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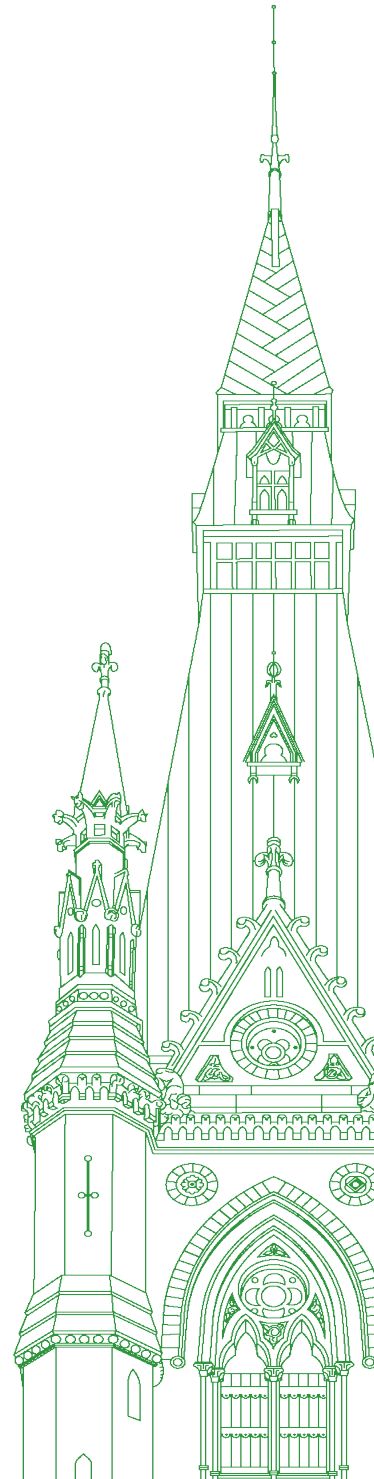
Standing Committee on Justice and Human Rights

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Chair: Iqra Khalid



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● (0820)

[English]

The Chair (Iqra Khalid (Mississauga—Erin Mills, Lib.)): I call this meeting to order.

Welcome to meeting number 39 of the House of Commons Standing Committee on Justice and Human Rights.

We are joined by Mr. Bragdon and Mr. Ste-Marie today, in lieu of others.

Mr. Fortin, thank you for being here.

Pursuant to the order of reference of June 18, 2026, the committee continues its clause-by-clause study of Bill C-29, an act to establish the financial crimes agency and to make consequential amendments to certain acts and regulations.

Today's meeting is taking place in a hybrid format, pursuant to the Standing Orders. Members are attending in person, in the room, and we have our witnesses remotely, using the Zoom application. I would like to confirm that sound tests were made successfully with our witnesses.

I would also like to make a few comments for the benefit of witnesses and members.

Please wait until I recognize you by name before speaking. For those participating by video conference, click on the microphone icon to activate your mic and please mute yourself when you are not speaking. For those on Zoom, at the bottom of your screen, you can select the appropriate channel for interpretation: floor, English or French. For those in the room, you guys know what you're doing over here. I remind you that all comments should be addressed through the chair. For members on Zoom, if you wish to speak, please raise your hands using the "raise hand" function. For members, the clerk and I will manage the speaking order as best as we can. We appreciate your patience and understanding in this regard.

Today, we welcome two witnesses in the first hour. As an individual, we have Amissi Melchiade Manirabona, a full professor, faculty of law, Université de Montréal, appearing by video conference. We also have Andrew Matheson, partner at McCarthy Tétrault. He's also here by video conference.

Thank you both for being here today. You will have five minutes for your opening remarks, followed by questions from members of the committee.

We'll start with Professor Manirabona.

Please go ahead for five minutes.

[Translation]

Amissi Melchiade Manirabona (Full Professor, Faculty of Law, University of Montreal, As an Individual): Good morning, honourable committee members.

Good morning to everyone currently keeping up with committee business.

Since I have already been introduced, I won't spend much time on the formalities. We've been given five minutes, which isn't much.

First, I would like to say that I strongly support the passage of Bill C-29. I believe that it constitutes an important step in the fight against financial crimes. These crimes are currently reaching unprecedented levels, given the growth of new technologies and artificial intelligence. We see criminals devising sophisticated fraud techniques around the clock. This makes it all the more urgent for authorities to take effective measures to combat this scourge. However, in—

[English]

The Chair: I'm sorry, Professor. We're having a bit of difficulty hearing you in the room, so we're just trying to increase the volume. Bear with us for 30 seconds, and then I'll have you start from the top.

Professor, please, go ahead from the top.

[Translation]

Amissi Melchiade Manirabona: Thank you, Madam Chair.

I would like to extend my greetings to the committee members and the honourable members of Parliament who invited me to speak today.

I would also like to say good morning to everyone else keeping up with committee business.

I've already been introduced. I'm a full professor in the faculty of law at the Université de Montréal. I've been studying economic and financial crimes for over 20 years.

First, I would like to say that I support the passage of Bill C-29. I believe that it constitutes an important step in the fight against financial crimes. We now know that, given the growth of new technologies and artificial intelligence, these crimes have reached unprecedented levels. We see criminals devising fraud techniques around the clock. This makes it all the more urgent for authorities to take effective measures to address this issue. However, I believe that the current version of Bill C-29 needs to be strengthened. As it stands, the bill can't effectively combat this problem.

I would like to bring up four or five points to keep a close eye on in order to strengthen this bill.

First, I believe that the future financial crimes agency outlined in the bill is missing an important piece. We're currently seeing a great deal of focus on the agency's police powers. However, in my humble opinion, prosecutorial and intelligence powers should be included. That way, police officers, investigators and prosecutors—meaning crown prosecutors—can work together within the agency in order to save time and also to avoid issues with evidence collection. We need this collaboration between police and prosecutors within the agency so that they can specialize together in combatting financial and economic crime.

We've recently seen trials cancelled and prosecutions dropped in cases involving issues such as the failure to comply with the requirements of the Canadian Charter of Rights and Freedoms. If the police and prosecutors work together, it will help prevent this type of error in evidence collection. It will save time and also make the future agency's work more effective and consistent. I strongly recommend that this integration take place. Otherwise, we run the risk of continuing to see the same pattern of weakness in Canadian institutions when it comes to combatting financial and economic crime.

The agency must truly serve as a deterrent. To this end, people who attempt to commit these crimes must know that the agency is strong, well-equipped and in place to ensure compliance with the legislation.

• (0825)

I recommend that the agency include not only police officers who specialize in investigations and intelligence, but also border services officers and crown prosecutors. We can also recommend that it include specialists in auditing, accounting, taxation, new technologies, artificial intelligence and so on.

Second—

[English]

The Chair: Thank you very much, sir. That concludes your time. I'm sure you'll be able to pick up the rest of your recommendations through questions from committee members.

We'll now go to Mr. Matheson for five minutes.

Please go ahead, sir.

Andrew Matheson (Partner, McCarthy Tétrault, As an Individual): Good morning, Chair and members of the committee. Thank you very much for the opportunity to address you today.

My views on Bill C-29 are informed by my career as a lawyer, acting in financial crime matters from a variety of standpoints and representing individuals and corporations as victims, witnesses, suspects or accused.

I have had the pleasure since 2021 of teaching a course on financial crime in the global context at the University of Toronto law school. Earlier in my career, I studied and worked in the United States, where I was exposed to the American approach to financial crime enforcement. Much of my practice since then has been cross-border in nature.

The views I'm expressing are my own. I'm not expressing views on behalf of either the firm where I have the privilege of working or the law school where I have the privilege of teaching.

Canada has a long-standing financial crime problem and has faced mounting criticism for lagging enforcement. The harms that financial crime inflicts on Canadian individuals, families, companies and our economy are significant and escalating. This is despite the fact that we in Canada have dedicated police, strong prosecutors and overall excellent administration of justice. What, then, are the sources of the problem?

Financial crime is multi-faceted, complex and often borderless. It is difficult to effectively and fairly investigate and prosecute. Coordination of perpetrators across provincial and international borders increases the challenges. To respond, law enforcement cannot be fragmented, uncoordinated or working in silos.

Technological developments, as the professor mentioned, including AI, the dark web, social media and crypto, are powerful accelerants of financial crime. On the other hand, law enforcement, using technology responsibly and efficiently and developing centralized expertise, can powerfully support bringing the appropriate types of prosecutions.

The development of a specialized and centralized national agency is an important step in the right direction. Bill C-29 provides sturdy legislative bones on which a muscular agency can be built.

Clause 3 provides that the object of the act is to establish a specialized agency with the capability and expertise needed to:

- (a) investigate serious and complex financial crimes;
- (b) contribute to the recovery of proceeds of crime; and
- (c) participate in international efforts

Critically, those key themes of specialization and expertise are highlighted in those objects. Given the complex nature of financial crime and the sophistication of many perpetrators, law enforcement must be specialized in response.

Financial crime investigations are fundamentally different from sexual assault, violence, firearms and motor vehicle investigations, for example. They involve different types of evidence, different methods of gathering evidence and different analyses. When it comes to financial crime, experts in flows of funds, financial statements, financial transactions and tech-enabled communications are needed. This is a truly multidisciplinary field.

Bill C-29 does not oust the important work of other police forces and authorities across the country. The legislation allows room for the investigation of financial crime by other agencies and for coordination and partnering with other agencies. Bill C-29 is consistent with the dialogue and integration of efforts that will be necessary.

Paragraph 3(a) speaks of “serious and complex financial crimes” being within this agency's mandate. This must not, however, obscure the reality that all financial crime allegations involve high stakes for the victims and for the accused persons as well. Our challenges in Canada have been lack of investigation, underinvestigation, and delayed or slow investigation. There will still be much work to be done outside of and alongside the FCA.

• (0830)

The question at this stage, I suggest, is whether Bill C-29 delivers a legislative framework that creates an opportunity for success within its mandate. However well drafted the legislation may be, the development of an effective financial crimes agency will take time, resources and good relations with other agencies both across the country and internationally.

Commitment to the FCA beyond the short term and over the medium and long term will be essential. The FCA must not remain a well-drafted vision. It must become a fully resourced, active agency with staff having the right skills and the willingness to strengthen those skills by pursuing investigations as needed and bringing appropriate prosecutions. This is the opportunity that Bill C-29 presents.

Directionally, I agree with some of the comments that my friend, the professor, made, but I think I am out of time.

The Chair: Thank you very much, Mr. Matheson. I appreciate that.

We'll now go into questions.

First, we have Mr. Khanna for six minutes.

Please go ahead.

Arpan Khanna (Oxford, CPC): Thank you so much, Madam Chair.

Thank you to all the witnesses for coming today. We appreciate your expertise on this matter. Obviously, there's a wealth of knowledge here.

My first question is for the professor.

I know you ran out of time. The common theme I'm hearing throughout this is that there's currently a lot of fragmentation in the system. Based on what we're hearing and on testimony we heard last week from ministers, there will still be a lot of overlap and a lot of duplication happening despite a new agency being formed.

For example, the RCMP will still be investigating quite a few of these financial crimes that are happening: fraud, organized crime, and terrorist funding and financing. In your eyes, if we don't detail and specify the scope of this agency, is there a possibility that we might lead to more fragmentation because clarity is missing from this bill as to who—which provincial body or police force—has jurisdiction? Other than that, it kind of defeats the purpose of creating this agency.

I want to get both of your takes on this.

• (0835)

[Translation]

Amissi Melchiade Manirabona: Thank you for the question.

As my colleague who just spoke after me said, this risk of fragmentation does indeed come up.

For example, in addition to my previous comments, I'm proposing the creation of a list of specific offences that will fall under the jurisdiction of the future agency. There must be a list of specific offences over which the agency can exercise its authority. This will prevent the dispersal of efforts and resources. It will prevent confusion over jurisdictional responsibilities.

This won't be our first time seeing this list. The restitution agreement regime adopted by Parliament and described in section 715.3 of the Criminal Code and in subsequent sections includes a list of offences. This list can serve as a guide for properly determining the agency's jurisdiction, in order to avoid conflicts regarding jurisdiction and also to prevent—

[English]

Arpan Khanna: Thank you, Professor. I'm sorry to interrupt.

If I can, I just want to get the opinion of the other witness as well. I know we're short on time, so if you don't mind....

Can I please have Mr. Matheson comment as well?

Andrew Matheson: Thank you.

It's a fair question or concern, and my response to what you have raised, sir, is that the FCA represents a step in the right direction, away from fragmentation. What it contemplates is a police force capable of bringing charges in circumstances that have not been handled, or have not been handled adequately or sufficiently up to present. That's, to my mind, not duplication. It would be doing what is essential to combat financial crime, which is not currently being done.

Other agencies can continue to do work. There is plenty of work to do in this field; there's no scarcity of need. Now, to your question or concern, there's unquestionably a need for operational coordination. We don't want uncoordinated efforts across the country. That's an operational issue, frankly. It's not a legislative issue, from my standpoint. There will have to be coordination and good relations among the different agencies. That's important.

When it comes to the scope of this agency, the current definition of what it would look into and the definition of “financial crime” that it uses, to my mind, have good logic and some flexibility. I say that's important because, when it comes to financial crime, it doesn't always exist in neatly defined boxes. In any given investigation there are a variety of different offences that might come up, and you'd want a single agency looking at that. Provided that it's serious and complex, it would make sense for this new agency to be tasked with it.

● (0840)

Arpan Khanna: Can you do us a favour and define what “serious and complex” is in your mind? What would fall into that bucket?

Andrew Matheson: I think there are a couple of ways to look at it. One is magnitude. There is a question of the amount of money or assets at issue. There is the complexity of the evidence gathering to take into account: Is there a probability that evidence will be in many different locations across Canada and, possibly, internationally? That would obviously increase the complexity. Likewise, who are the suspects? Where are they? Are they dispersed? Are they sophisticated?

Those are the kinds of factors that I think, operationally, will go into the considerations as to what the FCA will take versus what some of the other agencies doing good work in our country might take—and there are agencies doing good work in this space, but just not enough.

The Chair: Thank you very much for that.

That concludes Mr. Khanna's time.

I'm moving to Ms. Lattanzio for six minutes.

Please go ahead.

Patricia Lattanzio (Saint-Léonard—Saint-Michel, Lib.): Thank you, Madam Chair.

Thank you to the witnesses for being with us so early this morning.

My first questions will be addressed to Mr. Matheson. From your experience in working on complex, white-collar and financial crime cases, what are some of the biggest challenges investigators and prosecutors face in successfully pursuing these cases?

Andrew Matheson: Thank you.

The theme I tried to touch on in my opening, which I want to come back to, is about the sophistication and resources of the adversary that law enforcement faces. The perpetrators of serious and complex financial crime are sophisticated and well resourced, and are getting better and more innovative all the time, as the professor mentioned.

I believe that one of the greatest challenges our hard-working police officers and prosecutors have dealt with is the lack of resources and sustained commitment to the mission. As I also emphasized in my opening remarks, the sustained commitment to the operations will be critical over time, so I believe that resourcing and long-term commitment are probably the most important things to focus on.

Patricia Lattanzio: How important is early coordination between investigators and prosecutors in particularly complex financial crime cases?

Andrew Matheson: I think that's an excellent point. It's critically important.

Financial crime moves fast: Evidence is lost and assets are dissipated, and if law enforcement does not move quickly, the ability to effectively investigate is compromised. The ability to bring an effective and fair prosecution is compromised because evidence is lost, memories fade and electronic sources of data do not last.

I think early coordination is critical, and I believe it happens. I believe it will be critically important to happen even more in the future with the FCA being enabled to cover what it should be covering. Early coordination is essentially a triage—figuring out whether this is something that should be handled by a provincial securities commission immediately, or something that the FCA ought to handle for some of the reasons I alluded to in my prior answer.

Patricia Lattanzio: What recommendation in terms of changes would you make to the law as presented, if any?

● (0845)

Andrew Matheson: As I stated, this bill creates the legislative bones for a robust agency. I don't have substantive concerns with the provisions. I believe that there are some operational considerations.

My friend the professor mentioned the idea of imbedding prosecutors within the investigative team. This is a model that we see has been successful with the Serious Fraud Office in the United Kingdom and, in the United States, with the role prosecutors play in financial crime investigations. I like that model. I think there are some big operational advantages. Consideration could be given to finding a way to contemplate that in this legislation. I also think that it is possible that it could evolve within the framework that has already been drafted. I don't think the current draft of Bill C-29 precludes prosecutors from becoming involved in an investigation of the FCA.

The Chair: I'm sorry, Mr. Matheson. Can you just lift your mic boom a little higher so that it's resting between your nose and your mouth?

Andrew Matheson: There we go. Is that better?

The Chair: Yes.

It's back to you, Ms. Lattanzio. It hasn't cut into your time at all.

[Translation]

Patricia Lattanzio: My next questions will be for Professor Manirabona.

You shared your concerns with us. I would personally like to focus on the issue of victims and witnesses.

In your opinion, what specific aspects of this issue are missing from Bill C-29? What changes would you recommend for victims and witnesses?

Amissi Melchiade Manirabona: Thank you.

Indeed, I can see that Bill C-29 makes no mention of victims. That actually surprised me. Nowadays, the government is much more mindful of victims' rights. Many pieces of legislation have been passed on this topic in Quebec and at the federal level. Since 2015, we've even had the Canadian Victims Bill of Rights at the federal level.

In the current version of the bill, I can see a major shortcoming with regard to victims. The bill should be expanded and improved in this area to ensure that additional efforts are made when it comes to victims and their rights.

I spoke earlier about remediation agreements, which are covered in section 715.3 of the Criminal Code and in subsequent sections. We see many provisions that address victims' rights. Bill C-29 could draw inspiration from these provisions. It could even go further by specifically addressing issues such as remediation and the forfeiture of offence-related property.

I strongly recommend that the bill be strengthened in this area.

Patricia Lattanzio: I have one last question for you—

[English]

The Chair: I'm sorry. That concludes your time. You have my apologies, Ms. Lattanzio.

[Translation]

Mr. Ste-Marie, you have the floor for six minutes.

Gabriel Ste-Marie (Joliette—Manawan, BQ): Thank you, Madam Chair.

I would like to extend my greetings to the two witnesses. I want to thank them for joining us and for their contributions to the committee.

I would also like to extend my greetings to all my colleagues. I'm filling in today for my friend Rhéal Éloi Fortin. I'm pleased to be here. I want to take this opportunity to acknowledge all the staff who help this committee run smoothly.

My first question is for both witnesses. I'll start with Mr. Matheson and then ask Professor Manirabona to provide additional insight.

Mr. Matheson, you spoke about the American model and the United Kingdom.

We have a federal structure here where some judicial powers and bodies fall under federal jurisdiction and others fall under provincial jurisdiction. Obviously, we want to ensure that everything runs smoothly and that the various components work well together.

When we look at the model in the United Kingdom, it appears that fraud continues to rise despite the policy's implementation. In contrast, when we look at the model in Australia, which implemented a cross-sector coordination strategy, it appears that fraud has decreased.

I would like you to share your analysis of these models and to identify the components that could serve as inspiration here.

Mr. Matheson, I'll let you respond first. Professor Manirabona can then provide additional insight.

[English]

Andrew Matheson: In one way or another, these other jurisdictions have found ways to embed lawyers in the investigative process, and that has helped. It has stepped up the enforcement efforts when facing these complex threats.

It's not that their work is done. I think you make a good point. There was a report that came out recently in the U.K. about the extreme threat that fraud is still posing in that country, notwithstanding that they've had a Serious Fraud Office since 1988.

This suggests to me that it reinforces the theme that Canada is lagging behind. We need to have more effort directed towards centralized effort, especially for the serious and complex fraud and money-laundering problems that we are facing.

Each of those models that you mentioned probably has its strengths and weaknesses. What they have done, which I think we need to start doing, is to bring cases and bring investigations in order to get better in this field. The more you do it, the better you get at it. You figure out which are the right cases to actually charge. Some investigations will not result in charges and charges should not be brought if the allegations are misplaced. A big part of this story is around the dedication of resources by those other jurisdictions and sustained development of expertise.

● (0850)

[Translation]

Gabriel Ste-Marie: Thank you.

Professor, do you have anything to add?

Amissi Melchiade Manirabona: Yes, thank you.

You brought up statistics on fraud. I haven't had a chance to read that report. However, there may also be other explanations, particularly the current widespread use of new technologies in economic and financial crimes.

The integrated police-prosecutor model seems the most promising. That said, nothing is stopping you from exploring what the Australian model has to offer. When you compare different approaches, you can often build something stronger.

Gabriel Ste-Marie: Professor, one key takeaway would be the need to implement a national cross-sector coordination strategy, as Australia has done. That's good.

I would like to ask a question that my colleagues discussed with you. The legislative ambiguity of this bill, particularly the lack of clarity regarding roles, could lead to questions and duplication.

I would like to hear your thoughts on this topic.

Amissi Melchiade Manirabona: Yes, I spoke about the risks of the dispersal of efforts. I recommended setting boundaries for the future agency's jurisdiction, in particular by drawing up a list of offences that will fall under the agency's jurisdiction. The remediation agreement regime could serve as a model in this area. The list doesn't need to be the same. It could be a short list or a longer one. It's up to you. I think that this will help ensure that the agency does its job well.

Gabriel Ste-Marie: Thank you for your response.

[English]

The Chair: Thank you very much.

Moving on to our second round, we will start with Mr. Baber for five minutes.

Please go ahead.

Roman Baber (North York, CPC): Thank you very much.

Professor Manirabona, welcome to our committee.

[Translation]

Amissi Melchiade Manirabona: Thank you.

[English]

Roman Baber: I reviewed your article in Law360 Canada, for which I thank you. You raised some real concerns about this piece of legislation. Specifically, you warned that the new financial crimes agency proposed in this bill by the Liberals will "become another investigative body in an already fragmented enforcement landscape."

I don't think I could agree with you more. You have provincial police forces. You currently have a fragmented security regulators regime, which also does its own enforcement. You have the superintendent of financial institutions. You have the Canadian anti-fraud centre. Of course, you have FINTRAC as well. Then you have all the federal policing units, such as the integrated money-laundering investigative team in the RCMP. You have the financial crime coordination centre. You have the integrated market enforcement team. You have the federal serious and organized crime unit.

Now the Liberal government is coming to Parliament saying that they want yet another law enforcement body to police financial crimes.

You ask, in your paper, what fragmentation costs in real financial crime cases. What do you mean by that, and what do you think the cost is?

● (0855)

[Translation]

Amissi Melchiade Manirabona: This cost is tied to a lack of coordination.

Obviously, it isn't necessary to hire new people. The police officers who are already serving in the police forces could be assigned to the agency to ensure better coordination.

As I said earlier, it's also necessary to define the roles. You spoke about the provinces and the federal government. I've seen cases

where the provinces and the federal government agreed on the limits of their respective jurisdictions or on how to share roles.

When I said this, I wanted to show the significant benefits of pooling efforts rather than fragmenting agencies. It's necessary to join forces in order to become stronger.

[English]

Roman Baber: I agree with you, Professor. If anything, I think consolidation is in order, instead of creating an additional agency that, as some of our previous witnesses stated, will fulfill the exact functions the RCMP currently has.

With respect to coordination, I'm even further concerned, because the legislation in the present form does not provide for any need for this new agency to share information with anyone other than the RCMP. That means provincial agencies, security regulators and provincial Crowns will be left out of the know, potentially. I don't think that's good for the law enforcement business.

I want to come back to your second warning, in that there is an unclear mandate that this new agency will be vested with. This may give rise to a jurisdictional overlap with existing police units, securities regulators and anticorruption agencies. It's not clear what spectrum this new agency will cover. That will be left to regulation. I respectfully suggest to the government that this is precisely what Parliament is vested with. We need to decide the scope and jurisdictional power of this agency in the bill, not in cabinet.

What do you think about that, sir?

The Chair: Please respond in 10 seconds or less.

[Translation]

Amissi Melchiade Manirabona: I agree. However, we already know that many of these crimes are transnational, meaning that they cross borders. We can assume that these cases will automatically fall under the jurisdiction of the future agency.

For domestic crimes, there may also be agreements with provincial police forces to determine which crimes will fall under the jurisdiction of the future agency.

However, I can already tell you that transnational crimes alone are quite common, so we can assume that they will be the agency's priority.

● (0900)

[English]

The Chair: Thank you very much for that.

We're moving on to Ms. Gladu for five minutes.

Please go ahead.

Marilyn Gladu (Sarnia—Lambton—Bkejwanong, Lib.): Thank you, Chair.

Thank you to the witnesses for being here today. I'm going to start with Mr. Manirabona.

You talked about how you don't think this bill clearly defines the types of cases that should be investigated. I liked your idea very much of this list of crimes that the FCA should handle. In my view, different levels of police forces are going to see money laundering, drug trafficking and human trafficking. FINTRAC is going to pick up some things. It's a question of who's going to take these on? Who's on first? Who's going to take the lead?

In addition to what you're saying, though, it seems to me the comments that Mr. Matheson made about the complexity, the magnitude of the dollars, the complexity of the evidence and how difficult it will be to get the suspects may also be factors in determining what the FCA does.

Would you agree that we should put some greater definition on how these things will be coordinated and which specific cases the FCA needs to handle?

[Translation]

Amissi Melchiade Manirabona: The limits of the future agency's jurisdiction remain unclear at this point. It's necessary to clearly define the scope of the agency's investigative authority.

When it comes to considering prosecution, I also propose that police investigators and other intelligence specialists be joined by crown prosecutors who can consider prosecution. As I said at the start, we've had situations in the past where police officers investigating cases and gathering evidence didn't always do things the right way. These situations sometimes involved violations of the Canadian Charter of Rights and Freedoms. The involvement of crown prosecutors will help prevent this from happening.

[English]

Marilyn Gladu: Thank you. I'm sorry. I only have a little bit of time.

Clearly, to me, you have to know what kinds of cases the FCA will be handling in order to know what kinds of specialists you need to hire in order to bring that expertise.

Mr. Matheson, you talked about the enormous amount of experience you may need in financial and digital evidence, AI, the dark web and in crypto, along with some of the experiences and challenges in dealing with multiple provinces and countries. What do you think needs to be added to this bill in order to add that clarity?

Andrew Matheson: I believe it's a real priority to have the capability to address exactly what you're talking about. I'm not sure it needs a legislative change, quite frankly. Isn't that a really classic operational issue? Who do we staff up with? How do we develop them? How do we keep them? How do we attack the threat that we face? I don't think legislation should get into the micromanagement of an area that is, by definition, run by experts.

What this legislation is aimed at is financial assets, financial markets and financial services that have been victimized by some kind of crime. There is definitely a theme here and it has some desirable flexibility. As I said, when the adversary, the perpetrator, sets out to commit a financial crime, they don't think about it in terms of what defined offence they're going to be committing. They are coming up with a scheme of one kind or another, and it may manifest itself in a variety of different criminal offences.

In any jurisdiction, whether it's the U.K., the U.S., European countries or Asian countries, there is coordination between agencies. It's necessary. Without that, it doesn't work. That's an operational consideration, in my respectful submission.

Marilyn Gladu: You would leave that to the regulations, then.

• (0905)

Andrew Matheson: That's correct, I would.

I think there's plenty of room to develop protocols between different agencies.

Marilyn Gladu: Thank you very much.

The Chair: Thank you very much.

Monsieur Ste-Marie, you have two and a half minutes, please.

[Translation]

Gabriel Ste-Marie: Thank you, Madam Chair.

I have another question for both witnesses. I'll ask Mr. Matheson to respond first, and then it will be Professor Manirabona's turn.

Since I don't have much time, feel free to send your written response to the committee if time runs out.

My question concerns clause 22 of Bill C-29. This clause establishes a special procedure whereby the Attorney General of Canada may issue a fiat for prosecutions that would normally fall under the jurisdiction of a provincial attorney general.

Wouldn't that constitute an extreme measure that amounts to usurping power? Shouldn't we place greater emphasis on collaboration and coordination among the various entities?

[English]

Andrew Matheson: I don't see the provision that you're referring to as a problem in the abstract. What it creates is an option, not a default.

I think you're referring to the fiat power of the federal minister, the Attorney General. It is important to underscore that the bill clearly, in the adjacent provision, preserves the ability of provincial prosecution services to bring cases investigated by the FCA. There is that clause 21, which creates an option, a possibility, in certain cases of the federal minister issuing the fiat. That would be based on various considerations that the minister could take into account, but there is jurisdiction on the part of the federal government to bring criminal prosecutions. I don't think this disrupts that existing reality.

[Translation]

Gabriel Ste-Marie: Thank you.

What do you think, Professor Manirabona?

Amissi Melchiade Manirabona: I also believe that, in this spirit, it's important to take a collaborative approach, rather than an approach that might frustrate everyone. As Mr. Matheson said, not every detail must be included in the bill. However, the bill can provide for a guide and guidelines that will outline the various ways to collaborate and to strengthen the agency's powers.

Gabriel Ste-Marie: I would sincerely like to thank you both.

[English]

The Chair: Thank you very much.

Now we'll move on to Mr. Lawton for five minutes.

Please go ahead, sir.

Andrew Lawton (Elgin—St. Thomas—London South, CPC): Thank you very much, Madam Chair.

This is a very important piece of legislation. I want to get back to it as soon as possible, but there is a matter that this committee needs to deal with.

Last week, the Supreme Court of British Columbia effectively ruled that there is a constitutional right to traffic drugs if you are doing it for what the court deems to be pure intentions. The court ruling effectively invented a constitutional right to so-called safe supply, which we know is not safe. Government-run safe supply programs have resulted in there being diversion, actually increasing the number of people using drugs. We have seen huge problems across the country, not just in British Columbia.

It's incredibly concerning when you have a judicial decision that is saying that government shouldn't even have the monopoly on safe supply, but that someone who feels that drugs should be distributed in their community should be able to buy them illegally and sell them illegally, and that should, shockingly, no longer be illegal.

This is a matter our committee must deal with as the justice committee, and it's a matter Parliament must deal with.

I would thus move:

That the committee: (a) acknowledge the harm caused by drug trafficking; (b) affirm there is no constitutional right to possess drugs for the purposes of trafficking; and, (c) call on the federal government to appeal the British Columbia Supreme Court decision in *R v. Kalicum*; and that this be reported to the House.

The Chair: Thank you very much, Mr. Lawton. The motion is in order.

I have a speaking list. Mr. Ste-Marie is first, and then we have Ms. Lattanzio.

[Translation]

Gabriel Ste-Marie: Thank you, Madam Chair.

I would like to move an amendment to this motion. I believe that copies can be distributed to the committee members and also given to our wonderful interpreters.

If our proposed amendment were adopted, we would support the motion.

Once the amendment has been distributed, I will read it and explain it.

• (0910)

[English]

The Chair: Would you mind, Mr. Ste-Marie? We don't have a copy of your amendment right now.

Okay. You're going to circulate it.

[Translation]

Gabriel Ste-Marie: That's what I'm saying. It will be distributed by the clerk.

[English]

The Chair: I'm just going to suspend for 30 seconds while it's being circulated.

• (0910)

(Pause)

• (0910)

The Chair: All right. Go ahead.

[Translation]

Gabriel Ste-Marie: Thank you, Madam Chair.

The amendment would change the motion as follows.

After "That the committee", subsection (a) would remain the same:

(a) Acknowledges the harm caused by drug trafficking;

We would delete subsection (b).

We would change subsection (c). The wording at the start would remain the same:

(c) Calls on the federal government to appeal the British Columbia Supreme Court decision in *R v. Kalicum*;

We would add the following: "or, failing that, to introduce legislation to maintain the prohibition on possession of drugs for the purpose of trafficking, in a manner consistent with the Canadian Charter of Rights and Freedoms". We would keep the last part of the motion, which states "and that this be reported to the House".

I'm moving this amendment. If it's adopted, I'll support the motion as amended by this amendment.

[English]

The Chair: Thank you very much, Monsieur Ste-Marie.

I'm told the amendment is in order.

Moving down our list, we have Ms. Lattanzio.

Patricia Lattanzio: Thank you, Madam Chair.

We understand the concerns being raised by my colleague, Mr. Lawton, as well as in the amendment put forward by my colleague, Mr. Ste-Marie. We recognize the seriousness of the issue.

However, right now, as mentioned many times here and also in the House, the PPSC has not made a decision as to whether or not to appeal this decision. It would be quite inappropriate, frankly, to discuss and engage in this kind of conversation, particularly at this committee, and to direct an independent prosecution service to take action.

I would remind my Conservative colleagues that in 2006, it was a Conservative government that put in place the PPSC specifically to protect prosecutorial decisions from political interference. We need to respect that independence, regardless of which party is in power and which party is in government.

With that, I move to adjourn the debate on this motion and amendment.

The Chair: The motion is not debatable.

Mr. Clerk, can you please call the question? The question is whether debate will be adjourned on this motion.

(Motion agreed to: yeas 6; nays 5)

The Chair: We will park this for now and go back to our witnesses.

Mr. Lawton, you've exhausted your time, I believe.

We'll move on to Ms. Begum.

Please go ahead for five minutes, and then we'll switch to our second hour.

Doly Begum (Scarborough Southwest, Lib.): Thank you very much, Chair.

Thank you to our witnesses who are here this morning. I really appreciate how I felt, in certain ways, complimented, particularly with the metaphor that Mr. Matheson provided about the sturdy bones that have the potential for adding or building the muscles. This allows us to move forward with the FCA and with Bill C-29.

I want to start with Mr. Matheson and carry on with what Ms. Lattanzio asked earlier in terms of some of the recommendations that you would give.

What amendments would you recommend to us that would allow us to improve the bill without duplicating some of the existing victims' rights legislation and delaying the FCA's establishment?

● (0915)

Andrew Matheson: Thank you for the question. It's speaking directly to what the professor raised in terms of victim rights and interests, and whether that should be woven into this legislation.

My response on that would be that, respectfully, in my view, it's a separate topic. It may be a deserving topic. It may involve a variety of different issues, especially in the financial crime realm, where victims have been financially victimized. There are both provincial and federal dimensions to the issue of asset recovery—how to get back misappropriated funds and assets. It's quite a complicated area, and this legislation is not dealing with that substantive body of law, nor is it a criminal procedure piece of legislation. While the interests that my friend the professor is raising are valid and important, I don't see them as fitting in this legislation.

I think the only area of potential amendment or critical thinking might—and I think the professor and I are aligned on this—be around the idea of embedding prosecutors. Whether that needs to be done in this bill or can be done operationally is another question. I think it probably can be done on the ground, so to speak, without

special provisions being set out, but it is also an option to try to address it in the bill itself.

Doly Begum: Thank you very much.

To follow up on something you also mentioned earlier, which is in terms of the scope of the bill rather than having a list—and I know Professor Manirabona mentioned a list—do you feel that may actually limit the scope? Isn't it better to have criteria that allow us to have the definitions of some of the serious crimes? You've highlighted the three categories. Would you care to comment on that?

Andrew Matheson: Sure.

There probably should be and probably will be some kind of criteria that eventually evolve that the FCA puts out so it can work in coordination with other agencies, saying, "These are the things we are prioritizing. These are the kinds of cases we plan to look at, and we'll figure out, case by case, who takes an individual case." I don't think that needs to be legislated. In fact, I think there's a risk in legislating that because it could handcuff the experts in the field.

This legislation, however, should have an appropriate, legislated definition of what the mandate is. I think it makes sense to have some flexibility in those definitions, because, as I said, a given criminal investigation may pop up a bunch of different offences. It would make no sense for this agency to look at money laundering, but to the extent that there's a mischief-to-data offence that also comes up, to say that, unfortunately, the FCA can't look at the computer-hacking aspect of the case because it's not under the statute. That would be a problem operationally, and I think the goal should be to not handcuff law enforcement through unduly restrictive definitions.

Doly Begum: To wrap up on that, do you believe that this is more of a complement to the current agencies that already exist, or do you think this is duplicating any of the others?

Andrew Matheson: It's a much-needed complement.

My view is that the vision is that the FCA would be doing work that is very much needed and is currently not being addressed or prioritized, and Canada is lagging behind. That still leaves a whole lot of other work in the financial crime realm. There is no scarcity of need here, so I do not regard it as duplication at all.

● (0920)

Doly Begum: Thank you very much.

Thank you, Chair.

The Chair: Thank you very much.

Thank you to the witnesses for appearing today. This concludes our first hour.

To the witnesses, if there are any additional pieces of information that you want the committee to be aware of in its deliberation on Bill C-29, please send them to the clerk in writing. Thank you.

With that, I'm going to suspend as we bring in our next set of witnesses. Thank you.

• (0920)

(Pause)

• (0925)

The Chair: I'm calling this meeting back to order.

Welcome back, everyone.

For the second hour of this meeting on clause-by-clause consideration of Bill C-29, we have with us, as individuals, Paul Bourassa, barrister and solicitor; and Barry Nordin, former justice of the Alberta Court of Justice. From the Desjardins Group, we have Marie-Andrée Alain, vice-president, compliance and privacy officer, who is appearing by video conference; and Bernard Brun, vice-president, government affairs. From the National Police Federation, we have Rob Farrer, president; and Sarah Nolan, director, government relations.

Welcome, everyone, and thank you for being here. You will have five minutes per organization for opening remarks.

We'll start off with Mr. Bourassa.

Please go ahead for five minutes.

Paul M. Bourassa (Barrister and Solicitor, As an Individual): Thank you very much, Madam Chair. I'm going to split the time with my colleague Barry Nordin.

Thank you for the invite to appear in front of the committee.

Very briefly, as to my background, I spent 16 years working for the federal government, five as a justice counsel in Ottawa and 11 in Calgary, Alberta, as a federal Crown prosecutor with the Public Prosecution Service of Canada. I was prosecuting drug offences, proceeds of crime and money laundering. During that time, I was embedded, as the advisory Crown, into the RCMP integrated proceeds of crime unit.

[Translation]

After retiring, I trained prosecutors and investigators in asset recovery for the United Nations Office on Drugs and Crime in Africa.

[English]

Since that time, I've taken a very keen interest in hopefully seeing Canada step up its efforts to go after the money. Regardless of the political party in power, I still take that interest and send off those letters and my advice.

I'm grateful to have the chance today.

[Translation]

Barry Nordin (Former Justice, Alberta Court of Justice, As an Individual): Thank you.

[English]

Madam Chair and committee members, I was the chief federal prosecutor with the Public Prosecution Service of Canada in several jurisdictions—the Northwest Territories, Nunavut, Atlantic Canada and, finally, Alberta—before my appointment to the Alberta Court of Justice, from which I have since retired.

I was asked to lead each of those four regional offices in four very different parts of the country, each dependent upon different police services, provincial partners and communities. I was obliged to respond to each of them.

I should indicate that both Mr. Bourassa and I appear in our personal capacities and in no way represent either the PPSC or, for that matter, the Alberta Court of Justice. They would be very upset if I suggested otherwise.

Thank you.

Paul M. Bourassa: Very briefly, we support the financial crimes agency. In some respects, the die is cast, and that's fine.

We remark that the financial crimes agency would not give any new powers. Our read is that the financial crimes agency would be taking over what the RCMP did or didn't do, and I'm not making a pejorative comment in any way, shape or form.

We have provided our brief. I've seen that it is available online through this committee's website. We have a number of recommendations in there.

There are three things we're hoping you take away from today. I think Ms. Gladu touched on one of them briefly, and so did Mr. Bragdon, in earlier remarks. It is protected funding for the people who do the work. To just put money into a pot means that emerging priorities that are dependent upon what is next on the horizon can be shuffled and shifted.

Recommendation number two is investigations with officers and prosecutors working together from the first day. This is not a new model. The integrated proceeds of crime unit did that, and they did it well, until that entity or forum was reshuffled back in 2012 or thereabouts.

Recommendation number three is, in my mind, the most important. The previous witnesses have addressed this. Committee members have also asked about it. It is coordination and leadership with provinces as partners as a duty—not by option. Money laundering does not know boundaries. It does not respect our Constitution of provincial rights over forfeiture, property and prosecutions. That is key, and that can be built into the regulations.

I want to add a quick nuance to something one of your previous witnesses said, which is to not handcuff the investigators. Absolutely not—that's trite. Of course we're not going to handcuff the prosecutors, but you can give the agency some guidance through regulations, which then are more nimble and adaptable. I think we can all agree, regardless of whether you're with a particular political party or you have a particular bent, that nobody wants the bad guys to have the money. We want to get the dirty money back, and we want to see some convictions.

● (0930)

Barry Nordin: We're going to speak briefly in summary of Mr. Bourassa's three points.

The first of those was protecting funding for the people who do the work. Canada recovers approximately \$89 million a year from an estimated \$45 billion or more of money that's laundered here. Not that it matters, but it's about one-fifth of 1%. Closing that gap will take investigators and the specialists whom those investigators will rely upon. At first, the agency will draw on the RCMP for them under clause 15, so the terms of that arrangement should be set by regulation, ensuring the agency's reasoned requests for services and assistance are met.

Every file the agency builds must then be prosecuted. The Public Prosecution Service of Canada's own departmental plan that was tabled in March anticipated no growth in its staff through 2028-29, although the director of public prosecutions did identify money laundering as an emerging priority. Unless prosecution funding is dedicated to the agency's files and is protected, the new agency will not change results. I put a little asterisk there that I can come back to at some point, if questioned.

We have seen this before. The integrated proceeds of crime initiative that Mr. Bourassa spoke of was funded at its 1996-97 level, unadjusted for inflation. After its units were disbanded in 2012, federal forfeitures fell by more than half in 2017-18. We therefore ask the committee to endorse a distinct indexed and protected appropriation for the agency and for the council at the Public Prosecution Service of Canada, which serves its files, and require that the clause 27 report and clause 28 review measure what it buys.

Paul M. Bourassa: Mr. Nordin touched on the protected funding for the people. I don't want to belabour the point.

Our second take-away that we hope you keep at the fore of your mind is, again, investigations with officers and prosecutors working together from the first day. These types of files are built, and you need the proper people with the proper expertise at the front end, with them all embedded together. Again, this is not a new or novel concept. It's been done before. The best way to put it is that it died a slow death.

The Chair: Thank you, gentlemen. I appreciate that.

I'm sure there will be more discussion as the committee members ask questions.

We're moving now to Desjardins Group.

Mr. Brun, I believe you'll be the one making the remarks today. You have five minutes, sir. Go ahead.

● (0935)

[Translation]

Bernard Brun (Vice-President, Government Affairs, Desjardins Group): Thank you, Madam Chair.

In fact, I am not here alone; I am accompanied by my colleague, but, like the previous witnesses, we will be sharing our speaking time.

Madam Chair, ladies and gentlemen of the committee, we thank you for giving us the opportunity to contribute to your consideration of Bill C-29.

My name is Bernard Brun and I am head of government affairs at Desjardins Group. I am here with my colleague Marie-Andrée Alain, who is vice-president and chief compliance and privacy officer. Her responsibilities also include combatting fraud and financial crime, a subject of great relevance to this inquiry.

With assets of \$543 billion and over 10 million members and customers, Desjardins operates across all major financial sectors in Canada. Our co-operative structure, as well as our status as a systemically important financial institution regulated primarily by provincial authorities, gives us a unique perspective on the bill.

Desjardins supports Bill C-29 and the creation of a federal body specializing in major and cross-border financial crimes. The Canadian system is highly fragmented and has a real shortcoming: While mechanisms for reporting, intelligence gathering, compliance and investigation are already in place, there are significant difficulties in rapidly transforming the available information into specialized investigations, tracing, freezing, seizing and, ultimately, recovering the proceeds of crime.

Our support for Bill C-29 is, however, subject to one essential condition: The new agency must fill a gap, not add another layer to an already complex system.

On that note, I give the floor to my colleague Marie-Andrée Alain.

Marie-Andrée Alain (Vice-President, Compliance and Privacy Officer, Desjardins Group): Thank you very much, Mr. Brun.

Good morning, everyone.

Indeed, the issue of recovery is one of the key concerns for us, as our members and customers who are victims of fraud want to know whether their money can be recovered. For many of them, the consequences of fraud are significant, as it can affect personal savings, an emergency fund, a deposit, retirement income or even the working capital of a small business. However, under the current system, the mechanisms for restitution, seizure and confiscation are fragmented and, unfortunately, often too slow.

An agency capable of quickly tracing funds, coordinating freezes, seizing assets and collaborating with numerous foreign partners would greatly increase the chances of recovery for our members and clients. It would also enable a shift from a system primarily focused on complaints and investigations to one that is more effective for victims of financial crime. The system should aim to recover lost funds and effectively limit the harm suffered. It is therefore essential that the new agency focus on building a team capable of investigating economic crimes, which are often highly complex, and of successfully carrying out investigations that can be lengthy and costly.

We recommend that the new agency take the lead on high-profile, high-impact financial crime cases, whilst avoiding becoming a structure that overlaps with the Royal Canadian Mounted Police, or RCMP, as such overlap could create confusion and duplication of responsibilities. This would prevent time being wasted between agencies, reduce grey areas and ensure there is a single federal point of contact with clear responsibility for complex financial investigations and recovery. The agency must not duplicate the activities of other existing bodies, such as the Financial Transactions and Reports Analysis Centre of Canada, or FINTRAC; provincial and municipal police forces; the RCMP; the Canadian Security Intelligence Service, or CSIS; the Office of the Superintendent of Financial Institutions, or OSFI; and the Autorité des marchés financiers, or AMF, among others. The creation in 2011 of the Permanent Anti-Corruption Unit, or UPAC, is one of Quebec's success stories in terms of separating specialized investigations between police forces and a government agency.

The agency must also establish a strong partnership with financial institutions. The Desjardins Group is already subject to numerous regulatory compliance obligations. These include requirements relating to the fight against money laundering and the financing of terrorist activities, which notably involve submitting reports to FINTRAC and complying with international economic sanctions. It is strongly recommended to aim for simplicity and to avoid simply creating a new body that will request the same data, the same reports or the same justifications through a parallel channel. Such a parallel channel would increase the administrative burden without necessarily improving the system's outcomes. The Cullen commission's report also clearly stated that the problem is not really a lack of information, but rather a limited capacity to transform the information already available into useful intelligence and concrete investigations.

The agency must therefore use what already exists to support its priorities—

● (0940)

[English]

La présidente: Thank you very much. I'm sure that the remainder will come out during the questions.

We'll now move on to the National Police Federation and Mr. Farrer or Ms. Nolan.

Please go ahead.

Rob Farrer (President, National Police Federation): Thank you.

Good morning, Chair and members of the committee. Thank you for the opportunity to appear today.

My name is Rob Farrer. I'm the newly elected president of the National Police Federation, representing nearly 20,000 members across the country and internationally, which will be key as we talk about this.

I've worked for nearly 26 years in the RCMP. I've worked in contract policing as well as federal policing across multiple divisions. Four of those years were as a financial crime investigator within the federal arm of the RCMP. As such, I have both personal knowledge of the complexity of these investigations as well as a more broad understanding of the structural discussions we're going to have.

To be clear, we support the government's objective of strengthening Canada's response to financial crime. Canadians need effective investigations, successful prosecutions and the recovery of criminal proceeds.

The NPF's concern with Bill C-29 is not with the objective. Our concern is with the implementation. As it's currently drafted, Bill C-29 raises important questions about staffing, workforce planning and the impact a new financial crime agency would have on existing RCMP capacity. These questions must be addressed before this new agency becomes operational.

The RCMP has decades of financial crime experience through specialized money laundering, market enforcement, serious and organized crime and other federal policing teams. These investigators already work closely with prosecutors, regulators, intelligence agencies, financial institutions and our Five Eyes partners. The RCMP can do this work. What these teams need is sustained staffing, modern tools and specialized support. Creating another agency does not by itself address those needs.

Our primary concern is workforce capacity. Experienced RCMP financial crime investigators cannot be replaced overnight. Assigning them to the FCA without qualified replacements will disrupt investigations, increase workloads and deepen retention pressures. Bill C-29 requires an arrangement for RCMP assistance to the FCA. Members remain RCMP employees but may exercise investigative powers delegated by the FCA commissioner.

That creates our second concern, which is divided command and accountability. Who directs a member when the RCMP and FCA instructions conflict? Which policies govern operational decisions? Who manages safety, performance, discipline and disclosure? What protects members' working conditions and return rights? These questions must be answered before members are assigned.

Our third concern is operational coordination. Financial crime files intersect with organized crime, national security and provincial and municipal investigations. Clear notification, information sharing and deconfliction rules are essential to protect investigations, sources and officer safety. Different personnel working on the same file also need clear training, authority, use of force and accountability standards.

As the government moves forward, we believe that there are several practical measures that can help mitigate our concerns.

First is that FCA funding must be additional and not diverted from the RCMP federal policing.

Second is that any assignment of RCMP members must include funded, qualified replacement capacity and a transition plan that protects ongoing investigations. The RCMP must retain the ability to recall members when necessary.

Third is that the mandatory RCMP-FCA arrangement must establish clear command, supervision, information access, safety and workplace protections and dispute resolution with meaningful NPF consultation.

Fourth is to require a national coordination and deconfliction framework, including lead agency rules for overlapping investigations.

Fifth is that reforms addressing barriers to financial investigations and asset recovery must also benefit RCMP investigators. A new agency will face existing legal barriers unless those barriers are specifically addressed.

To be clear, we support stronger financial crime enforcement. Success must be measured by additional investigative capacity and better outcomes and not simply the establishment of another organization.

Canada should build on existing expertise, protect the members doing this work and establish clear operational safeguards from the outset.

Thank you. I look forward to your questions.

• (0945)

The Chair: Thank you very much.

Now we'll go to our questions.

Mr. Khanna, you have six minutes. Please go ahead.

Arpan Khanna: Thank you to all witnesses for coming.

Rob, first of all, congratulations on your recent appointment. I want to thank the 20,000 members whom you represent who keep Canadians safe in the work that you do to protect each and every one of us. It does go a long way. It's very much appreciated.

When the Minister of Public Safety came here last week, he mentioned to us that your financial crime unit will not be replaced. This is just an addition to it. You will still be focusing on financial crimes within the RCMP. The mandate may change, but you'll still have your own operational wing. He also said that you'll be losing at least 150 officers right off the bat. He said that there might be new officers.

How fast can you produce these new officers for financial crime?

Rob Farrer: Slowly—very slowly, in fact. The reality is that, and I can speak from personal experience, to get to the point at which you're doing a broad financial investigation takes a decade. You start off as a patrol officer investigating frauds that are minor in nature, and you work your way up. You don't start off with a multinational, organized crime, proceeds of crime file. I don't think anybody would expect that.

I think it sometimes gets lost in the wash that in about 2012, the RCMP changed from specific commercial crime investigators and went to what's called federal serious and organized crime. You now have roughly 4,000 members in the RCMP in federal policing. A subset of that is in FSOC, and a subset of that is financial crime. Therefore, you're not taking a 150 out of 4,000. You're probably taking 150 out of 300. Is that not right? This is a huge number, and replacing that will be substantial.

Again, those aren't exact numbers, so nobody quote me, please. The rough idea is that in order to get someone to the point where they're doing a multinational investigation, including MLATs and international, across barriers, with FINTRAC.... That is a very challenging and complex skill set that takes a very long time to develop.

Arpan Khanna: Thank you for that.

You mentioned that the RCMP already works with all of our international partners and works with other police forces, but we've been told constantly that there's a gap, that something's not working. Can you identify where that problem is, from your perspective, with all the financial experience you have? What is the RCMP not doing that this new agency will be doing?

Rob Farrer: Among the challenges we have, and we have this not just in financial crime, are the changing priorities of the day. You have to have dedicated teams that aren't pulled in different directions regularly. That is one of the challenges, certainly.

There are legal challenges. For example, the information FINTRAC provides isn't necessarily evidence, but it sometimes leads to evidence, so there are legal barriers. I think that the gentleman to my left will probably have a better idea, specifically, of some of those.

However, there are a number of challenges. One of them is, certainly, priorities. Remember that financial crimes are very rarely in isolation. They dovetail into drug investigations. People who do financial crime are doing all sorts of crimes. Finances are finally what they want, but they dovetail into many areas. These are incredibly complex, and no one agency.... If they're sticking to just financial crime, they're going to be missing multiple aspects.

Arpan Khanna: The question then becomes this: Who takes the priority on those cases? Obviously, if there's financial crime involved, but there are drugs, terrorism and other criminal activities happening, the FCA is not given the scope to investigate those.

Are you telling me there will be more resources required from the RCMP to help support those activities?

Rob Farrer: The creation of FSOC was intended to deal with some of those issues. It was to deal with the fact that the investigations will dovetail into a drug file at the same time. Did it work out exactly the way it was intended? Probably not—I don't think that, very often, things turn out exactly as intended—but that is one of the complexities that you're going to run into.

I heard the previous witness speak of mischief to data. That's fair enough. There are going to be some that are similar crimes to financial. There are also going to be some that are substantially different—for example, drugs—that lead to it. Who will investigate that? That's one of the points we're trying to.... The coordination of that will be complex.

• (0950)

Arpan Khanna: I find that very bizarre. The government's main purpose for pushing this is the fragmentation part, yet they haven't fully figured that out. When we asked the minister, he said, "Well, we'll look into it", but I personally believe that the scope of the actual FCA should be very clearly defined because you are going to be forced to enter into an agreement. In this legislation, it says you must enter into an agreement with the commissioner, so you're not going to have a choice when it comes to this—that's the concern we have.

You're telling me you're already at capacity. You're already not funded enough. You've been promised these RCMP officers I'm not sure how many times, yet we've only seen 62 in the last few years and, from what I understand, there are more RCMP officers leaving than actually coming into the force. You're already pretty understaffed. Is that a fair assumption?

Rob Farrer: I think the goal of the federal 1,000, which has been announced, is to increase that capacity. We need a strong federal police force, clearly. We also need strong contract policing.

Yes, absolutely, we're under-resourced.

The Chair: Thank you very much, sir. That concludes your time.

We will move on to Mr. Chang for six minutes.

Please go ahead.

Wade Chang (Burnaby Central, Lib.): Thank you, Madam Chair.

Welcome to the committee this morning.

Mr. Bourassa, from your experience in prosecuting money laundering and proceeds of crime cases, what are the main challenges in bringing these cases to court?

Paul M. Bourassa: I'm going to address that and then I'm going to throw it to my colleague, because he has a different angle to put to it.

The main challenge is the complexity. I know that's a treadworn word, but we're talking about reams of disclosure. That's a major impact. There's not much that can be done about that. It is what it is. The information that is collected that the Crown and police have to vet to then disclose to defence counsel is really quite significant. Having the dedicated people, the dedicated investigators who can be there to do the work, and a prosecutor who's there for precharge along the way and advisory....

Barry Nordin: The only comment I would add is that in the preparation of any complex prosecution, the first challenge is the gathering of information, the preparation of disclosure.

As Mr. Bourassa alluded to, unless you have a dedicated prosecutor in place from the outset of the investigation, with an appropriate support team gathering and preparing and vetting disclosure, in light of Jordan looming large, you're going to be behind at the outset and you're going to be struggling to keep up with it. That's the first thing: You need that dedicated prosecution.

In addition to that, the other challenge in prosecutions is the constant changing of technologies that are available: the investigative technologies that become available and the technologies employed by the perpetrators. It's trying to understand that technology and conveying it to the triers of fact—judges and juries that won't understand—particularly in complex financial matters.

Wade Chang: Thank you.

One of the purposes of the FCA is recovering proceeds of crime. How does taking away the proceeds of crime affect organized crime beyond an individual conviction?

Paul M. Bourassa: How it affects organized crime is that when it's actually taken away, it's impactful. The amount of money that's generated from.... The number one generator is drugs. You take away the cash and the toys. You take away the tool to perpetuate whatever that predicate offence was. The reason people launder the money is that they're trying to distance it from the source of all that money they're making.

I know you didn't ask this, but I want to go back to the coordination and the leadership. The federal government has a real opportunity to be a leader and work with provinces because, as far as recovery goes, federally, because of our constitution, PPSC or the provincial prosecutors in a criminal prosecution are looking at forfeiture through a criminal lens. Provinces have a wonderful ability, because they control the property. Civil forfeiture is an incredibly good tool, but it's still not being used to its maximum.

Cullen talked about this in the Cullen commission. He talked about coordination. B.C., Alberta and Manitoba have fairly well-defined civil forfeiture. There are tools that are available, but this is where I think the federal government could really take leadership and bring provinces that don't have civil forfeiture together around one table and learn best practices.

Maybe there is a money-laundering charge. Let's say a million dollars has been found. Quite often, it's better that the provincial government go after that million dollars through a civil forfeiture regime and let the feds go just with the prosecution of the money-laundering charge. At the very least, if the prosecution fails for charter reasons or something else—Jordan—there's a much better chance that the provincial civil forfeiture regime will get that money.

• (0955)

Wade Chang: Mr. Nordin, you have spoken about the importance of continuity between the police and crime prosecutors. From your experience, what can happen when the coordination fails or breaks down?

Barry Nordin: Inevitably, when I was a chief federal prosecutor, the end result was that I would have a prosecutor at my door and the lead investigator on the phone, both complaining, and we'd resolve it.

What, more generically, happens is that things are missed, and distrust arises that doesn't necessarily affect the prosecution of the matter but does slow it down. Reports are more guarded, more careful. The collegial trust that is necessary in a good prosecution is missing and instead is replaced by process. Rather than relying upon the investigator, we rely upon their notes. We rely upon what can be substantiated, and we put that forward instead.

If a prosecutor and an investigator, or an investigative team, don't have good coordination, things will be missed, disclosure will be missed. It will slow the process down, and, again I'm sounding like a broken record, Jordan looms large.

The Chair: Thank you very much, sir.

We'll move to Monsieur Ste-Marie for six minutes.

Please go ahead.

[Translation]

Gabriel Ste-Marie: Thank you, Madam Chair.

I would like to extend my greetings to all the witnesses and thank them for attending.

My questions will be directed to Mr. Brun, but first I would like to check with Ms. Alain whether she has had time to finish her presentation.

Marie-Andrée Alain: Yes, thank you. I've had the opportunity to outline the main points. That's very kind of you. That covers it all.

Gabriel Ste-Marie: Very well, thank you.

Mr. Brun, why would we set up a new agency? Isn't Canada simply lacking in efficiency within its existing organizations?

Bernard Brun: Thank you for the question. It is an excellent question. Once again, we will answer it together.

Canada certainly has no shortage of stakeholders, and when I say Canada, I am referring to both the federal and provincial levels. In fact, the real challenge is the lack of coordination. I think all my colleagues who are giving evidence have mentioned this. There really is a glaring lack of coordination and information-sharing.

So, if we want a potential agency like this to be effective, we must bear one key point in mind: It must become a focal point for efforts, and information must be shared. In short, we really must first make it clear that the new agency specializes in serious and complex crimes. It must focus, as has been said, on tracing, recovery, and disrupting criminal groups. It must complement existing organizations and be closely aligned with the provinces. I haven't heard much mention of the provinces. It is true that there are provincial police forces, but when it comes to financial institutions, there are regulatory bodies as well. It is this whole coordination effort that needs to be undertaken.

I shall ask my colleague to supplement my answer with examples and figures. There really is a rather incredible burden on financial institutions. Sometimes, one literally gets the impression that all these disclosures and procedures ultimately amount to very little. So, there is an opportunity here to exert some influence and make the most of it.

Marie-Andrée Alain: I touched on this briefly earlier, but I would like to add to Mr. Brun's response by saying that we are among the 38,000 reporting entities in Canada subject to the anti-money laundering and counter-terrorist-financing regime. We already submit millions of reports to FINTRAC, which is the regulatory body in place. I therefore support my colleague's remarks. I believe the key is to use the information to achieve concrete results: to recover the money, bring charges and convict criminals.

• (1000)

Gabriel Ste-Marie: Thank you very much.

Indeed, Mr. Brun, how can we ensure that the agency does not duplicate the work of the RCMP, FINTRAC and the provincial authorities?

Bernard Brun: That is indeed where the crux of the matter lies. It probably highlights the most vulnerable aspect of the bill. All in all, the bill is relatively short; we're talking about 28 clauses, essentially. However, there isn't much information. A great deal is left to the regulations to define.

Other colleagues have pointed out that, as regards the workforce, people will have to be recruited by the agency. However, where will they be sourced from? Where will this lead? So, this coordination will be very important. We remain of the view that there is a certain blind spot in this regard, and we have questions about how this might be carried out.

We will certainly want to focus this on information-sharing efforts. On that note, I'll hand over to my colleague, who is also the chief privacy officer, so that she can explain to you precisely the challenges we face in these information exchanges, and what can be done.

Marie-Andrée Alain: Indeed, we fall under provincial jurisdiction on our side. We are a Quebec financial institution, which means that several regulatory frameworks apply to us, as I said at the outset. This is particularly significant when it comes to the protection of personal data, as Quebec now has a much more stringent law.

It is important to take these factors into account, because, as we have said, the exchange of information is the key, but it must be permissible under the regulations. It is therefore really important to consider the regulatory framework as a whole and all the stakeholders involved, as well as both federal and provincial regulations. There are agreement and consent schemes available, but it is important to ensure that we examine them at an early stage, to prevent a stakeholder such as the Desjardins Group from being unable to participate in these mechanisms due to the regulatory landscape in Quebec.

Gabriel Ste-Marie: Thank you very much.

Mr. Brun, in your view, what are the main challenges relating to law enforcement, investigations and prosecutions in the area of financial crime?

Bernard Brun: On that point, I shall hand over to my colleague, who works directly on the operational side, so that she can explain the main issues to you. I can add to her response if necessary.

Marie-Andrée Alain: Thank you for the question.

I mentioned this right at the start. It is really a matter of completing the investigations and achieving results, whether that means recovering funds or bringing charges and securing convictions. Indeed, this is what emerged from the report on Canada produced by the Financial Action Task Force.

As we said right from the start, there is a great deal of information available. We are active participants in the system, committed to sharing information. The challenge lies in how information flows, reaches the right place and is transformed into intelligence that enables us to take things further. I think that is truly the greatest challenge. The rest of the system has proven its worth and has been operating effectively for several years. It is, however, a significant burden. We are actively involved.

I truly believe it is a matter of taking action, drawing on all the information that the Canadian financial system is capable of obtaining.

Gabriel Ste-Marie: Thank you very much.

[English]

The Chair: Thank you very much.

We are now moving to our second round, starting with Mr. Lawton for five minutes.

Go ahead, sir.

Andrew Lawton: Thank you, Madam Chair.

Thank you to the witnesses for being here.

Mr. Farrer, thank you to you and your members in the RCMP for your service to Canada. It's very much appreciated.

When the Liberal government announced that it was going to be hiring 1,000 new RCMP personnel, was it ever communicated to you that 150 of those wouldn't actually be destined for the RCMP?

Rob Farrer: No.

Andrew Lawton: This was a revelation that I don't think we had ever heard from the government—which had been touting that number for quite some time—until the Minister of Public Safety testified before committee. You've already acknowledged that there is an existing resource shortage that you're facing.

What would be the effect of being told that you can't have those 150 that you were expecting to have in service over the coming years?

Rob Farrer: I think the time that it would take to move 150 existing resources would be much shorter than the time it would take to recruit and train 150 new people, so the net effect would be a prolonged period of time with fewer members.

● (1005)

Andrew Lawton: The deputy minister overseeing this, Mr. Stewart, testified earlier this week that there's nothing in the legislation preventing the new financial crimes agency from basically swooping in and taking jurisdiction away from another police service, be that local or even the RCMP.

I don't know if you heard his testimony, but is that something that concerns you?

Rob Farrer: Certainly, it concerns me. A lot of what we've heard is talk about the need for improved coordination. Part of what would have to be laid out—and it's one of our concerns—is the coordination and the exact parameters for the use of this.

Andrew Lawton: I don't want to put words in your mouth, but I think you'd say that you represent a lot of really talented, skilled and dedicated members. I think the room would agree with that as well.

Is there an implication in the creation of this agency that RCMP members are not qualified or are not able to learn the skills and training necessary to do the work that we're talking about here?

Rob Farrer: I don't see it that way. I think the intent, again, is a good one. I think the intent is good. I think that duplication of efforts is really tough to avoid when you stand up a new organization that is, by definition, duplicating work that is being done currently.

Andrew Lawton: Thank you.

I'll ask it a different way. Do you believe that with adequate resources, training and perhaps some legislative changes, the RCMP could handle the financial crime challenges facing Canada?

Rob Farrer: Yes, I do.

Andrew Lawton: Thank you.

I cede the rest of my time to Mr. Baber.

Roman Baber: Thank you very much.

Mr. Bourassa, one thing that jumps out at me is that it will be the Liberal finance minister who will be responsible for this new federal agency, not the public safety minister or the Attorney General but the finance minister. I frankly find it odd that François-Philippe Champagne will be setting the strategic direction for a new police force and that the commissioner of this police force will have the powers of a deputy minister of finance.

What do you think about that?

Paul M. Bourassa: My colleague, Mr. Nordin, and I address it as one of our recommendations for the act: that there should be built-in consultation with the Minister of Public Safety. I think that's important. Again, it goes to coordination.

Also, and I know this wasn't your question, but I'll be really quick. When I worked and was embedded with the RCMP, they were great people and great investigators. One advantage, though, that this agency will have is that it can set its own rates to pay the people in it with the expertise. That's huge.

As far as taking RCMP...there are a lot of retired members who would love to get back in the game.

Roman Baber: I have some concerns that, in a democracy, a minister of finance would be responsible for a police force.

Just to add on to that, the proposed bill allows the Attorney General a fiat—that's a Latin term for "Let it be done." It basically lets the Attorney General of Canada take over jurisdiction for any prosecution of a financial crime from any province, even without notice. Not only is there room for jurisdictional conflict, but are you not concerned that this gives the Attorney General too much power?

Paul M. Bourassa: I'm not concerned about too much power. I think there needs to be collaboration. Again, one of our recommendations is that there should be notice and room for discussion. It shouldn't just be a declaration or fiat of "Here we come. We're taking it over." I agree.

Roman Baber: I'm confounded by the fact that the new agency doesn't even need to share information with anyone but the RCMP. It does not need to share information with the provinces, and it can then take over the prosecution. I have some concerns with that.

The Chair: Thank you.

Paul M. Bourassa: Thank you, Madam Chair.

The Chair: I'm moving to Mr. Housefather for five minutes.

Please go ahead, sir.

Anthony Housefather (Mount Royal, Lib.): Thank you very much.

Mr. Farrer, congratulations. Thank you for the work that you and your members do.

I'm going to start with you guys, Mr. Bourassa. I'm going to come back to one of the issues you raised about the integrated teams. One of the questions I had originally was the question of not having prosecutorial powers for the new agency, similar to the U.K., where you would always have prosecutors. It seems to me to be logical that you would always have prosecutors embedded in the agency and have the teams working together in an integrated way from day one.

I noticed in your proposal that you talk about adding a power of regulation to allow the Governor in Council to, on the recommendation of the minister, create regulations that would allow the agency to establish integrated units, and that the participation on those teams of counsel of the PPSC, with the agreement of the director of public prosecutions, would occur.

Could you imagine a framework that would be different, where we initially, in the legislation, established that prosecutorial powers existed and where the prosecutors would be part of this new agency?

• (1010)

Paul M. Bourassa: I'm not sure I'm following. When I say "part of it," the prosecutors are still prosecutors. There's still a separation from the police. I was embedded. I wasn't co-opted. I was there to provide my advice precharge, and I still maintained that separation.

One thing my colleague and I discussed was that—I would hope—in addition to an embedded prosecutor, maybe there could be an actual justice-type counsel, who is there with the expertise to advise the commissioner. A lot of police services already have that. It's a different role from the prosecutor. That can be important.

Anthony Housefather: The U.K. model, as I understand it, is a more unitary state. There's not the multijurisdictional aspect. Do you not feel that the U.K. model is a model we should be looking towards?

Barry Nordin: I'll answer.

I think that the embedded prosecution structure is a good one, first and foremost. There's no doubt about that. However, I think it has limits. It particularly has limits when dealing with financial crimes because of the nature of the crimes themselves.

I think there could be a hybrid of the U.K. model and the embedded model, where the embedding is electronic and where the connecting and information sharing are done via electronic means. There's no particular reason why a Crown has to go into a bunker every day and join his investigative team. For that matter, there's no reason why investigative team members all have to meet together at the same time either.

Anthony Housefather: One of the things that I also raised in the last meeting, which I see you have in your brief, is the issue of the sharing of information between jurisdictions.

Can you talk to me about how you would see us try to integrate that into the bill?

Paul M. Bourassa: I know it does happen already. There is already a sharing of information amongst criminal law enforcement. Could it be formalized? I think that is what you're asking. Perhaps it could through a regulation saying, "and the commissioner shall establish protocols with the provinces and with law enforcement in the sharing of information respecting our Charter of Rights and Freedoms."

Again, it does happen, and I think codifying it is a good thing. It provides some direction.

Anthony Housefather: One of the things that you're also suggesting, with respect to the relationship with the RCMP, is setting some type of floor through a shared agreement with the RCMP.

Could you elaborate on that, please?

Paul M. Bourassa: That would be my concern too, and Mr. Farar has talked about it. Taking specialized people out of the RCMP can be problematic, absolutely. They have shifting priorities. Sometimes what happens is that the financial investigators are working on a project and then there's another priority that comes up, and they get moved on. It's the way the bill is worded. I don't have it in front of me, but essentially it amounts to the RCMP commissioner not being able to say no.

The language I and my friend would suggest is to build it into the bill that unless there is a good reason why those members can't come over to the financial crimes agency, they should be brought. At least then it's tracked. We can see it, and it's visible. We can see what's happening.

Anthony Housefather: Thank you.

You talked about—

The Chair: I'm sorry—

Anthony Housefather: Oh, I'm sorry.

The Chair: Your time is completely up.

Mr. Ste-Marie, you have one minute, please.

[Translation]

Gabriel Ste-Marie: Thank you, Madam Chair.

I had several questions I would have liked to ask you.

I would ask you to send us your assessment of the fiat in writing, particularly with regard to the national interest factor, which seems to be somewhat vague. If you have any thoughts on this, please do send them to us in writing.

I have one final question for Mr. Brun.

There was a great deal of discussion about information in the last exchange. So, I would like to ask you what the main difficulty is when it comes to information sharing, and how Bill C-29 would improve the situation.

• (1015)

Bernard Brun: I think we are getting to the heart of the matter, which is really the exchange of information. I believe Mr. Bourassa, who is testifying alongside me, has also highlighted this. Simply introducing a formal mechanism into the legislative framework could force the issue. Indeed, everyone is full of goodwill, but we know that implementation is going to be problematic. So, we need something that would both enable and enforce it.

There is a lot of talk about police forces, but there are also provincial regulatory bodies that carry out investigations. We are talking about major financial crimes, so these are highly specialized people. We need to give them the tools and a small incentive to work together.

Ms. Alain, would you like to add anything?

Marie-Andrée Alain: That's fine, thank you.

[English]

The Chair: I'm so sorry, but that really does conclude your time.

[Translation]

Gabriel Ste-Marie: Thank you very much.

[English]

The Chair: To all the witnesses, if there are written submissions that you would like to make, please email them to the clerk. I say to the members as well that if there are questions you would like to further ask the witnesses, please let us know and we'll coordinate.

Thank you, everybody, for being here today. We look forward to your expertise.

Thank you, members. The meeting is adjourned.

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