the risks are, what the threat is, what the schemes and processes are.

Mr. René Villemure: I believe that transparency is a tool to build trust, and trust is what we're looking for, isn't it? Right.

If Bill C-70 were in effect today, as it stands, could something be done differently in response to the report of the National Security and Intelligence Committee of Parliamentarians?

Ms. Nathalie Drouin: There are a number of small elements that would make significant changes.

One is the ability of CSIS to engage with different levels of government and universities. Being able to provide more information to these various stakeholders will lead to better defence of all our Canadian institutions.

Then, the various criminal offences that Bill C-70 adds could capture the kind of information that can be read in the report of the National Security and Intelligence Committee of Parliamentarians. This provides more clarification, which will facilitate the work of police forces and criminal prosecution.

Mr. René Villemure: Okay. I wouldn't say it wouldn't have happened, but it could be treated differently. Is that correct?

Ms. Nathalie Drouin: There has always been foreign interference. Unfortunately, there always will be some. The objective is to be able to detect it.

Furthermore, we know very well that as we refine our legislative processes, foreign actors, on the other hand, refine their methodology. That's why the work you're doing in connection with Bill C-70 is absolutely fantastic and necessary.

This is a first step, but we'll always have to continue working on this together to keep our body of legislation modern and effective.

Mr. René Villemure: My next question is for both you and Mr. Vigneault.

I participated in the committee's work analyzing the report on the Winnipeg lab. The Canadian Security Intelligence Service was asked to conduct background checks on this file. If we took that situation as it existed at the time, with scientists in the lab, would Bill C-70 make it possible to do things differently from what was done at the time?

Ms. Nathalie Drouin: In terms of information sharing and being able to communicate more with universities in Canada, for example, the provisions in Bill C-70 would really go further to help us prevent situations like that. The same is true of exchanges with our leading scientists.

Mr. René Villemure: I believe that, even before your intervention, we could observe some delinquency with regard to the internal processes at that lab.

• (0950)

Ms. Nathalie Drouin: What's also important to say, which is a very difficult paradox for our scientists, is that science is based on global collaboration. The culture of scientists is one of collaboration. This collaboration must not be undermined, but it must be done in an informed manner.

Mr. René Villemure: I think the culture of collaboration will have to coexist with the culture of foreign interference.

Mr. Bilodeau, as you know, I love asking you questions.

I heard your plea earlier about the independence of the commissioner. We talked about this the other day, and you repeated the explanation that it was simpler that way, because the infrastructure was already in place.

Either we're independent or we're not. It's that simple. I understand independence of action, but accountability to the Department of Public Safety reinforces the importance of trust, transparency, and exemplarity, three values I mentioned earlier. In addition, it seems to me that, in the government's interest, that independence should be real and perceived, rather than a form of independence.

Mr. Richard Bilodeau: Mr. Chair, thank you for the question.

I would add that this model already exists in the federal government. I'm thinking, for example, of the Commissioner of the Competition Bureau, who acts independently in enforcing the act. The act also provides for consultations with parliamentarians, either in the House of Commons or the Senate. Lastly, ultimately, once a Governor in Council appointment is made, the commissioner may only be removed from his or her position for a valid reason. So there's a certain obligation to be accountable.

However, we understand that Bill C-70 can be amended. We can discuss the amendments and analyze them, and it will be up to you to decide. However, we believe that it provides for a great deal of independence in the commissioner's key work. That independence is also reflected in his reports to Parliament, which are not sent to the minister for approval; rather, they are sent to the minister for tabling in the House.

Mr. René Villemure: Thank you very much.

The Chair: Thank you, sir.

[English]

We'll go now to Mr. MacGregor for six minutes.

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

Mr. Vigneault, I note your comments from earlier. It's a real struggle that you have from your position, and I think democracies around the world have the same struggle. They may have different systems of government, but there's always an effort by the legislative branch to put a measure of transparency and accountability over intelligence agencies.

In the United States, Congress is a separate but equal level of government. It is a highly partisan atmosphere down in the United States, but they have Democrats and Republicans on the House side and the Senate side, which have full oversight of the CIA's activities, the FBI's activities and so on. It is a struggle.

In my caucus, not only is our leader cleared for these briefings, but so is Mr. Davies, who is a member of NSICOP. Of course, they are not able to tell us any details, but from our caucus's perspective, knowing that they know these things gives us a certain level of comfort. They have been able to say that the issue is serious and that the intelligence community is seized with it and regards it as a very important thing.

From your perspective as a member of the intelligence community, how important is it that we have key members of both the House and the Senate in the know, even if they are not able to publicly talk about this? It seems to me that this is such a serious issue that it should go above and beyond the partisan dealings we see in the House. We may not be able to speak publicly about it, but how important is it from your perspective to at least have key members on all sides of the House in the know?

Mr. David Vigneault: I think this is one of the most fundamental questions we can talk about. The world is getting more and more complex. The threat environment is making Canada less safe and less prosperous than before. We need different tools and different mindsets when approaching threats to national security.

In a democracy, it's fundamental that elected members of the House and members of the Senate, in an organized way, have access to the right information to inform themselves, hold the government to account and hold agencies to account through NSICOP, for example. My colleagues and I have had to appear many times in front of NSICOP to speak at the top secret level, to share details and to be questioned and challenged on this issue, and I believe it's fundamental in a democratic environment to do that.

There is one line in the NSICOP report that I think is very important, which is the challenge of intelligence and evidence. It's about the ability to use the intelligence collected by CSIS, by CSE and by other partners, or shared with us by international partners, in a judicial proceeding that will hold people accountable. That is extremely complex. There are some improvements through Bill C-70, and the government has spoken to the need to do more, but if you're not able to find accountability and create an element of deterrence through a judicial process, then there are the other mechanisms that have been referred to, including for leaders to have information and make decisions. It's not going to be a judicial process. It's not going to be someone charged by a court of law. It's someone who may not be allowed to run or may not be allowed to sit in a caucus because of the classified information being used.

We absolutely need to find better ways of using intelligence in judicial processes, but it also needs to be used for other types of de-

cision-making. One of the most important elements for foreign actors when they look at us is to see whether there are enough consequences for their activities. If there are not, they will be emboldened to do more. I think your question is critical.

• (0955)

Mr. Alistair MacGregor: I think that's a great segue to the RCMP.

Deputy Commissioner Flynn, we have heard the theme of intelligence versus evidence, but more broadly speaking, from the RCMP's perspective, can you inform the committee of some of the challenges that exist when you are in receipt of intelligence? What challenges exist for the RCMP to take action on that intelligence? You have to make considerations as to whether it is going to stand up in a court of law and whether a case can be made out of it. Can you inform the committee about some of those challenges?

D/Commr Mark Flynn: Absolutely.

Much of what you've spoken about and what the director just spoke about is our reality every day. We work very closely and collaboratively with CSIS. Frequently we are exposed to intelligence information that we cannot use in judicial processes, in charges or even in our investigations because of caveats and restrictions on its use. What that does for us is make sure that we are aware of the environment we're operating in. It allows us to look for opportunities that we can exploit to gather information in a manner that can be used in our judicial processes. Even more importantly, it informs us about the situation and allows us to take steps that are not just focused on prosecution. I think sometimes we get caught in a prosecutorial route or process and we have to look at what our mandate is. Our mandate is public safety. There are many steps we can take that enable us to do things to ensure public safety but that may not necessarily lead to a prosecution.

Many of the amendments you are studying and proposing in this legislation give us additional powers. They eliminate some of the challenges we've had in the past with the ability to prosecute individuals for some behaviours. What I would categorize as the outcome of some of the work you're doing is that you are defining what is acceptable and what is illegal in a way that is different from what has been done in the past. That will be very beneficial for us.

The Chair: Thank you, Mr. MacGregor.

We'll start our second round with Mr. Cooper for five minutes.

Go ahead, please.

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

Director Vigneault, what is the highest level of security clearance that a member of Parliament might obtain?

Mr. David Vigneault: There is only one mechanism that exists so far. It is the process connected with being a member of the National Security and Intelligence Committee of Parliamentarians, NSICOP. That's a top secret clearance. Leaders of opposition parties have also been offered that.

Essentially, we have two processes that exist. One is very new. The highest level is top secret, and then depending on the nature of the situation, there might be other compartments added to that.

• (1000)

Mr. Michael Cooper: I want to ask Madame Drouin a question.

It was reported in *The Globe and Mail* on May 23 that the Prime Minister and cabinet were withholding documents from Madam Justice Hogue, the commissioner of the inquiry on foreign interference. The article stated that the PCO, the Prime Minister's department—that's you—told *The Globe and Mail*, “nearly 10 per cent of cabinet documents provided to the inquiry have been redacted. An undisclosed number of other secret cabinet documents have been completely withheld.”

How many documents is the Prime Minister's department, the PCO, withholding from Madam Justice Hogue?

Ms. Nathalie Drouin: This allows me to give a couple of precisions. So far, 42,000 documents have been provided to—

Mr. Michael Cooper: I didn't ask how many have been provided. I asked how many have been withheld.

Ms. Nathalie Drouin: What I can tell you for sure is that no incidents and no intelligence have been withheld from the commissioner. We have provided—and this is an extraordinary measure—some memoranda to cabinet to the public inquiry—

Mr. Michael Cooper: Respectfully, the report states that there is an undisclosed number of cabinet documents. I asked for a number. If you can't give a specific number, can you give a ballpark figure?

Ms. Nathalie Drouin: We have already said—and now we are trying to refine it a bit—that 8% of the documents we shared with the commission had some redactions for—

Mr. Michael Cooper: I already said that, but there are an undisclosed number in addition to that.

The Chair: Mr. Cooper, I think you're badgering the witness. I wonder if we could just let her respond.

Ms. Nathalie Drouin: Thank you, Mr. Chair.

Of course, we haven't shared with the commission things that were not relevant to her. It's impossible for me to determine how many documents we haven't shared with her.

Mr. Michael Cooper: What is relevant here is that Madam Justice Hogue requested these documents and the Prime Minister's department is withholding them. What do you mean they're not relevant to Madam Justice Hogue?

Ms. Nathalie Drouin: We have not withheld any documents that are necessary for the work of the commission. She has all the relevant information she needs to do her work, and—

Mr. Michael Cooper: Who is the Prime Minister—

The Chair: Mr. Cooper, please let her answer.

Mr. Michael Cooper: No, she's not answering very simply, Mr. Chair.

I'm asking her—

Ms. Nathalie Drouin: I don't have a number for you.

Mr. Michael Cooper:—who the Prime Minister is who is implicated in turning a blind eye to foreign interference, which has been the subject of an inquiry to determine what is relevant and what isn't relevant for the purview and review of Madam Justice Hogue.

Ms. Nathalie Drouin: The relevancy test is being done in comparison to her terms of reference and the mandate she has. She received all relevant information she needed to accomplish her work.

If I may give you a precision, my understanding of the footnote you are referring to in the interim report of the commission is that it's about whether or not the cabinet confidence we shared with her can be publicly released.

Mr. Michael Cooper: Madame Drouin, if the Prime Minister had nothing to hide, he would turn over all documents Madam Justice Hogue has requested. The fact that he hasn't done this speaks for itself, and I think Canadians can draw appropriate conclusions.

The Chair: Thank you, Mr. Cooper.

The witness may answer if she wishes.

Ms. Nathalie Drouin: Thank you.

I think cabinet confidence is really at the core of parliamentarians' democracy work. It is absolutely essential to make sure the decision-making process continues to work appropriately. This is not a political question. This is the core of our Westminster system—making sure ministers can freely share their opinions and that cabinet solidarity can be maintained.

Again, I want to make sure you're all aware that Justice Hogue received all the necessary information and that disclosure continues for phase three of our work.

• (1005)

Mr. Michael Cooper: All that is necessary is determined by the Prime Minister.

The Chair: Mr. Cooper, your time is up.

We'll call the answer done and go to Ms. O'Connell for five minutes.

Ms. Jennifer O'Connell: Thank you, Chair.

Madame Drouin, I'd like to give you the opportunity to actually answer the question, because as we've seen, Conservatives seem to only be interested in their own clips and not providing information.

Mr. Villemure laughs. I think he'd prefer I make him a sandwich and allow the work to be done by the men in this room, as he indicated to me. What's important is that I stick to doing this work, as someone who served on NSICOP and who's been looking at foreign interference—

Mr. Garnett Genuis: I have a point of order, Chair.

The Chair: On a point of order, go ahead.

Mr. Garnett Genuis: Mr. Chair, Ms. O'Connell cannot make outrageous, baseless accusations against my Bloc colleague in this forum. Simply because of a facial reaction to a discussion, she made a vile accusation of sexism against him. That's unparliamentary and—

The Chair: Mr. Genuis, that's enough.

Mr. Garnett Genuis: —she should withdraw it.

The Chair: Mr. Genuis, I get your point, but it's debate at this point.

Mr. Garnett Genuis: Chair, it is not debate. It is a point of order about decorum.

The Chair: I understand.

Mr. Villemure, I believe, wishes to speak to the same point of order.

[*Translation*]

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

My colleague raised this point more quickly than I was able to. I think that's rude and inappropriate. Thank you.

[*English*]

The Chair: Mr. Bittle, go ahead on the same point of order.

Mr. Chris Bittle: I've called this out before. He's not the only one, but Mr. Genuis is one to very much lean into the mic frequently. We have interpreters here. With Mr. Genuis's voice and mine, usually the volume isn't the problem. The mic can work from a lengthy distance. We don't have to lean into it to yell into it.

I was wondering if Mr. Genuis could respect the interpreters and stay back. It's something he frequently does.

The Chair: Thank you. It's a different point of order, but well taken. I think we all have a tendency to lean in, but we have to be respectful of the interpreters and their hearing.

Ms. O'Connell, please carry on.

Ms. Jennifer O'Connell: Please make sure, Chair, that that didn't take away from my time.

Mr. Villemure may call me impolite, but I think he would be quite embarrassed.... Mr. Genuis might not have defended him so clearly if he had heard some of the comments made towards me while we were suspended. However, I'll move on to the actual work of this committee.

Madame Drouin, you spoke about an important point that should be noted and understood. You mentioned something in reference to Mr. Cooper's questioning about Madam Hogue's inquiry and the request for additional documents. You said something about a foot-

note in that request. Can you please elaborate on that answer? I ask because I'm quite interested in what you were referring to.

Ms. Nathalie Drouin: In a footnote, the report says that the conversation on cabinet confidence is ongoing. This is my understanding of the situation. It's not about whether or not she should receive more. It's about how she can use publicly the cabinet confidence documents she has received.

Ms. Jennifer O'Connell: This can be for Mr. Vigneault or Madame Drouin, whoever is best suited to answer it.

Earlier in questioning, Mr. Caputo insinuated that anyone who receives a security clearance can no longer do work in the topic area of, for example, foreign interference if their clearance has allowed them to do that work. Mr. Motz and I received security clearances and worked on the 2019 foreign interference review of NSICOP, yet here we are asking important questions, raising important issues and not breaching the indoctrination requirements that we signed, which we are committed to for life, not just for our time on NSICOP.

I found it quite interesting that Mr. Caputo was, in a way, trying to justify why his leader wouldn't receive a security clearance—he would be muzzled from asking tough questions—yet the legislation that would restrict his disclosure of sensitive information was the very thing that, just an hour earlier, Mr. Caputo was asking Minister LeBlanc to breach.

Is there a law or legislation that applies to the minister or cabinet that would apply differently, somehow, to me, Mr. Motz, the leader of the NDP or the Leader of the Opposition once we received a security clearance?

• (1010)

Mr. David Vigneault: The law applies to everyone the same way, including elected officials who have the right security clearance to receive information and officials in government who are bound by the law.

Ms. Jennifer O'Connell: It was also suggested by Mr. Caputo, who I'm assuming was referring to the SOIA, the Security of Information Act—he didn't specify—that the minister can release secret information if it's “in the public interest”. Mr. Motz and I would have signed the same indoctrination papers, the same legal requirements, once we received clearance and once we received sensitive information. Nowhere in them did I ever read a caveat that says the minister can unilaterally disclose sensitive information or somehow declassify—which is usually referred to in the U.S.—some information that he deems appropriate.

Am I missing something? Is there some magical law that allows the minister himself to determine what can or can't be shared publicly? I think the insinuation Mr. Caputo is making is quite important.

The Chair: That will be the end of your questions, Ms. O'Connell.

I'll let the witnesses answer.

Ms. Sarah Estabrooks (Director General, Policy and Foreign Relations, Canadian Security Intelligence Service): Bill C-70 includes a new provision that would clarify an ability to disclose personal information when it's "in the public interest" and when "that interest clearly outweighs any invasion of privacy that could result from the disclosure". This is a corollary to the broader provision that would allow for the disclosure of information to build resiliency to threats to the security of Canada. It doesn't exist now. It's in this bill.

Ms. Jennifer O'Connell: Thank you.

The Chair: Thank you.

[*Translation*]

I now give the floor to Mr. Villemure.

You have two and a half minutes, Mr. Villemure.

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

Ms. Drouin, I'm going to make an analogy, okay? When we go to a website, we're often told to click on something to accept cookies. I'm used to accepting those that are strictly necessary. I was speaking with the Privacy Commissioner of Canada the other day, and I asked him who this acceptance was necessary for. He told me it was for people proposing a kind of contract, people who put this provision in place. Like my colleague a little earlier, I'm wondering about the documents that are provided to the Commission on Foreign Interference because they're deemed relevant and necessary. The question is the same for cookies on a website: who deems these documents necessary?

I'm curious to hear what you have to say about this because, both for cabinet confidence, which I understand the usefulness of, and for the classification of documents, something worries me. In the case of the National Microbiology Laboratory in Winnipeg, we saw that there was a clear overclassification of a few hundred pages, after all. I'm concerned about overclassification, in government in general, and in any government.

Do you believe that reports such as those submitted to the National Security and Intelligence Committee of Parliamentarians, or NSICOP, can be overclassified?

Ms. Nathalie Drouin: In the case of NSICOP and the National Security and Intelligence Review Agency, or NSIRA, there's really a process that has improved since they produced reports. First, we classify the reports produced. Then there is an exchange process that is done mainly with CSIS teams to determine, through a balancing of forces exercise, what can be made public, how it can be made public, or whether a summary can be prepared. So there really is a process that is healthy, in a way, because CSIS may want to protect a document, but one of the two bodies may think it would

be in the public interest to disclose more. So it leads us to a balance that can evolve depending on the context—

Mr. René Villemure: I'm sorry to interrupt. It's my two and a half minutes that force me to do so.

Do you think overclassification in general is a problem?

• (1015)

Ms. Nathalie Drouin: That's not necessarily a problem. Sometimes, the reflex may be to classify something that isn't necessarily secret. These are things that we deal with on a regular basis. The "secret" clearance is a good example.

Going back to your example of the Winnipeg lab, I think it's also important to note that it's sometimes easier to make certain information public when the risk has been mitigated. This was a major factor in the new disclosure in the Winnipeg lab file.

Mr. René Villemure: Thank you.

The Chair: Thank you, Mr. Villemure.

[*English*]

Mr. MacGregor, you have two and a half minutes, please.

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

Mr. Bilodeau, I appreciate your earlier answers to the many questions you've received on the definition of "arrangement". The committee is in receipt of a letter from Canada's research universities. I just want to quote something from their letter:

Greater clarity is needed on how an arrangement will be defined under the Act and whether it would capture research partnerships, funding agreements or other international research activities conducted with publicly funded universities, research institutions or foreign research funding agencies which may be considered foreign principals under the Act. The risk of a chilling effect on international research partnerships as an unintended consequence of the registry's reporting requirements could significantly harm relationships with international peers and mean that Canada misses out on the opportunity to cooperate on cutting-edge research and access world-leading expertise with peer nations.

I was wondering, sir, if you could comment on that concern raised with the committee.

Mr. Richard Bilodeau: I haven't had an opportunity to read that letter, but I can give a few reactions.

One is that the foreign influence transparency and accountability act doesn't prohibit any activities. It just requires transparency about certain activities. Having said that, any agreement or any situation must be looked at through the lens of what is required to be registered. That is an arrangement with a foreign principal to do one of the three activities enumerated in the legislation, and it has to be about a government or political process. It's only when those three are met that the registration obligation is triggered.

Part of the commissioner's mandate will be to inform what is captured by that. You can imagine a scenario where a university partners with a foreign university that may be publicly funded to carry out research about a specific topic, but if it's not about a government or political process, then one of the elements isn't met and it doesn't trigger a registration obligation.

I think it's important to always look at this through the lens of the three requirements. We're not looking to chill expression or anything. It's just about being transparent about the very specific things that are enumerated in the legislation.

Mr. Alistair MacGregor: As you said, further nuance can be spelled out in the regulations, and the commissioner will have some authority to make some nuances as well. Is that correct?

Mr. Richard Bilodeau: That's right. We would expect the commissioner, when they're developing guidance, to engage with the appropriate stakeholders in consultations.

Mr. Alistair MacGregor: Thank you.

The Chair: Thank you, Mr. MacGregor.

I think we'll have to call an end to the panel at this point.

Thank you to all the witnesses for being here. Some of you have been here for a couple of hours. I appreciate that. Thank you for making yourselves available on such short notice and for all of your great answers, which will help us in our study.

We will suspend while we bring in the next panel.

• (1015) _____ (Pause) _____

• (1027)

The Chair: I call this meeting back to order.

I would like to welcome the witnesses for our last panel on Bill C-70. From the office of the intelligence commissioner, we have the Honourable Simon Noël, intelligence commissioner, and Justin Dubois, executive director and general counsel. From the National Council of Canadian Muslims, we have Ahmad Al Qadi and Nusai-ba Al Azem by video conference. Finally, as an individual, we have Marcus Kolga, senior fellow at the Macdonald-Laurier Institute, also by video conference.

Welcome to you all.

I will invite Mr. Noël to make an opening statement of up to five minutes, please.

Go ahead, sir.

Hon. Simon Noël (Intelligence Commissioner, Office of the Intelligence Commissioner): Thank you, Mr. Chair.

[*Translation*]

Mr. Chair, members of the committee, thank you for inviting me to discuss Bill C-70 with you.

Joining me today is Justin Dubois, executive director and general counsel of my office.

The role of the Intelligence Commissioner was created in 2019. I've been in this role since October 2022. In one sentence, my man-

date is to approve or not approve certain national security and intelligence activities planned by the Communications Security Establishment, or CSE, and the Canadian Security Intelligence Service, or CSIS.

[*English*]

More specifically, CSIS and CSE may sometimes engage in activities that could involve breaking the laws of Canada or interfering with the privacy interests of Canadians. These activities are authorized by the minister. The intelligence commissioner, whom I will refer to as the IC, reviews the minister's reasons to determine whether they meet the test of reasonableness as recognized by the Canadian courts. If reasonable, the IC approves the authorization, and the agency can proceed with the planned activity. My written decisions are binding, and redacted versions are published on our website.

A number of ministerial authorizations subject to the IC's review relate to the use of datasets. The IC's main role relating to the dataset regime ensures that CSIS exercises its authority to collect non-threat-related information about Canadians and persons in Canada in a balanced manner. That the minister has given proper consideration to privacy interests and independent oversight is, in my mind, crucial.

Bill C-70 proposes certain amendments to this dataset regime. Most of the changes are intended to facilitate the use of the dataset regime for CSIS. Overall, I am of the view that the proposed amendments will not change the nature of my role when conducting independent oversight.

• (1030)

[*Translation*]

Having said that, I want to highlight a few proposed amendments that would nonetheless impact the work of the commissioner.

First, Bill C-70 would authorize CSIS to collect and retain datasets for the purposes of section 15 of the CSIS Act. This section allows CSIS to conduct investigations to provide security assessments to the Government of Canada. In addition, it would broaden the scope of the datasets affecting Canadians that it can collect. The addition may raise new concerns that I will have to consider during my quasi-judicial review.

Second, this bill would allow CSIS to disclose foreign datasets authorized for retention. The conditions for disclosure of the package would need to be clarified. It is conceivable that this element would be considered by the commissioner when examining the reasonableness of ministerial findings.

Third, this bill includes amendments related to the validation period for ministerial authorizations.

[English]

I highlight these changes because I think they are the most consequential and help me explain how the dataset regime is operationalized. The IC's oversight role is limited to datasets falling within part 1—that is, the collection of personal information not directly and immediately related to a threat to the security of Canada.

Bill C-70 makes it clear that CSIS will make use of the dataset regime only when the dataset cannot be collected through other jurisdictional means. I'm here as the intelligence commissioner, but I carry my baggage of experience—you can see my age—as a designated judge of the Federal Court for 21 years, as well as counsel involved in national security matters and commissions—the first one being the 1979 McDonald commission on the FLQ crisis in Quebec—and the reform that brought about the CSIS we know today.

I will add this before I finish. As a judge, I was involved in the dataset regime, the within and outside Canada regime—something you have in front of you today—and fine-tuning the special advocate's role and involvement in proceedings on section 38 of the Canada Evidence Act.

Having said that, I'm open to any questions you may have, if that's helpful to you. I look forward to it.

Thank you.

The Chair: Thank you, sir.

I now invite Mr. Al Qadi to make an opening statement of up to five minutes.

Mr. Ahmad Al Qadi (National Council of Canadian Muslims): Thank you, Chair.

Good morning. My name is Ahmad Al Qadi. I'm joined by Nusaiba Al Azem, director of legal affairs for the National Council of Canadian Muslims. We're here to offer submissions on Bill C-70.

Let us begin by noting that many of the goals in the act are laudable. In fact, more than four years ago we testified in front of the foreign affairs committee about the need for Canada to crack down on foreign agents from any nation, given the clear intimidation that Uyghur Canadians were facing from Chinese state agents. We are deeply troubled by the numerous reports of interference by foreign states, including the governments of India, China and others, which have a pattern of engaging in crackdowns on minority communities.

We are in full agreement with what many others have stated before you in this committee: Canada must take action to challenge foreign interference. That's why we have clearly supported parts of this legislation, such as the call for a foreign agents transparency registry.

That being said, while there is much that is good about this act, we must first note as clearly as we can that rushing to pass this bill in its entirety would be problematic. When we are rushing to make changes to our national security legislation that have fundamental impacts on privacy legislation, when we are further empowering agencies like CSIS that numerous judges have cited for their problematic behaviour and when there has been no time for academics or civil society actors to review the legislation, respectfully, there is a high likelihood that unintended consequences will result. Even to-

day, as we are offering our initial response to the legislation, we doubt we will be able to provide fulsome answers to all of the questions posed given that we received a technical briefing on the legislation from government officials only yesterday.

Moving too fast can impact everyone negatively. Our national security agencies have in the past erroneously targeted Christian social conservatives, environmentalists, Sikh communities, indigenous communities, Muslims, progressives and everyone in between. That's why we believe more time is needed to conduct a fulsome study with academics and experts that isn't crammed into one week. Our first and most important recommendation to this committee, therefore, is to split the bill, pass part 4, which most have considered to be strong and relatively uncontroversial, and study the rest of the important suggestions laid out in the bill in a far more thorough fashion.

I will turn it over to my colleague Nusaiba.

• (1035)

Ms. Nusaiba Al Azem (National Council of Canadian Muslims): Thank you very much.

Ahmed is indeed right that a number of provisions require further study. For example, under part 2, for section 20 of the Security of Information Act, SOIA, there is an amendment to add the language of intimidation:

Every person commits an offence who, at the direction of, for the benefit of or in association with, a foreign entity or a terrorist group, induces or attempts to induce, by intimidation, threat or violence, any person to do anything or to cause anything to be done.

However, as has been raised before for this committee today, “intimidation” is not defined in the SOIA, and this is hugely problematic. Are we using the tort definition or relying on parallel Criminal Code uses of the concept of intimidation or another definition entirely? This ambiguity could be used by this or future governments to target different kinds of protest activities that some have accused of being foreign-funded, whether they involve convoy protesters, Black Lives Matter protesters or others. We recommend that this section be deleted in its entirety or that “intimidation” be clearly defined in the act to ensure there is a civil liberties carve-out similar to the proposed carve-outs in subclause 60(2) and clause 61 of Bill C-70.

The bill also, in part 1, expands substantively CSIS powers. The expansion of CSIS powers to, as proposed, help it adapt to changing technology beyond Canada is a significant change that deserves study. Changes around surveillance and warrant procedures deserve significant study as well.

We are also concerned about the expansion of the inadmissibility provisions of the Immigration and Refugee Protection Act, IRPA, the sabotage provisions and many others. The new IRPA provision, for example, suggests that the minister may be able to find someone inadmissible if the minister deems that they are bad for Canada's "international relations". How would this impact dissidents from dictatorships that Canada has diplomatic relationships with?

This legislation has many complex implications. Appropriate due diligence is not being exercised when it appears that all parties, with what we view as good intentions, are inadvertently rushing to make significant changes to our national security infrastructure without adequate checks and balances through longer, rigorous and informed study.

Subject to any questions, those form our submissions. Thank you.

The Chair: Thank you.

I now invite Mr. Kolga to make an opening statement of up to five minutes.

Mr. Marcus Kolga (Senior Fellow, Macdonald-Laurier Institute, As an Individual): Thank you, Mr. Chair and honourable members of the committee.

I'm a journalist and civil society activist who's been researching and exposing foreign information and influence operations targeting Canada and our allies for nearly 15 years. I'm also a human rights activist. Through this work, I've had the privilege of supporting and collaborating with extraordinarily courageous champions of democracy and human rights, some of whom testified before this committee earlier this week. Others have faced intimidation or detention for speaking out against the totalitarian regimes in Beijing, Moscow and Tehran. Some have been poisoned and others have been brutally murdered for their activism and advocacy.

For my work in supporting many of those brave activists and our common causes, I've directly witnessed and experienced the chilling effects of foreign authoritarian transnational repression. These effects include death threats, harassment and defamatory articles regularly published by Kremlin-controlled media outlets against me. Kremlin-aligned influencers and proxies in Canada have attempted to discredit and silence me through psychological intimidation and whisper campaigns.

While my personal experiences are less severe than those of witnesses you heard from earlier this week, such as the brave members of the Uyghur, Tibetan and Hong Kong communities, the objectives of these influence operations are universal: to repress the free and open expression of regime critics within the Canadian political and media environment, and ultimately to undermine our democracy.

These operations aim to cast doubt on the credibility of their victims. Tactics may include malicious online articles or poisoned letter-writing campaigns containing false accusations about the target, sent to media, government officials and even the victim's employers. In my case, such campaigns were carried out by Canadians working with Russian companies, trade promotion organizations and Kremlin-controlled think tanks.

The psychological impact of being targeted and defending against such foreign influence operations is, by design, exhausting. Victims feel isolated and defenceless. Concern for the safety of family members creates additional psychological stress, all of which is made worse when these campaigns include threats of physical violence. This can lead to significant psychological trauma and further problems. Ultimately, the target becomes so overwhelmed that they give up and silence themselves, limiting their ability to freely express themselves.

The lack of a coherent support system for vulnerable communities compounds the problem. In 2019, when my family and I were targets of death threats sent from a Moscow-based IP address and on social media, no law enforcement organization was equipped to deal comprehensively with the issue of transnational repression. When I called my local law enforcement unit, they told me to contact the RCMP. When I contacted the RCMP, they told me to contact CSIS. CSIS is, of course, a dead end.

When Bill C-70 comes into force, all parliamentarians need to support the development of policies that provide meaningful support for vulnerable communities and the brave activists and journalists who become victims of transnational repression. For Canadians vulnerable to transnational repression, Bill C-70 is a welcome ray of hope in our common cause to defend our democracy against authoritarian regimes that seek to undermine it.

The transparency and accountability required by the foreign influence transparency registry will help ensure that dishonest Canadians who are lured into the service of foreign authoritarian regimes with lucrative opportunities are identified. This will allow government officials, media and vulnerable communities to be aware of who and what these individuals publicly represent. When properly enforced, this new law will help prevent them from manipulating our political and information environment.

However, I believe the act would be further strengthened by a definition of both physical and digital transnational repression. Such activity targeting vulnerable diaspora communities and human rights and pro-democracy defenders should be included in the act and the foreign influence transparency registry.

Our foreign adversaries spare no expense in their efforts to undermine our democracy. Until now, they've manipulated our information spaces, influenced policy and intimidated our brave front-line defenders of democracy with relative impunity. Properly implemented and enforced, Bill C-70 will end their impunity and provide a new bulwark to defend our democracy.

Thank you.

● (1040)

The Chair: Thank you, sir.

We will now start our questions with Mr. Genuis.

Mr. Genuis, please go ahead for six minutes.

Mr. Garnett Genuis: Thank you, Mr. Chair.

We have a great panel again today. I'm going to start with the National Council of Canadian Muslims. Hopefully I'll get to others, but I know how the time can fly.

I really sympathize with some of the points you've made about timing. In full disclosure, we have, on our side, been pushing that this bill be passed quickly, but it should have been proposed much earlier. I think we should have had legislation on foreign interference in front of us years ago. That would have allowed us more time.

There is urgency because we need to protect the next election. We need to ensure that some of these provisions, which take time to implement, are in place before the next election so that we won't have the same kinds of problems.

There's a study happening here, and there's also a study happening in the Senate. I think the Senate is already doing a pre-study, so that's an opportunity as well for you and other groups to engage and put forward suggestions.

I'm very glad you raised division 3, the IRPA changes, because I think they have not been a subject of discussion yet at all. I don't know that we've had immigration officials before the committee. Hopefully, they'll be here for the clause-by-clause portion for people who have questions.

What is your understanding of why language would be inserted that allows for inadmissibility on the grounds of "international relations"? Obviously, national security and national defence make sense, but I would think that almost any dissident refugee who comes to the country would have some effect on our international relations with the country they're fleeing from. It does seem pretty broad. What do you read into that?

Ms. Nusaiba Al Azem: I'm happy to answer this one.

Just on a personal note, I want to say what an honour it is to testify alongside former justice Noël, whose decisions I read many times in law school, over and over.

With respect to the IRPA, our primary concern is obviously the piece you identified about the minister deeming that something is injurious to Canada's international relations, precisely because, as you identified, it can be overly broad. What does that mean?

"International relations" has also been added, pursuant to the bill, to the Criminal Code, but again, it's not defined. Does that mean dissidents from dictatorships that Canada has diplomatic relationships with could be impacted? Again, our primary concern here is not with the potential application of the rules in principle, but rather the lack of definition included in some of the language, which could cause undue harm. We have to emphasize that the legislation has implications on many facets, and we're concerned that any kind of rush in understanding the—

• (1045)

Mr. Garnett Genuis: Sorry, I'm going to jump in. I have another question. It's also for you.

I want to ask about the issue of political discrimination. I believe we should want a country in which people are free to express their political views without fear of intimidation or other kinds of consequences, like employment-related consequences and consequences in their commercial relationships. That's why I proposed a private member's bill, Bill C-257, which would add "political belief or activity" as prohibited grounds of discrimination in the Canadian Human Rights Act.

I'm concerned about how foreign interference can play a role in political discrimination as well, and how foreign interference may manifest itself not necessarily as direct threats of violence, for example, but as pressure on institutions to not hire certain people, to remove people or to limit the participation of people who may be expressing political views that are not in line with the interests of a foreign state.

This is an issue that I've discussed on a few fronts with you folks at NCCM. Could you share your thoughts on the issue of political discrimination and how we might combat it through legislation or otherwise?

Ms. Nusaiba Al Azem: I'm happy to.

With respect to political discrimination, this speaks a bit to part 4 and why we support the transparency of a registry that allows for the listing of everybody, every agent, who could potentially be undermining Canada's democracy or sovereignty, whether an ally or not. It also speaks to the important part about not rushing other pieces that could potentially be used to undermine, for example, civil rights groups and people who are protesting, whatever that might look like. They should have the ability to exercise that political division.

Does that answer your question?

Mr. Garnett Genuis: Yes. Thank you.

These are the last 30 seconds I have.

Mr. Kolga, if the government is concerned about foreign interference, why haven't they expelled more Russian diplomats? What is your view on the expulsion of Russian diplomats and what they may be up to while they're here in Canada?

Mr. Marcus Kolga: Well, we don't know exactly what Russian diplomats may be up to, but it's probably no good. We know that Russia uses its diplomats to engage in intelligence operations and influence operations. We know this through the reporting of Canadian journalists who have reported how they try to pitch various disinformation stories to Canadian journalists and such.

I would absolutely favour reducing the number of Russian diplomats in Canada. Right now, there are up to 80 of them. I don't know what 80 Russian diplomats in Canada would be doing other than engaging in potential foreign interference.

The Chair: Thank you, Mr. Genuis.

We'll go to Mr. Gaheer for six minutes.

Mr. Iqwinder Gaheer: Thank you, Chair.

Thank you to the witnesses for appearing before the committee.

My questions are for the intelligence commissioner.

Sir, it's an honour to have you at committee. You did this in your opening testimony as well, but can you please outline the relationship between your office and CSIS?

• (1050)

Hon. Simon Noël: CSIS has jurisdiction to collect datasets. As a result of that, the IC intervenes when the minister or the director authorizes that.

I want to give you an overview of the jurisdiction. Human sources acting across Canada on behalf of CSIS can do certain activities and not others. They can commit illegal acts in order to pursue their investigation. I'm involved in reviewing the category of acts and omissions that these human sources can do in the field.

My relationship with CSIS goes back to 1984. I was involved in the complaint process with the predecessor to NSIRA, and I have followed the work of CSIS through the years. As a judge, I dealt with hundreds of warrant application certificates being issued. Presently, I do oversight review of CSIS. If you want me to say how I qualify that, I think I have a professional, serious relationship with them. We relate, we disagree and we agree sometimes, and I say so publicly, as my decisions can attest to.

Mr. Iqwinder Gaheer: When that review happens, is it subject to a reasonableness standard?

Hon. Simon Noël: Yes.

Mr. Iqwinder Gaheer: Is it the Vavilov standard?

Hon. Simon Noël: Yes, it is.

Mr. Iqwinder Gaheer: I'm not trying to relitigate Vavilov at this committee in the five minutes I have, but do you think the Vavilov standard of reasonableness, where deference is given to admin agencies, is a high enough bar for the sensitive information that CSIS deals with?

Hon. Simon Noël: My interpretation of the Vavilov decision on reasonableness is the following.

Decisions have to be sound, factual and based on the facts of the case. Decisions also must take into consideration the privacy of Canadians—our privacy. I insist on that and I get involved. Deference for me has a limit. If I see that something is wrong, as I did in one decision.... I refused completely what CSIS was asking. They came back a few months after they reviewed the situation, and they presented a completely other file and I agreed with it.

In essence, to be clear—your question is valuable—what I'm saying is that in law, reasonableness in the way we're applying it takes into consideration deference, but not to the limit of being a servant of the decision-maker.

Mr. Iqwinder Gaheer: Mr. Chair, how much time do I have?

The Chair: You have a minute and a half.

Mr. Iqwinder Gaheer: Okay.

Thank you for that. It is a very robust standard.

Is it correct that CSIS can't conduct certain activities without your prior approval?

Hon. Simon Noël: Well, my jurisdiction is limited to the jurisdiction I have. I'm reviewing the minister's decision that gives the authorization to CSIS to do certain acts. It is true that if I disagree, they cannot do them. That's in relation to the jurisdiction I have. If I come to the conclusion that the application as presented to me is unreasonable, either they go for a judicial review, which they have not done for 14 or 15 decisions up to now, or they come back and correct their application.

• (1055)

Mr. Iqwinder Gaheer: This is for the very high-level decisions. Is that right? It is not every decision that CSIS is making that you're reviewing.

Hon. Simon Noël: No, I don't have jurisdiction over their work on a daily basis. I'm there for the principles that are being applied to the work they have to do.

Mr. Iqwinder Gaheer: Great. Thank you.

The Chair: Thank you.

[*Translation*]

Mr. Villemure is up now.

You have the floor for six minutes.

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

Mr. Noël, you hold the position as Intelligence Commissioner that I'm more or less familiar with, and I'd like to know one thing.

We're wondering here about the appointment process for the potential foreign influence transparency commissioner. The bill specifies that the person in that position will have to be independent, but at the same time, he or she will report to the Department of Public Safety, for organizational reasons.

Is that also the case for you?

Hon. Simon Noël: I was a lawyer and an independent judge in the past. Now my work is quasi-judicial, and the Intelligence Commissioner Act specifically states that. As such, I consider myself independent.

I'll explain what I did, Mr. Villemure.

The Intelligence Commissioner Act provides that I can receive briefings. I can't be familiar with all the technology that applies in this world. However, I don't want to fall in line with what others may well tell me to do.

As soon as I took office, in October 2022, I met with Mr. Vigneault, and I told him that, if he wanted to give me briefings, he had to choose the topics and that, if one day I had a decision to make and didn't have the information I needed to make an informed decision, it would be a shame, but I would find it unreasonable. So I put it on the shoulders of CSIS.

I consider myself very independent. The act gives me incredible power. I can tell CSIS to stop doing something, because we don't come to the same conclusions. I can say the same thing to the Communications Security Establishment Canada, the CSE. In that capacity, I'm aware of the importance of decisions. However, if I realize that the decisions I have to make may have consequences on your privacy, or on mine, I won't hesitate. I haven't hesitated to do so, either, so far.

Mr. René Villemure: In the wording of the bill, do you believe that the proposed commissioner position is sufficiently independent? As you just said, there is independence of action, is there not? However, there's still ministerial responsibility with some accountability. Is it sufficient?

Hon. Simon Noël: It all depends on the person in the position.

I'll be honest with you, I haven't read the exact wording you're referring to. However, I can tell you that, as far as I'm concerned, I don't report to anyone except myself. The Privy Council is the umbrella organization, but I can tell you that I wouldn't do that. My decisions are made on my own.

Mr. René Villemure: Okay.

Hon. Simon Noël: I feel like someone in my position would act in the same way. I'm looking at how the Privacy Commissioner, Mr. Dufresne, is acting. He's independent. If the parameters indicate that a position will be independent or a little more independent, I'm not sure.... It's the reality on the ground.

To repeat what I said at the beginning, I haven't looked at the exact wording, except to be very clear on my position.

Mr. René Villemure: Thank you. I asked you the question in all candour, but I understand that either you are independent or you are not. There's no such thing as a half measure.

I'd like to raise a thought on the concept of secrecy: the need for secrecy in some contexts, the need for transparency in other contexts; in both cases, the purpose is to preserve trust.

How does that come together?

• (1100)

Hon. Simon Noël: I've been in the business since 1979. For what it's worth, I've personally I've gotten into the habit of putting up a wall so that I can talk to people. It works. A lot of people are curious and ask me what I do. I've been a judge, and I treat every mandate I've had in the same way.

To your specific question about how to marry these two aspects, I would say that, from the outset, in October 2022, Ms. Dubois, who is to my left, and I, we said that we would publish our decisions and make them as unredacted as possible.

Mr. René Villemure: Yes, your rulings are clear.

Hon. Simon Noël: That was our test, and it still is. We have ongoing discussions. We try to avoid summaries. We really want to have the exact wording of the decision. I think it's a constant struggle, and we need to do that.

Having said that, I'm sworn to secrecy. I'm of the school that says that secrecy must be protected. These aren't hide-and-seek tactics. Lives are at stake. Some of the techniques of operation are worth protecting because you can't go to war—we're at war now, because cyber-attacks and things like that are a new form of war—with peashooters. We need to protect our information to ensure that our two agencies have the means to retaliate against other countries that don't have the limitations we have in Canada.

The only thing I always insist on is that there have to be bodies, such as the Office of the Intelligence Commissioner, an oversight body, and the National Security and Intelligence Review Agency, NSIRA, the civilian agency that looks at the facts after the fact and publishes reports, and the National Security and Intelligence Committee of Parliamentarians, NSICOP.

By the way, I read their report, the one on the trip to India, which the member took part in. I'm impressed by their work.

This is a huge burden being put on our shoulders. However, I think we're capable of doing that work, Mr. Villemure. I'm telling you this quite honestly, because I've been living in it since 1979.

As for the climate of secrecy that seems to be portrayed, it's disappearing, and more and more information is available. The recent report of the committee of parliamentarians is a prime example.

The Chair: I'm sorry, but time is up.

Thank you, sir.

[English]

We'll now go to Mr. MacGregor, but I would like to advise the committee right off the top that Mr. Kolga has to leave us at a quarter after the hour. If you have questions for him, you should ask them sooner rather than later.

Mr. MacGregor, go ahead for six minutes.

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

Commissioner Noël, I'd like to direct my first questions to you.

The first part of Bill C-70 makes some pretty consequential amendments to the CSIS Act, notably massive upgrades to the CSIS dataset regime. We've been describing it as bringing an analog law up to speed so that it fits in a digital age. However, I've read the NSIRA report on CSIS's use of the dataset regime and it's littered with comments like this: "CSIS's current application of the dataset regime is inconsistent with the statutory framework", "CSIS did not comply with the dataset provisions in the CSIS Act", non-compliant information was held and "CSIS has failed to adequately operationalize the dataset regime." That's a pretty scathing report. Now I'm being asked as a legislator to fix the dataset regime and give CSIS more powers, but that's in the context of them failing to act by their current statutory obligations.

From your point of view as the commissioner, what can you tell me, a legislator, that would put my mind at ease so that a few years down the road from now, I'm not going to read another NSIRA report that shows CSIS has blown past the statutory limitations I'm being asked to give them here and now?

• (1105)

Hon. Simon Noël: I deal with datasets that are not threat-related. Anything they would like to have in relation to Canadian or foreign datasets will come, one way or another, to the commissioner's office. That's my part. CSIS collects datasets under its jurisdiction in section 12, section 12.1, section 15—which they want now—and section 16 as long as they relate to the threats they are investigating. Having said that, if they want to collect, they have to meet the threshold of section 12, Mr. MacGregor, which is strictly necessary.

NSIRA did a report. I think it goes back to 2019. If you look at it, it's an earlier report; it was the beginning. I have seen some policies recently on how they operate. I wasn't asked—that's not my jurisdiction—to deal with them, but they appear to be, to me, serious. I'm looking forward, to appease the concern I had when I read this report, just like you, to a new NSIRA report that will update an earlier report and tell us how exactly this will operate.

Mr. Alistair MacGregor: Thank you. I appreciate that.

I want to direct my next questions to the NCCM.

I appreciate the concerns you outlined with this bill. From the committee's perspective, this has been a busy week for us as we dive deep into Bill C-70.

I take note of your concern about the definition of the term "intimidation" in the proposed amendments to the SOIA. I had a chance to ask the Minister of Justice a question about that. I don't think I got a direct answer to my concerns, though he said—and I'm paraphrasing—that it would only be for when there's an element of foreign interference, not lawful and proper protests. It has to be something attempting to influence Canada and subvert Canadian interests. I would also note that in the existing SOIA, under section 24, the consent of the Attorney General is needed to prosecute any SOIA offence.

From your perspective, what definition of intimidation would the NCCM like to see put into this bill?

Mr. Ahmad Al Qadi: First of all, we want to acknowledge all the effort that has been made in the past week by this committee to

ensure that Canada gets the robust and fair foreign interference legislation it needs and deserves.

Regarding a definition for intimidation, again, our primary concern is not that it's ill defined but that it's simply not defined. As to what we would view as a sufficient definition of intimidation, I truthfully can't speak about that at the moment. We would have to conduct a more robust review of the bill ourselves. However, our primary fear, as Nusaiba mentioned, is that if the bill were passed tomorrow, a current government could identify protest activities it doesn't agree with and penalize them under the pretense that they are aiding a foreign entity. The lack of definition opens up the doors for usage on both sides of the coin. You could have a government that would penalize convoy protesters or, as Nusaiba said, Black Lives Matter protesters.

We are happy to provide recommendations in regard to what a definition of intimidation would look like, because in our technical briefing, we didn't get a direct answer. There wasn't an outlined definition of intimidation. We would be happy to provide that later on.

• (1110)

Mr. Alistair MacGregor: I want to quickly note that most of the bill will come into force within 60 days of royal assent, which is a pretty tight timeline. Only part 4 is open to a date set by the Governor in Council. I think that speaks to your proposal to split part 4 of the bill from the remaining parts.

I just wanted to note that for the record.

Mr. Ahmad Al Qadi: I appreciate that. Thank you.

The Chair: Thank you, Mr. MacGregor.

We'll start our second round with Mr. Motz.

You have five minutes.

Mr. Glen Motz: Thank you, Chair.

Thank you very much to our witnesses for being here. For most of the questions I would like to relate today, I would like a response from all three sets of witnesses.

First, this new act will give some additional powers to CSIS to share information. From your role, Commissioner Noël, and from yours, Mr. Al Qadi and Mr. Kolga, there's a different perspective.

Commissioner, do you think the information-sharing powers that have been expanded will work? Will they do the job they're intended to do?

For your community and from what you see, Mr. Kolga, would these new power-sharing proposals give more protection to the communities in this country that need that sort of protection?

I'll start with you, Commissioner Noël.

Hon. Simon Noël: The dataset regime has been here since 2019. It has been operational. What they're doing now is a fine tuning of the legislation.

I'll give you an example. An authorization is good for a year. They have asked for two years. Fine. My prediction is that in between, there will be amendments. As for foreign datasets, it is five years to 10 years. This is fine tuning.

Mr. Glen Motz: I may not have explained it well. What I'm getting at is that CSIS would have new powers to share information with those who are going to be impacted by foreign interference. The question is, does that go far enough? Will it protect the communities in this country that experience the threat of foreign interference?

Hon. Simon Noël: With the bill, I will be involved. I will be reviewing whatever they intend to do with the transfer of information. Will that be helpful? I don't know. Until we see the reality in the field and how it's actualized, it's hard to predict.

Is it good that they can transfer information? Having an insight into that world, I can tell you that among the Five Eyes, it is most important that it be exchanged.

Mr. Glen Motz: Mr. Al Qadi.

Mr. Ahmad Al Qadi: We believe sharing information with communities that are targeted is crucial. It is important to make sure that those communities are able to protect themselves. I'm not too familiar with the tragic case of Hardeep Singh Nijjar, but I would imagine that had there been more communication from our security intelligence agencies, he might have been protected.

At face value, I would say that yes, we believe it would provide more safety to communities, but the devil is in the details. That's the saying. We'd have to investigate deeply how that would be done and who else information would be shared with, and ensure that there are safeguards at all times so that privacy information is not leaked.

I'll be honest. From the perspective of the Muslim community, there isn't the best relationship with CSIS. There is a need to build trust due to the problems in the past, which were made very public with the NSIRA report that was released a couple of years ago.

Does that answer the question?

Mr. Glen Motz: Yes. Thank you.

Mr. Kolga.

Mr. Marcus Kolga: As a human rights activist and being active within communities that have been targeted by transnational repression, I think it's critically important that CSIS have the ability to have a two-way conversation to pass information that is in the interests of safeguarding our safety and democracy.

Having briefly reviewed the legislation, it's clear that safeguards have been put in place. The safety of information and privacy have been taken into account. I think this is one of the more important

parts of this legislation. It's one that I, as a human rights activist, and the community I work with are very happy with.

• (1115)

Mr. Glen Motz: I'll go back to you, Mr. Kolga, but first—

The Chair: I'm sorry, Mr. Motz. That's five minutes. Thank you.

We go now to Mrs. Zahid.

You have five minutes.

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

Thanks to all of the witnesses for appearing before the committee.

My first question is for Mr. Noël.

We have seen in the past that national security legislation, especially when passed quickly, can lead to unintended consequences, especially for members of minority communities. These same communities, which are most often targeted by state actors or foreign repression, have often felt unfairly targeted by intelligence and security agencies.

Could you share what the intelligence agencies are doing to build trust with these communities, especially as they seek expanded powers in Bill C-70?

Hon. Simon Noël: I'm not too sure that I can help you on this, because I was never within the agencies' organizations. The closest I came to that was when I was counsel for the predecessor of NSIRA in complaints. I saw a good number of complaints from communities then, because when identifying a community, they would knock on doors.... However, that goes back to 1984 and 1990. I think they've improved drastically.

There's still a long road to go. I think the process of establishing, potentially with this legislation, that they will be able to get out of their hidden little barracks and start talking to people will help tremendously. Also, I think employing more people from different groups will help tremendously. However, this is an ongoing project for CSIS, I'm sure, and they need to improve on it. It is very important.

Mrs. Salma Zahid: Thank you.

My next question is for Mr. Al Qadi.

The government has released a charter impact statement, which notes a number of protected rights and freedoms that are potentially engaged by Bill C-70, including freedom of expression, the right to peaceful assembly, the right against unreasonable search and seizure and others. Do you feel that the charter rights of Canadians are adequately protected by this legislation? Are there any adjustments you would recommend?

You have also highlighted some civil liberties concerns that your organization is raising with the text. Can you explain that?

Mr. Ahmad Al Qadi: As I mentioned, we think, firstly, that this is an important bill and the study on this bill is crucial. We are in support of this bill passing. However, it would need, in our opinion, a much more robust and longer study to ensure that charter rights are not violated.

To reiterate my points, a lack of definition for terms like “intimidation”, for example, could cause problems down the line and undue harms that we might not foresee right now because of the rush in investigating this bill. Regarding people exercising their democratic right to peacefully protest, that could be infringed on by future governments, under the pretense that they're supporting, benefiting from or in association with foreign entities, just because they don't like them.

Mrs. Salma Zahid: Given that protecting the integrity of the next election is important for all Canadians, would you be supportive of this bill if only part 4 were moving forward?

Mr. Ahmad Al Qadi: Yes. We believe that part 4 of the bill would sufficiently support an election free of interference in 2025.

• (1120)

Mrs. Salma Zahid: Can you also speak to the concerns about the IRPA inadmissibility certificates?

Mr. Ahmad Al Qadi: I will pass that question to Nusaiba.

Ms. Nusaiba Al Azem: Thank you very much.

This goes back to the question posed by MP Genuis. We would reiterate that it's very overbroad in application and, specifically, that the insertion of “international relations” into the Criminal Code leaves a lot to be asked. What are the implications of how that's going to impact, as mentioned earlier, dissidents coming from dictatorships, especially given that international relations are subject to change? Somebody who may be friendly today could be hostile tomorrow and vice versa, and for dissidents who sit on either line, Canada's position could change. Let's be really careful of that as we're looking at how parts 1, 2 and 3 are being fleshed out. As Ahmad noted, part 4 is sufficient for now to provide transparency where foreign interference is concerned.

The Chair: Thank you, Mrs. Zahid.

[Translation]

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

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

Mr. Noël, you'll forgive me, but since I only have two and a half minutes, we'll have to be brief.

As I'm always curious, I understand that independence—yours—is very real. It's understood. I think that both independence and the

perception of independence are essential characteristics for a commissioner.

I would like to ask you a question that isn't directly related to the bill, but that often raises questions when we talk about intelligence and secrecy.

At the Standing Committee on Access to Information, Privacy and Ethics, of which I am a member, we often come up against cabinet secrecy. While I understand the use of cabinet confidence and recognize the need for it, we've noticed, in a couple of warrants and reports, a tendency to overclassify. I'm a little concerned about that. I understand the need for secrecy, but at the same time, there's still this paradox that we talked about earlier.

Do you have any recommendations on how we deal with cabinet confidence so that we can get the balance right?

Hon. Simon Noël: It's difficult for me to answer that. How can we trust the decision-maker who has to decide whether or not there could be some openness? I can only use my example. You'll see that it will address your concerns in part.

When ministers and directors make requests, they often rally around one or more cabinet decisions. There's nothing in the act that allows me to review those decisions. I find that inconsistent with the concept. How can I be asked to check whether I'm missing any elements in these conditions?

That said, I've begun discussions with both agencies to tell them to be logical with themselves. If they want to make solid decisions, they have to give me access to those documents. In the meantime, they have gotten into the habit of preparing summaries for me.

I go back to the decision of Justice Thurlow in 1978. If you said the word “cabinet”, it was over, blocked. I see that things are changing more and more, but that the Supreme Court recently strengthened its position in an Ontario case. It's a work in progress. That's the only way you can do it.

The Chair: Thank you, Mr. Noël.

Mr. René Villemure: I get the impression that the culture was more one of obscurity than transparency. That's always one of the things we worry about as members of Parliament.

Hon. Simon Noël: You're right to point that out.

Mr. René Villemure: Thank you very much.

[English]

The Chair: Thank you.

We go now to Mr. MacGregor to bring us home.

You have two minutes and a half.

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

I'd like to continue with the NCCM.

Particularly with the amendments to the SOIA, we've heard the term "transnational repression" come up a lot. I was struck by the testimony we received from members of the Tibetan community and Uyghur community, who both have a very troubled history with the People's Republic of China. They were listing off the intimidation and all the different tactics that have been used against members of their communities because of what's going on in their home countries.

All of the things they want included as a part of a definition of "transnational repression" might already be included in the amendments to the SOIA. However, do you see the conundrum we're in? We have different communities pulling us in different ways. I understand your concerns with the lack of a definition of "intimidation", so if you want to add to that, please go ahead.

There is a theme to the way this bill deals with foreign interference, but the part that seems to stick out is the amendments to the Criminal Code updating the definition of "sabotage". I asked the Minister of Justice about that, and he made reference to the fact that this provision of the Criminal Code dates back to the 1950s, hence the necessity to update it. There are sections in the Criminal Code that allow for proper advocacy, protest or dissent.

Do you have anything to add, specifically in reference to this section, on what we should be looking at for amendments?

• (1125)

Mr. Ahmad Al Qadi: With respect to the Criminal Code, I will pass that over to our legal director.

We have a tremendous amount of respect for the Uyghur rights activists and the Canada Tibet Committee for the stances they took. I viewed the hearings where they discussed transnational repression, and I understand the conundrum you find yourselves in regarding the many different definitions being proposed for amendment in this legislation. However, from my perspective, I encourage you to include them. These are the folks who have seen the front-facing reality of foreign interference.

Mr. Alistair MacGregor: I'll need your colleague to jump in quickly.

Mr. Ahmad Al Qadi: Yes, of course. I apologize.

Ms. Nusaiba Al Azem: I'm happy to jump in.

I want to respectfully make very clear from the get-go that we're talking about the same communities. They are not differing needs. The communities you're referencing are the same ones that are vulnerable to many of the inadvertent issues impacting civil liberties that we've raised. It's all one and the same.

To go back to our position, we ultimately support the bill. It's just about making sure it's done in a way that protects people in Canada so we can exercise our democratic rights and keep folks safe. This

means Uyghur activists who have been wrongly accused, for example, of connections to terrorism. It shouldn't stop them from being able to protest in front of the Chinese consulate, which in the past has been suggested as intimidating behaviour. You say it's a conundrum, but it's really not a conundrum. It's about making sure that we get it right the first time in a way that ensures the community is safe.

With respect to the briefing we received, the general definition of intimidation falls far too flat to protect the communities you're referencing.

Does that answer your question?

Mr. Alistair MacGregor: It certainly provides a lot more guidance. Thank you.

The Chair: Thank you, Mr. MacGregor.

I'd like to thank the witnesses for being here today and joining us on such short notice. Your contributions are most helpful. They will help us move forward in our study. You may withdraw at this point if you wish to do so.

I would like to remind the committee that amendments to Bill C-70 must be submitted to the clerk by 4 p.m. Eastern Standard Time tomorrow. It's important for members to note that pursuant to the order adopted by the House on May 30, the 4 p.m. deadline to submit amendments is firm. This means that any amendments submitted to the clerk after the deadline and any amendments moved from the floor during clause-by-clause consideration of the bill will not be considered by the committee.

The clerk has advised me about the amendments package and when it will be distributed. If there are fewer than 20 amendments, we will probably get it by six o'clock on Friday. If there are more than that, there's an open question of when we will get it.

I would also remind the committee that we'll meet again on Monday at 3:30, and we will sit here until we're done. That will depend on the amendments.

I'd like to thank all of the committee personnel who have stuck with us through all of this. I'm particularly thankful for the ongoing endurance of our analysts, who have been here hour upon hour, and the perseverance of our clerk. A week ago we dumped a massive list on his lap.

• (1130)

Mr. Glen Motz: He also made breakfast.

Voices: Oh, oh!

The Chair: He also made breakfast.

He's had to communicate with a massive number of witnesses and figure out who's available and when, and adjust and negotiate.

I want to thank everyone involved.

Having said that, let's adjourn.

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