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## Chair

**Mr. Daryl Kramp**

# Standing Committee on Public Safety and National Security

**Thursday, March 12, 2015**

● (1830)

[*English*]

**The Chair (Mr. Daryl Kramp (Prince Edward—Hastings, CPC)):** Good evening, everyone.

Colleagues, welcome.

Welcome to our witnesses here today.

We are following up on our study of Bill C-51. This will be our second meeting today. This will be meeting number 55 of the Standing Committee on Public Safety and National Security.

With us for the first hour we have three witnesses. We have, from the National Airlines Council of Canada, Mr. Marc-André O'Rourke, executive director. We have as an individual, Craig Forcese, associate professor, Faculty of Law, University of Ottawa. We have Kent Roach, professor, Faculty of Law, University of Toronto, and we are welcoming him by way of video conference. We're actually not apologizing for keeping him on delay in that he's gloating when he's sitting at a course in Clearwater, Florida, at this particular time. Welcome, Professor Roach.

We will go now to opening rounds of statements for up to 10 minutes. The chair and the committee would certainly appreciate it if you can keep your comments as brief as possible. It will allow us more time for questioning.

We will start off with Mr. O'Rourke. You have the floor, sir.

**Mr. Marc-André O'Rourke (Executive Director, National Airlines Council of Canada):** Thank you very much, Mr. Chair.

*Bonsoir*. Thank you very much for the opportunity to appear before your committee this evening as you consider Bill C-51 and for the opportunity for us to provide our input on part 2 of the bill, the secure air travel act.

My name is Marc-André O'Rourke. I'm the executive director of the National Airlines Council of Canada. The NACC represents Canada's four major passenger airlines: Air Canada, Air Transat, Jazz, and WestJet. We advocate for safe, sustainable, secure air travel to ensure that all Canadians have the best and most cost-competitive flying experience both within Canada and abroad. Collectively, our members carry over 50 million passengers per year and directly employ more than 46,000 people.

The NACC's member airlines recognize that safe and secure air travel is a critical priority for all Canadians and is vital to our national security at large. The passenger protect program is a key initiative in this regard. It's our understanding that, with Bill C-51, the rules of Canada's passenger protect program will be housed in a stand-alone and dedicated statute, the secure air travel act.

The bill also expands the passenger protect program so that an individual may be included on the specified persons list if there are grounds to believe that the individual is travelling for the purpose of committing a terrorism offence. Currently, only an individual who is believed to pose a threat to aviation security can be put on the list. Under the passenger protect program, airlines screen travellers against the specified persons list. Should a passenger's name match a name on the list, the airline will verify the traveller's identity and inform Transport Canada of the potential match. Upon notification, Transport Canada directs whether the passenger should be denied or permitted boarding by the airline.

The NACC and our member airlines understand the need to update Canada's passenger protect program in light of the evolving nature of security threats, and we continue to support the program under the secure air travel act. However, we would like to take this opportunity to raise with you some concerns associated with the implementation of the act.

Airline agents are front and centre when delivering the news to a passenger that he or she will not be permitted to travel. In fact, it's the airline agent who delivers the Government of Canada's emergency direction to the individuals being denied permission to travel. As you can imagine, this can be difficult and delicate and has the potential to be a risky situation, considering that the individuals involved have been deemed too dangerous to fly. In expanding the passenger protect program's mandate, it's anticipated that the specified persons list will grow longer, thus increasing the frequency with which front-line airline agents may be faced with the prospect of delivering a no-fly decision.

We believe this is an appropriate time to revisit the process for issuing the emergency directions, to ensure the safety both of airline agents and of the surrounding public. We recommend that, where it's possible, the emergency direction be delivered by a policing organization or a government official. Our members would also like to see increased police support in these situations.

We also have concerns with the breadth of the language of proposed section 9 of the act, which provides as follows:

> The Minister may direct an air carrier to do anything that, in the Minister's opinion, is reasonable and necessary to prevent a listed person from engaging in any act set out in subsection 8(1) and may make directions respecting, in particular,
>
> (a) the denial of boarding; or
>
> (b) the screening of that person.

Our concern rests with the use of the word “anything”. While our members are committed partners, what may be reasonable and necessary from the minister's perspective may not always be feasible from an air carrier's perspective. As private companies, our members may be limited in the actions they can take.

Since the tragic events of 9/11, aviation security has become intrinsically linked to public safety. Funding for aviation security in Canada is based on a 100% user-pay model, where the air travellers are required to cover the full cost of not only passenger screening but also the cost of inflight RCMP officers and general Transport Canada administration, regulations, and oversight.

● (1835)

In an era when governments around the world are responding to new and emerging global security threats, we believe it's time to revisit Canada's approach to funding aviation security. We strongly believe that aviation security is a matter of national security and that air travellers should not have to solely shoulder the cost of measures meant to safeguard all Canadians. We'd also like to reinforce our expectation that air carriers should not bear any new costs as a result of the proposed changes to the passenger protect program.

In closing, I would like to reiterate the unconditional commitment of our member airlines to provide their passengers with the highest level of safety and security.

Thank you for your time. *Merci beaucoup*. I'd be happy to answer any questions you may have.

**The Chair:** Thank you very much, Mr. O'Rourke, and thank you for your brevity.

We will now go to Mr. Roach, professor at the Faculty of Law, University of Toronto.

You have the floor, sir.

**Professor Kent Roach (Professor, Faculty of Law, University of Toronto, As an Individual):** *Bonsoir*. I'd like to thank the committee for allowing me to appear.

In over 200 pages of legal analysis, Professor Forcese and I have examined the effects, including unintended ones, of Bill C-51 on both security and rights. Security and rights go hand in hand both in our democracy and in legal analysis of the proportionality of the proposed measures. We are doing our best to improve the bill in light of both rights concerns and security rationale offered by the government. A short summary of our proposed amendments will in due course be translated and be available to the committee.

Starting with part 1, like the Arar commission, we recognize the need for information sharing to help prevent terrorism. Part 1, however, goes far, far beyond that legitimate goal. It introduces the novel concept of activities that undermine the security of Canada. That concept is quite simply the broadest definition of national security we have ever seen. We do not understand why it cannot be replaced with section 2 of the CSIS Act as it defines threats to the security of Canada. If implemented, this concept risks drowning 17 designated recipient institutions in not just information about terrorism but information about illegal protests by diaspora groups that could undermine the security of perhaps repressive states and illegal protests by aboriginal and separatist groups who threaten Canada's territorial integrity.

Canada prides itself on being perhaps the only country in the world that democratically debates secession. We should not be a country that shares total and secret information about peaceful protestors. The government's defence of the limited exemption for lawful protest is contrary to the prior experience that led Parliament to delete that very same word “lawful” from the 2001 Anti-Terrorism Act. If, in the few months after the disaster and tragedy of 9/11, we could see our way to tolerate peaceful protest, I do not understand why we can't do the same today.

I would also say the over-breadth of part 1 not only threatens rights; it threatens security. If everything is a security matter, effectively, nothing is. Clause 6 of part 1, which authorizes the further sharing of information to any person for any purpose, should be deleted because it forgets the hard lessons we should have learned from the story of Maher Arar and other Canadians tortured in Syria in part because of Canadian information. We support the codification of the no-fly list but we are concerned that special advocates must be able to challenge the secret intelligence that lies behind the listing process.

We share the concerns of a group of special advocates that part 5 of Bill C-51 will reduce the disclosure of secret information to those security-cleared counsel and make it more difficult for them to do their important and indeed constitutionally required job of challenging secret evidence. We note that there is no judicial review of part 1 and we note, as the Privacy Commissioner has noted, that 14 out of the 17 recipient agencies have no review, and the other three have outdated stovepipe review. We recommend the enactment of a super-SIRC or at least the Arar commission's recommendation.

Independent review should not be seen as the enemy of security and it should not be seen as the enemy of those in our security agencies who do the important and difficult work that they do. We should all understand that we will do better work if we are reviewed and, if warranted and necessary, criticized by others. The review bodies also help security agencies because they protect them against unwarranted criticism.

● (1840)

Next, in our view, the new advocacy of terrorism offence is not necessary. Existing offences, including section 83.22 on instruction are, in our view, sufficient. If Parliament proceeds with this offence, there should at least be defences for legitimate expression and higher fault requirements. Again, though, our concern with this offence is not narrowly on rights, it is also on security. We worry that this offence will not only chill expression but make it more difficult to work with extremists who may be radicalized into violent extremism.

We note that the U.K. legislation passed just a few weeks ago provides a statutory basis for anti-radicalization programs, which are very important given the current threat environment, but Bill C-51 does not.

Finally, I want to end on another security issue. Part 1 allows for information sharing about illegal protests, which are irritating to some, but in our view not a pressing security concern. At the same time, it ignores the Air India commission's recommendation 10 that there must be mandatory information sharing by CSIS about terrorism offences. Lest you think the Air India commission was idiosyncratic, Senator Segal's committee made the very same recommendation in the Senate in 2011.

We support Parliament's decision in 2013 to add four new terrorism foreign-fighter offences. Indeed, they place Canada in front of the curve on this new security threat. Now, Bill C-51, combined with Bill C-44, would likely make it more, not less, difficult to apply these offences. Why?

CSIS will unilaterally be able to extend privileges to its human sources, contrary to the Air India commission's recommendation, and CSIS will still unilaterally be able to withhold information about terrorism offences from the police, again contrary to the Air India recommendations.

These concerns and others suggest, in our view, that the omnibus legislation, which adds two new acts and amends 15 others, should be subject to a three-year review by a parliamentary committee. Those parliamentarians should have access to secret information, because having worked on both the Arar commission and the Air India commission, I can tell you that without access to secret information you are flying blind. There should be a four-year sunset of this entire legislation to allow for, hopefully, an informed and meaningful discussion of its necessity and proportionality in light of evolving security threats and rights concerns.

Thank you very much for your attention.

● (1845)

**The Chair:** Thank you very much, Professor Roach.

Now, Professor Forcese, you have the floor, sir.

**Professor Craig Forcese (Associate Professor, Faculty of Law, University of Ottawa, As an Individual):** Thanks very much, and thanks for inviting me here this evening.

I come before you as someone who has regularly appeared before this committee over the last seven or eight years, generally supporting the government's security laws. Most recently, you'll recall, I appeared here in the fall in support of Bill C-44. Each time, however, I have proposed amendments designed to minimize negative repercussions, including repercussions producing unnecessary litigation. The details matter, and it is, of course, the details we are here to discuss.

I'll start with a few words on preventive detention by police, from section 83.3 of the Criminal Code, as modified now by Bill C-51. In the past, I have spent considerable time looking at equivalent laws in other countries. Kent Roach and I draw on these laws and, most notably, those of Australia to recommend a series of specific safeguards on the preventive detention power. Kent mentioned that we have a brief list of our recommended changes, which I have here in front of me. I wish, however, to focus most of my comments on the CSIS Act amendments.

The government says that CSIS needs the new powers so that, for example, CSIS can warn families that a child is radicalizing. No one, in good faith, can object to this, but the bill reaches much further. Indeed, the only outer limit is no bodily harm, no obstruction of justice, and no violation of sexual integrity, along with a more open-ended and subjective admonishment that the service act reasonably and proportionally. There is, in other words, a mismatch between the government's justifications and the actual text of the law.

We underscore both the security and legal consequences of such a proposal. On the security side, we run a considerable risk that new CSIS operations may end up overlapping, affecting, and perhaps even tainting a subsequent RCMP criminal investigation into terrorist activity. A criminal trial may be mired in doubts about whether the CSIS operation contributed to or was otherwise associated with the crime at issue. Will our most successful anti-terror tool—criminal law—in which crown prosecutors have had a stellar record in achieving convictions, be degraded by CSIS operations that muddy waters?

Any veteran of the Air India matter must be preoccupied by this possibility, but even if the government thinks that CSIS-RCMP operational conflicts are worth the risk, we can meet its stated security objective without opening the door so wide to possible mistakes by a covert agency. For instance, amend the bill to remove any reference to the charter being contravened by CSIS. The current proposal is a breathtaking rupture with fundamental precepts of our democratic system. For the first time, judges are being asked to bless in advance a violation of our charter rights in a secret hearing not subject to appeal and with only the government side represented.

There is no analogy to search warrants. Those are designed to ensure compliance with the charter. What the government proposes is a constitutional breach warrant. It is a radical idea, one that may reflect careless drafting more than considered intent. It deserves sober second thought by Parliament.

Moreover, with a simple line or two, this committee could add new and reasonable limits on CSIS powers, including, for instance, an emphatic bar on detention. We cannot risk a parallel system of detention by a covert agency able to act against people who have committed no crime. At present, whatever the government's claims to the contrary, there is no prohibition in the bill on such a system.

In the final analysis, we are dependent on good judgment by the service. I do not doubt CSIS' integrity. I do doubt its infallibility. Good law assists in exercising good judgment, as does robust review. That brings me to SIRC.

We need to reinvest in our national security accountability system. SIRC's constraints and design mean that it is incapable of reviewing all of CSIS' activities or even CSIS' conduct under all its existing warrants. A partial approach to review will be spread even thinner as CSIS' powers expand.

More than this, SIRC and other review bodies are unnecessarily hamstrung by legal limitations that stovepipe their functions to specific agencies and prevent them from following the trail when government agencies collaborate, an increasingly common practice that Bill C-51 will unquestionably increase.

● (1850)

As Professor Roach mentioned, the Arar commission recommended that statutory gateways be created, allowing SIRC to share secret information and conduct joint investigations with Canada's two other existing, independent national security review bodies. The government has not acted on this report. A few paragraphs of legislative language would go a long way to curing this problem. I underscore and double-underline these are concerns that SIRC itself has voiced. That message about limited power should not be lost.

As a supplement, not a replacement, we also support a special security committee of parliamentarians. It can perform a valuable, pinnacle review—a review, not command and control oversight—by examining the entire security and intelligence landscape. Someone needs to see the forest, not just the individual trees. Our allies have made parliamentary review work with expert SIRC-like review. We look in particular to the Australian example. The existence of such a committee would also contribute to a meaningful and informed parliamentary review of the effects of this far-reaching legislation after, as Professor Roach has suggested, a few years of its operation.

Let me end with a final point. In its present guise, Bill C-51 violates a principle that we believe should be embedded in national security law. Any law that grants powers, especially secret, difficult-to-review power, should be designed to limit poor judgment, not be a law whose reasonable application depends on excellent judgment. Whatever the truth as to whether these powers are constitutional or necessary, their introduction is, in our view, irresponsible without a redoubled investment in our outmatched and outdated accountability system. Anyone who has worked on accountability in the security sector knows that there was a core maxim in this area: trust but verify. We do not believe this standard will be met.

It is within your competence to pass a law that protects our security and liberty and does so without the sort of incoherence that risks actually undermining our security. Such amendments to Bill C-51 require good will and a willingness to consider suggestions made in the earnest hope of a good law that protects our country and our rights.

We thank you for your interest and for your important work.

**The Chair:** Thanks to all of our witnesses, and thank you all for staying well within the limitation of time. It has certainly afforded extra time to the committee to be able to have some good dialogue.

We will start off with the first round of questioning.

For seven minutes, Mr. Falk, please.

**Mr. Ted Falk (Provencher, CPC):** Thank you, Mr. Chairman.

Thank you to our witnesses, Mr. Forcese and Mr. O'Rourke. Also, Mr. Roach, for interrupting your holiday there, thank you.

Mr. Forcese, I'd like to ask you a question initially.

Professor, I thank you for the good work that you and Mr. Roach have done on analyzing this anti-terrorism act, 2015. I know you've spent a considerable amount of time on it. You highlighted something that is very important to our Conservative government, namely the facts and the details, and you identified early on that it's in the details that it's very important that we get things right. Certainly, that is something our government wants to do as well.

I'd like to quote from one of your background documents where you say the scope of the definition of “activities that undermine the security of Canada” is too broad and the language used is too vague, which could lead to excessive sharing.

I'm not a lawyer, but I'm coming to realize, having spent a little bit of time in this place already, that analyzing legislation that comes before me is very important. One of the most important lessons I've learned is to try to understand it by reading exactly what it says.

As I read the legislation, it occurs to me that the definition should not be read in isolation from the test for disclosure under clause 5 of the security of Canada information sharing act, which further restricts what information can be shared by requiring that information only be shared if it is relevant to the national security jurisdiction or responsibilities of the recipients. I believe that the definition was intended to be brought in order to cover any information that's relevant to the security of Canada, to be useful to non-national security institutions that need to share that information with national security institutions. I also believe that it's important to remember that even if this activity fits under the examples provided under the definition it still needs to meet the threshold and the chapeau. As an example, it needs to undermine the sovereignty, security, or territorial integrity of Canada, or the life or the security of its people; in other words, the activity must affect Canada on a national scale. It's also important to note that the definition does not include activities that fall within the purview of general law enforcement unless they qualify as activities that undermine the security of Canada.

Have you considered this angle at all in any of your analysis? Would you be able to provide some commentary on that?

● (1855)

**Prof. Craig Forcese:** Sure, on the issue of what I've been calling the double-trigger, the chapeau, and then the specific elements that are enumerated.

I agree that's the preferable interpretation. I'm not sure it's crystal clear in the drafting of the statute. I'm pleased, if it were the view of this committee, that in fact you need not just to be listed in that long list of elements, but also meet the standards that you've articulated in the chapeau, as you put it.

The chapeau is incredibly broad in its own right and invokes terms for which there is no clear and established definition, unlike the section 2 concept from the CSIS Act, which is a well-established and principled concept of national security. It seems to me and Professor Roach that it would accommodate all of the government's preoccupations with information sharing without going beyond it.

We prefer the established standard because it has a 30-year legacy and it's clear-cut in our view, although it is still very broad.

On the issue of the interaction between the section 2 definition and section 5, I have some concerns about the use of the word "jurisdiction" for instance in section 5.

If we take the question as to information that might be supplied by a government agency to CSIS, how would one define CSIS' jurisdiction? There are two possibilities. The first possibility is to define CSIS' jurisdiction with an eye to its section 2 mandate of threats to the security of Canada, or you could look at the section 12 functions of CSIS and say that CSIS can only collect information pertaining to the threats to the security of Canada in circumstances where it is necessary to do so.

That decision as to which of those aspects mark CSIS' jurisdiction will then determine whether CSIS is capable of receiving under this law more information than it's legally entitled to collect.

I think that's an important issue. It's not clarified in this law. The issue for us is that jurisdiction is a mutable concept. Since there's not the prospect of any serious independent review—and the Privacy Commissioner of course voiced his concerns about this—to ensure that the internal deliberations of the government as to what constitutes jurisdiction is a sound one, our fear is that these decisions will be made without enough checks and balances, and accountability.

Does that respond to your question?

**Mr. Ted Falk:** It does and I would be interested in hearing Dr. Roach's opinion if he had anything to add to that.

**Prof. Kent Roach:** Mr. Chair, I agree with that. I would just note that the established definition of threats to the security of Canada are used in some of the consequential amendments. It seems to me that should be adequate enough to have fairly robust sharing of information.

I also worry a bit about section 5 with the reference to detection, identification, analysis, prevention, investigation, or disruption. I agree that there is a reading of section 5 that says that everyone who receives the information is limited to their existing jurisdiction in law, but this reference to detection, identification, analysis, prevention, investigation, or disruption could be used by 1 of the 17 who are sitting in institutions, perhaps misinterpreted, to extend its jurisdiction.

Given the fact that 14 out of the 17 are not subject to any independent review, and given that their interpretation of section 5 will be sheltered from public review by solicitor-client privilege, I come back to Professor Forcese's point that we need to devise legislation that withstands erroneous judgment.

If there are legitimate concerns—it could go one way, it could go another way—I would think the committee should try to make this legislation tighter. We think it can be made tighter by going back to section 2 of the CSIS Act, and by going through section 5 and being even more precise that a recipient institution is only limited to its existing jurisdiction in what it does with the information that it receives.

I would note with section 6 that I have heard no justification from the government about section 6 and the potential that section 6 can authorize foreign information sharing. The only restriction in section 6 is that the disclosure be in accordance with law.

Section 8 of the Privacy Act contains very large exemptions or justifications for disclosure. I come back to the Arar case, I come back to that issue, and section 6 as well as section 5 have some troubling issues.

● (1900)

**The Chair:** Thank you very much, Professor Roach.

We are a little out of time there, but we will now go to Mr. Scott for seven minutes please.

**Mr. Craig Scott (Toronto—Danforth, NDP):** Thank you so much.

Welcome to all three of you.

I would like to start by saying that we all, in this committee and the country as a whole, owe Professors Forcese and Roach a debt of service for the kind of work they've done over the last month or so. I think it's recognized on all sides of the table, the quality of the work and the sincerity with which you did it. I myself come from a law background, and national security law was part of it. The quality of the work has been enormously helpful in shaping the debate. Thank you, all.

I want a yes or no kind of answer, maybe with a little elaboration. The short title of the bill is "anti-terrorism act", but is it clear to you that in fact the bill goes much further than just dealing with terrorism, especially the information sharing and the disruption sections? So much of it has nothing at all to do with terrorism. In fact, what's happening is a deepening and expanding of what one might broadly call the spy state. Is that an accurate way to put it?

**Prof. Craig Forcese:** I would call it a national security act. In my view, in terms of the ground it covers, it certainly does give primacy to the covert over amplifying, say, the criminal side. I know it has some important criminal provisions, in terms of peace bonds and preventive detention, but to the extent that its renovation of CSIS in terms of its traditional functions is quite dramatic, it does seem to give primacy to that side of the national security agenda.

In terms of whether it covers terrorism, we've already spoken a little bit about the concept of undermining the security of Canada, which is a much broader, vast concept that encompasses more than terrorism and in fact uses a concept of terrorism that's actually different from the concept of terrorist activity found in the Criminal Code, which is quite perplexing.

The new CSIS measures are also tied to the entire mandate of CSIS, that is, the threat to the security of Canada. There are four paragraphs in terms of threats—

**Mr. Craig Scott:** By "new measures" you mean the disruption measures.

**Prof. Craig Forcese:** Yes, I mean the new disruption measures. There are four paragraphs about the threats to the security of Canada, only one of which is terrorism. The others are foreign influence activities, espionage and sabotage, and subversion. The new measures apply across the board.

**Mr. Craig Scott:** It has been mentioned twice, by both of you, that section 6 of the new information sharing act basically allows for any one of the 17 recipients to then share, pass on that information to any person for any purpose. The act starts out by suggesting, in section 4, that "respect for caveats" and "originator control" of information are principles in the act. The moment I read that, I asked myself if there was an operative part, and I could not find any operative part of the act that gives any legal force to those principles.

To me, it's section 6 that governs, which is that basically information could be shared, including with foreign agencies, including in circumstances that we know produced the Elmaati, Almalki, Nureddin, and Arar situations. It almost feels like a bait and switch going on, in that the principles have stayed, but they actually have no operative force. Is that correct?

● (1905)

**Prof. Craig Forcese:** Kent, do you want to—

**Prof. Kent Roach:** If I could answer that, Mr. Scott, yes, I agree. I read section 4 as paying lip service to the Arar commission's recommendations, which included the very important respect for caveats. I read section 6 as almost an anti-caveat section, which actually empowers disclosure of information, potentially contrary to caveats. As the Arar commission pointed out, this can obviously have corrosive effects if it's shared with a partner who doesn't respect human rights.

It can also have security concerns if our allies say, "Well, we are imposing a caveat on this", but once it goes to one of these 17 institutions, they are going to be empowered by law under section 6 to disclose it to some other person for some other purpose. That's anti-caveat language. Caveats are all about "You use this information, only you, only for this purpose". Section 6 is anti-caveat language.

**Mr. Craig Scott:** Thank you.

Returning to "disruption", or "measures", as it's actually termed in the new CSIS act—although it's referred to as "disruption" in that one clause of the information sharing act—the absolute prohibitions, as you've already indicated, include that you cannot engage in measures, or ask a judge to let you, if it's going to intentionally or by criminal negligence cause death or bodily harm.

Is there anything in that language that would prevent detention, especially overseas, or what we might more loosely call kidnapping or possibly rendition, in the sense of taking somebody and passing them on to somebody else? Is there anything in the way that this is worded that would prevent that kind of activity overseas?

**Prof. Craig Forcese:** "Bodily harm" is to be defined consistently with how the term is used in the Criminal Code.

I spent some time looking at how the courts have interpreted "bodily harm" in the Criminal Code. It certainly reaches not just physical injury, but also psychological injury. However, there is no jurisprudence that I could find—perhaps not surprisingly, given that it was a domestic context—in which "bodily harm" was interpreted to reach a detention or the rendition circumstances that you were describing.

As best as I can tell, no, there is no basis to conclude that bodily harm would necessarily encompass a prohibition on detention, hence our recommendation that detention be emphatically listed.

I would also add that there are forms of cruel, inhuman, and degrading, or CID, treatment that would potentially fall short of bodily harm. Cruel, inhuman, and degrading treatment is understood in international law. However, most of those forms of what's called CID treatment arise in a detention context. Our view is that a prohibition of detention would also then mitigate the risk of any prospect of cruel, inhuman, or degrading treatment and would demarcate, again, a more robust outer limit.

**The Chair:** Thank you very much, Mr. Scott.

We will now go to Ms. James for seven minutes.

**Ms. Roxanne James (Scarborough Centre, CPC):** Thank you, Mr. Chair.

Thank you to our witnesses.

I have a number of questions, but I'm going to start with Mr. O'Rourke, if I could.

I'm looking over the remarks that you submitted and your comments. You obviously recognize the importance of stopping someone from boarding a plane if they're an imminent threat to the aircraft, and I think that you recognize the importance as well of preventing someone from boarding an aircraft who may be flying overseas to engage in terrorist-related activities.

You did mention specifically that you were concerned with one part of the bill, which I have in front of me. I think it was with regards to, "The Minister may direct an air carrier to do anything that, in the Minister's opinion, is reasonable and necessary".

I think you had said, and you can correct me if I'm wrong, that you were concerned because what may be reasonable to the minister in his opinion may not necessarily be feasible for someone who is sitting there at the desk to prevent someone from boarding a plane. Is that what you were referring to?

● (1910)

**Mr. Marc-André O'Rourke:** Yes, and not just to the person at the desk. Again, this is just something that perhaps needs a bit of attention. Again, we're partners in this, we want to do what we can. We support the program. We just bring attention to what appears to be, at least at first blush, a broad scope of the minister's power to direct the air carrier to do “anything”. As much as we want to help, whatever the minister has in mind may not always be feasible. It's not because we don't want to help, it's because perhaps it's not feasible or possible for us to help.

That section does go on to provide examples of directions, and it's my understanding that most of the time, if not all the time, those examples are sufficient to deal with the situation. We just want to make sure that whatever the minister may have in mind is something that we can do.

**Ms. Roxanne James:** So your main concern is the inclusion of the specific text related to “in the Minister's opinion”?

**Mr. Marc-André O'Rourke:** Not necessarily, no. It's the broadness of “anything”. Again, as much as we want to do what we can, we want to make sure that we can.

**Ms. Roxanne James:** Okay, thank you very much.

I just wanted to go back to a couple of things that I heard from the witnesses. One is with regard to a concern raised about the information sharing act, and some of the agencies that are listed as being able to share information are not currently under some sort of a review of the process for sharing that information. I just want to bring to your attention that the Privacy Commissioner can actually choose to review any concerns related to privacy issues, so they have that ability to be able to investigate and report back on those particular agencies that might be of concern.

I think I'm correct in saying that the Auditor General can also do a robust review of any agency and provide feedback as well on that.

I just wanted to state that.

**Prof. Craig Forcese:** Can I just respond to that?

**Ms. Roxanne James:** Sure.

● (1915)

**Prof. Craig Forcese:** Just to be clear, the Privacy Commissioner issued a report in 2014 that indicated that in the national security area, their function was largely ineffectual because of their inability to access secret information. In other words, they do not themselves believe they are an effective review mechanism for national security information.

I think we also see that amplified in the Privacy Commissioner's concerns about Bill C-51 issued just a few days ago.

**Ms. Roxanne James:** With regard to the information sharing act, however, this is not information that has been obtained through secret methods. It's information that has been obtained through an agency through the regular course of their activities—for example, an activity that might raise the red flag for an individual. We're encouraging them, enabling them, to share that information. It's not mandated. Nowhere in this legislation does it say you have to supply that information or all of that information. It's certainly not that the agency that is going to pass that information on to national securities is trying to dig any deeper or obtain information that they already don't have on hand.

As well, there has been a bit of misconception that somehow there will be this widespread database of people's information collected. That is not the case. That is clearly not in this bill.

To go back a bit, I know that my colleague Mr. Falk talked a little bit about information sharing, kind of explaining a little bit about the section where there has been some concern—that for greater certainty, this does not include lawful advocacy, protest, or dissent. I just want to speak for a few moments on that. I know that's been a concern that I've heard here today from our witnesses. I heard it this morning as well, and I had the opportunity to provide some clarification on that. I think it was very helpful, but I just want to go back and be a little more specific on this.

With regard to the term “greater certainty”, it is intended to reflect the fact that these activities are not otherwise captured in the definition. It's being very clear that these activities are not captured in the definition. That goes back to the definition as outlined in the CSIS Act.

I'll just go back to my page on this—

**Prof. Craig Forcese:** Are we talking about the information sharing act or the CSIS Act?

**Ms. Roxanne James:** It's the information sharing act, not the CSIS Act.

My colleague Mr. Falk touched on it as well, that it goes back to the definition of what constitutes the enabling or encouragement of sharing information. It has to do with activities that undermine the security of Canada. It means any activity, including any of the following activities: undermining sovereignty, security, territorial integrity of Canada, or the lives or the security of the people of Canada.

I think you said that if that was the interpretation, you were more comfortable with it, but it's based on a national scale. When we say that this will in no way, if someone who has not received a municipal permit or anything like that to do a protest.... This does not mean to capture something that is based on Criminal Code or municipal bylaws or anything like that. It's—

**Prof. Craig Forcese:** No, I appreciate that, but—

**The Chair:** Very briefly, Mr. Forcese. We're already over time.

**Prof. Craig Forcese:** Sure.

There are circumstances where a protest could be on a national scale. It could, on a national scale, implicate, for example, critical infrastructure.

On the presence of the word “lawful”, as was the issue in 2001, the justice ministry took the view on the word “lawful” that an unlawful act could include a wildcat strike. It could include a street protest. That was the advice given by the Department of Justice in 2001. That's why the word “lawful” was omitted in 2001 from the definition of terrorist activity.

**Ms. Roxanne James:** But the definition that's clearly outlined here—

**The Chair:** Thank you very much. You're well over your time. You can certainly have another opportunity to have a few words at another time, when someone else has the floor or when you do again.

Mr. Easter, you have the floor, sir.

**Hon. Wayne Easter (Malpeque, Lib.):** Thank you, Mr. Chair.

Thank you to all the witnesses.

Mr. O'Rourke, I have just a quick question for you. I'm not sure if we're having other people from the airline industry on the witness list or not. This really relates to the question that Roxanne raised as well on proposed section 9, where the minister can basically direct an air carrier to do anything “that in the Minister’s opinion”....

You're concerned about that. Do you have a proposed amendment you could provide the committee, or could you at a later date provide an amendment to limit that or narrow that focus on what a minister can do?

**Mr. Marc-André O'Rourke:** In fairness to the section, it does provide two examples of what the minister may do, and it is my understanding that those examples should be, most of if not all the time, sufficient.

I welcome the opportunity; we could maybe come back to propose some specific language.

**Hon. Wayne Easter:** You could send the clerk a letter on how you would narrow it to satisfy the airline industry that it is not too broad. We'd certainly welcome it on this side. I'm not sure that the government is going to allow amendments.

**Mr. Marc-André O'Rourke:** I want to make the point that we're trying to help the government here. We don't want to be in a situation in which the government contemplates something, and just because it's not possible for us to do it—

**Hon. Wayne Easter:** In any event, if you have a recommendation, forward it to us.

**Mr. Marc-André O'Rourke:** Absolutely. Thank you.

**Hon. Wayne Easter:** I want as well to thank Professors Roach and Forcese for all the writing they have done on this subject, because I think it has opened up questions and has made people think. We can hardly keep up with reading it, let alone writing it; you have done a phenomenal amount of work.

There are two points that you have both raised.

Professor Roach, you said, “If everything is a security matter, [then]...nothing is.” Mr. Forcese said that this approach to everything, “risks...undermining our security”.

I take it you believe that from a national security aspect the bill is important but that it goes too far in many areas and therefore risks actually complicating security in some ways.

Can you expand on that a little further?

● (1920)

**Prof. Kent Roach:** Well, to go back to the security of Canada information sharing act, we recognize that the threat environment is changing. The UN Security Council has also recognized that. But we don't understand why you wouldn't plug in proposed section 2, in particular the terrorism-related mandate to section 2, with respect to information sharing.

Aspects of part 1 almost seem deliberately provocative, because it has such a broad definition. Concerning the exemption for lawful protest, as Professor Forcese said, we've been here. We had that debate in 2001, and Parliament recognized, after the bill had been introduced, that it was best to take the word “lawful”—the qualifier—out. I look at that and at the lack of regard for the Air India commission's recommendation about mandatory information sharing. When you think about how that is going to interact with Bill C-44, it means that any human source to whom CSIS has promised confidentiality will have an absolute veto about being a crown witness in a terrorism prosecution.

Professor Forcese and I are actually, on some of these matters, quite “law and order”. We think that those offences that Parliament enacted in 2013 are quite valuable offences, and we see the prosecutions that are ongoing in a number of our cities now. But we worry that the combination of Bill C-51 and Bill C-44 and all the new powers and privileges that they give to CSIS could have the unintended effect of making prosecutions more difficult and also affecting CSIS-RCMP cooperation. I say this as a person who for four years was director of research legal studies of the Air India commission.

**Hon. Wayne Easter:** Let me interrupt, Mr. Roach. I want to get to one other question on oversight. I have read that argument, and I think it certainly makes some sense on oversight or review, whatever you want to call it.

Earlier today we had both Ron Atkey and Barry Cooper testify that enhanced parliamentary oversight should be brought into place. You mentioned it as well. I wonder, from your two perspectives, as a super-SIRC or whatever it might be, whether it should include parliamentarians able to see classified information and be sworn to secrecy. And should it be broad and across the spectrum of all our international security agencies?

Second, if you have time, we had two ministers yesterday try to argue that judicial warrants are actually oversight. I believe they are no such thing.

Can you comment on those points?

**Prof. Craig Forcese:** On the issue of a committee of parliamentarians, yes to your questions. There should be such a committee of parliamentarians. Yes, it should have access to secret information. It is in fact a rarity now in western democracies not to have such a thing. In relation to your question about oversight, I'm prepared to say that judicial warrants are a form of oversight, but it is a limited oversight, and once the warrant walks out the door, there is not a feedback mechanism.

**The Chair:** Thank you very much, Mr. Forcese.

Thank you, Mr Easter.

We will now go to the second round.

[*Translation*]

Ms. Doré Lefebvre, you have the floor for five minutes.

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

I would like to thank our witnesses for their extremely important testimony on Bill C-51.

Mr. Forcese and Mr. Roach, I will start with you.

My questions are on the new powers being granted to the Canadian Security Intelligence Service, CSIS.

On Tuesday, the Minister of Public Safety and Emergency Preparedness said that most of Canada's allies were already granting to their intelligence services powers similar to those provided for in Bill C-51, and that Canada was lagging behind.

According to your own research and expertise, is it true that our closest allies, I am thinking in particular of the Five Eyes, are giving powers to their intelligence services that are similar to the ones provided for in Bill C-51?

● (1925)

[*English*]

**Prof. Craig Forcese:** I can only report what it is that I've asked counterpart colleagues in Australia, the United Kingdom, and the United States when I posed the question whether their domestic security intelligence organizations have powers of disruption, and whether those powers of disruption are permitted to supersede either their domestic law or their constitutional rights. The answer from the United States, Australia, and the United Kingdom was no.

The closest analogy that an Australian colleague was able to point to was a new power that the Australian equivalent to CSIS has to delete material from a computer pursuant to warrant.

[*Translation*]

**Ms. Rosane Doré Lefebvre:** Mr. Roach, do you have something to add?

[*English*]

**Prof. Kent Roach:** I would also add that the Australian intelligence agency has powers to question people under warrant, but those are highly circumscribed.

One of our concerns with the preventive arrest provision, which I recognize is about the police, is that there is nothing in Bill C-51 that regulates what happens to the person when they are detained on reasonable suspicion, potentially for as long as seven days. I think we could actually learn something from our Australian colleagues with respect to regulating detention.

**Prof. Craig Forcese:** I'll just add that the Australian security service's powers to detain are tied to its intelligence-gathering mandate. It is not a power to reduce threats; it is a power they have to interrogate for the purposes of gathering intelligence.

[*Translation*]

**Ms. Rosane Doré Lefebvre:** Thank you very much.

Mr. Roach, you have done a lot of work on the Canadian Charter of Rights and Freedoms, so I would like to ask you questions that have more to do with the constitutional aspect.

This morning, a witness said that the new warrants given to CSIS would be unconstitutional. Do you have any particular concerns about these new warrants? Do you think they violate the Canadian Charter of Rights and Freedoms? Are they outright unconstitutional?

[*English*]

**Prof. Kent Roach:** I think that there is certainly a high risk of a charter challenge. As we said, this is not a typical warrant. A warrant is granted by a judge to avoid a charter violation, whereas the CSIS warrant could authorize a charter violation, so we have an open-ended authorization for the violation of any charter right. To me, that may be very difficult to justify under the charter. We really are not being honest with the public in prescribing by law what charter rights we're talking about.

My own view is that the first charter right that will be violated by one of these warrants is the section 6 right of citizens of Canada to leave or to come back to Canada. We could be having a debate, as they have had in the U.K., about whether reasonable and proportional limits should be placed on that right, but that's a very different and more specific debate than saying to Federal Court judges that they can authorize any violation of the charter.

Obviously, the Federal Court will take a hard look at this, but we also have to remember that there is no appeal from their decision. This idea that judges would pre-authorize violations of the charter is totally novel. I'm not aware of any other provision that allows for that, and I do think it could be challenged under the charter.

**The Chair:** That's fine. Thank you very much.

We've gone through our first round of questioning and with just two minutes left, the chair will actually suspend so that we can have a change of witnesses, rather than getting into just one minute of questioning.

On behalf of the entire committee, Mr. Forcese, Mr. Roach, Mr. O'Rourke, thank you very kindly for attending today and for offering your contribution.

The meeting is suspended.

● (1925)

(Pause)

● (1935)

**The Chair:** Colleagues, welcome to the second hour of discussion and presentation today on Bill C-51. Similar to the way we did things in the first hour, our witnesses will have an opportunity to present for up to 10 minutes. Gentlemen, substantially shorter presentations would be preferable so the committee could have more time.

We welcome here today from the National Council of Canadian Muslims, Ihsaan Gardee, the executive director; from Amnesty International, Alex Neve, the secretary general; and as an individual, Elliot Tepper, a professor from Carleton University.

Welcome, gentlemen, to this committee.

We will start off with Mr. Gardee.

**Mr. Ihsaan Gardee (Executive Director, National Council of Canadian Muslims):** Thank you very much.

I'd like to thank the committee for the invitation to appear again before you about the proposed legislation, Bill C-51. Our written submission will be provided to the committee in short order, by March 23, as per my instructions from the clerk.

The National Council of Canadian Muslims is an independent, non-partisan, and non-profit organization that is a leading voice for Muslim civic engagement and the promotion of human rights. Our mandate is to protect the human rights and civil liberties of Canadian Muslims, build mutual understanding between communities, and confront Islamophobia. We work to achieve this mission through community education and outreach, media engagement, anti-discrimination action, public advocacy, and partnering with other social justice and public interest organizations.

We are mindful of the increased and necessary emphasis on public safety and national security in response to the real threat of terrorism, as well as the disturbing appeal of criminal violence to some disaffected youth, which has emerged over the last 15 years. Canadian Muslims, like our fellow citizens, are unequivocally committed to this country's security. We're just as likely as anyone else to be harmed by terrorism.

Canadian Muslims believe that it is both a civic and a religious duty to respect the rule of law. We thrive when Canadian society as a whole thrives. We also enjoy freedom as much as other Canadians do. We believe that all Canadians deserve to be equally free and to enjoy all their freedoms with the same expectation of privacy and respect, yet when Canadian Muslims today exercise basic freedoms, such as working, associating with friends, attending a religious service, or giving to charity, we fear who is watching, who is tracking, and what assumptions are being made.

Over-enforcement and overbroad laws actually make some people, oftentimes the most vulnerable people, feel less secure, not more secure. Many Canadian Muslims are therefore concerned that in the quest to assure security, the very freedoms enshrined in the charter will be undermined. Overreaction and fear should not dictate public policy and legislation.

This committee has heard and will hear numerous concerns raised about the potential erosion of civil liberties and privacy rights resulting from this bill. We share those reservations brought forward by civil society partners, such as the British Columbia Civil Liberties Association, the International Civil Liberties Monitoring Group, and Amnesty International Canada, and by legal experts, including professors Kent Roach and Craig Forcese, to name a few.

Like all Canadians, we care about freedom and privacy, and we're concerned about the erosion of important liberal democratic values in our society. The temptation to create more powers of enforcement and arrest to make the general population feel safer can be appealing, but this is a slippery slope in a liberal democracy. You can't simply spy and arrest your way out of this problem. It takes more than laws, even good ones, to effectively address the contemporary challenges to national security, that is, if the goal is to be effective, not simply to appear to be doing something for show.

This law has more flash than bite when it comes to creating more useful tools to combat threats to national security. The real bite, in fact, lies in the risks it poses to the civil liberties of Canadians. In particular, this new legislation will further undermine the equality rights of Canadian Muslims and other groups defined and protected under section 15 of the Canadian Charter of Rights and Freedoms.

I will spend the remainder of my time walking you through how the discriminatory effects transpire.

We already know that members of Canadian Muslim communities have paid a higher price for national security. The Arar inquiry report warned as follows: “Given the tendency thus far of focusing national security investigations on members of the Arab and Muslim communities, the potential for infringement on the human rights of innocent Canadians within these groups is higher.”

Since 9/11 the Muslim community has been hypervisible and under a microscope. This has had many negative consequences, caused by the interplay of Muslim hypervisibility and the existence of negative stereotyping and discrimination within Canadian society. Every time Islam or Muslims are associated with violence or threats to Canadian society, the social impact of these negative associations is felt, whether by way of acts of violence or spikes in hate and other disparaging speech, or countless other manifestations of anti-Muslim bias.

As a result of these social dynamics, Canadian Muslims pay a higher cost for the benefit of being protected by national security measures. The disturbing and well-known cases of Canadians such as Maher Arar, Abdullah Almalki, Ahmad Abou-Elmaati, Muayyed Nureddin, Abousfian Abdelrazik, and most recently Benamar Benatta, speak to the disproportionate cost and the extant pitfalls associated with administering a national security regime prone to error and abuse.

The lack of effective oversight over security agencies failed to prevent or remedy the pain and suffering these men and their families suffered unjustly. The worst part about it for the wrongly accused terrorist is that the suspicion never really goes away. These men and many others live forever with the stigma of having been a suspected terrorist, regardless of how false that suspicion may be.

● (1940)

As respected retired justice Dennis O'Connor highlighted in the Arar inquiry report, "The impact on an individual's reputation of being called a terrorist in the national media is severe. As I have stated elsewhere, labels, even unfair and inaccurate ones, have a tendency to stick."

We know for a fact that our law enforcement agencies, despite the best intentions of many who work for them, have been guilty of abusing their powers. We need to look no further than the previous cases mentioned to understand the devastating impact of increased security powers with ineffective oversight.

If Bill C-51 is accepted as is, expanding powers without any substantive increase in independent oversight of our security agencies, the risks of rights violations increase not only for Canadian Muslims, but also for other Canadian communities and groups that may be subject to increased and unjust security scrutiny, including but not limited to political, environmental, or equality-seeking groups.

National security is not enhanced when vulnerable communities of Canadians are made to feel less secure by overreaching law enforcement, especially when avenues for the redress of abuses and errors remain ineffective.

The Charter of Rights and Freedoms guarantees Canadians the right to move and travel freely. At NCCM we regularly hear from Canadians who are wrongly designated on no-fly lists without any possibility of appeal or recourse. This legislation does nothing to ensure the freedom to fly of wrongly designated Canadians. Too many Canadian Muslims have essentially been banned from international travel, considered to be too dangerous to fly. This humiliation comes at great personal and material costs to those affected.

This legislation antagonizes Canadians rather than investing in them. As former chair of the Senate Standing Committee on National Security and Defence, Senator Colin Kenny, recently wrote, in talking about how to most effectively combat the threat of violent extremism:

> A robust counter-terrorism response isn't always the ideal approach, either. If possible, it's safer, faster and less expensive to dissuade at-risk individuals from going further down the path of extremism before they commit a crime. This dissuasion is often more effectively delivered by people within their communities.

Canadian Muslim communities across the country have indeed been at the forefront in confronting radicalization and continue to work to address this through various projects and initiatives, including for example, the OWN IT Conference held in Calgary last year, the United Against Terrorism guide produced by the Islamic Social Services Association in conjunction with the NCCM, and the Hayat Canada project started by Christianne Boudreau, the mother of a Canadian who was tragically radicalized to criminal violence and was killed overseas.

Challenging this phenomenon is a Canadian issue, not a Muslim issue alone. To date the work done has been more of a patchwork rather than a coordinated and supported national effort that recognizes the multi-faceted nature of this problem. The tireless and good faith efforts of communities and community leaders in addressing the threat of radicalization should be supported not only financially, but also by way of specialized resource support. To date, communities have navigated this complex issue with little or no expertise in areas like counselling, deradicalization, social media messaging, and so forth.

Furthermore, it must be stated that the broad definitions found in this bill have the potential to cast a chill over political and other forms of expression in this country, and this may hamper the efforts of Canadian Muslim groups to effectively deliberate over difficult and challenging issues within their communities in the best way required to combat radicalization and misinformation.

The language of Bill C-51 is so broad it will almost certainly cast a chill over members of our community, many of whom have fled authoritarian regimes where people are often punished for their opinions. Rather than risk being accused of extremism, individuals will stay quiet, and more distressing, rather than debating opposing views and risking being associated with tainted individuals, those who could be on the vanguard of deradicalization will be scared into silence. The silencing effect will be damaging to our values of openness, free exchange of ideas, and free association.

We respectfully urge this committee to seriously reconsider passing a bill that may, in fact, be counterproductive to and undermine the efforts of those working on the front lines to address the phenomenon of radicalization.

In closing, the NCCM, an independent and mainstream civil liberties and advocacy organization, has been at the forefront in affirming that national security and human rights are not mutually exclusive; rather, they share a symbiotic relationship: the loss of one signals the loss of the other.

They say that those who do not study history are doomed to repeat it. That said, the rife and serious shortcomings proposed in Bill C-51, combined with the lack of any new and concomitant increases in robust and comprehensive oversight, review, and redress mechanisms for our security agencies invite similar abuses of power as we have already seen in the recent past.

● (1945)

In our view, Bill C-51 in its present form is not the answer to the pressing national security questions facing our country. Rather, it is a perilous exercise in law-making that will have repercussions on Canadians for several years and that will lead to the further stigmatization of Canadian Muslim communities.

Any and all concerns put forth by my colleagues about this bill are doubly concerning for communities who know first-hand how faulty laws can impact them and their families.

Subject to your questions, those are my submissions. Thank you.

**The Chair:** Thank you very much, Mr. Gardee.

We will now go to our next individual, from Amnesty International, Mr. Alex Neve. You have the floor, sir.

**Mr. Alex Neve (Secretary General, Amnesty International Canada, Amnesty International):** Thank you very much, Mr. Chair, and good evening members of the committee.

I welcome the opportunity to be here. We want to note that I'm here on behalf of both branches of Amnesty International here in Canada, English speaking and francophone, and that represents well over 80,000 members of our organization across the country.

I come fresh from a 10-day national speaking tour that I've just wrapped up and which has taken me through Halifax, Toronto, Regina, Saskatoon, and Calgary. I've almost come straight from the airport on my return from Regina. I want to share with you, and it won't be a surprise, that Bill C-51 came up extensively and intensively at every single turn. Hundreds of women, men, and young people were sharing with me their questions, their concerns, their bafflement, their worries, and at times their fears about this legislation. I feel in some respects that I'm here as their emissary.

I feel compelled to express my grave disappointment and our organization's grave disappointment. There are many important organizations and experts who are at this stage not scheduled to appear before you, and it's almost hard to believe that these include organizations and experts such as the Canadian Bar Association, the Canadian Civil Liberties Association, the Privacy Commissioner, and individuals who have served as immigration security certificate special advocates in this country.

Amnesty International implores you to open up more time for hearings and study to hear those important witnesses. Canadians expect that of Parliament and you deserve to be able to draw upon their rich expertise.

Amnesty International has worked extensively in the area of national security and human rights in Canada and around the world for decades. That work is grounded in three fundamental principles.

First, acts of terrorism are a serious concern from a human rights perspective. Governments are not only permitted or allowed to prevent and respond to terrorist threats and attacks, but they also have a binding human rights obligation to do so.

Second, efforts to prevent and respond to terrorism must at all times comply with the requirements of international human rights law, including such important rights as the right to life, prohibitions on torture and discrimination, safeguards against arbitrary arrest and unlawful imprisonment, fair trial guarantees, and the freedoms of expression, association, assembly, and religion.

Third, ensuring that national security is grounded in full regard for human rights is also essential from a national security perspective. Legislating, ordering, allowing, or taking advantage of human rights violations in the name of security betrays that very goal. It only creates more victims, more marginalized communities, more grievances, and greater divisions, all of which serve to foment greater insecurity.

In our assessment Bill C-51 contains numerous provisions that violate and undermine Canada's international human rights obligations. They are so numerous and serious that there are entire provisions of the bill that should be withdrawn and replaced only with proposals that ensure international human rights compliance as a starting point.

Allow me to briefly highlight our major areas of concern both with respect to what is in the bill and what is not.

I want first to highlight what is in the bill, and four concerns, very briefly. There are others in our brief.

First, we are troubled by the expansive definition of “threats to the security of Canada” that serves as the basis of the new information sharing regime and CSIS' threat reduction powers. Among the many concerns—and I know you've heard it—is the fact that those definitions only exclude protest activities that are deemed to be lawful. This risks imperiling an extensive range of protest activity that may not be lawful in the sense of having received advance permission, but is nonetheless not criminal. It's protected by the charter and should not be conflated with terrorism and other threats to national security.

Second, CSIS' threat reduction powers concern us greatly because these potentially coercive, intrusive, and physical powers are entrusted to an agency that is not a law enforcement force and lacks the specific training, command structures, and public transparency expected of officials with powers of this nature. Thus, great care is needed. The list of prohibited activities in the exercise of these CSIS powers fails to protect a long list of international human rights, including uncertainty about psychological torture, as well as rights associated with arrest, imprisonment, privacy rights, freedom of expression, and others.

● (1950)

We are stunned that the bill contemplates the possibility that Federal Court judges would be expected to issue warrants in secret hearings authorizing CSIS officers to violate the Charter of Rights and Freedoms. We are further concerned that in issuing warrants that authorize CSIS activities outside Canada, judges are instructed to disregard the law in the countries in which those agents will be operating.

Third, the new criminal offence of promoting and advocating the commission of terrorism offences in general concerns us, because it does not conform to the international requirement that limits to freedom of expression must be narrowly and precisely described and be directed to addressing a specific and direct concern.

We do have permissible limits on free expression in Canadian law with respect to such recognized offences as inciting, threatening, and counselling the commission of particular terrorism-related offences in the Criminal Code. There is anything but precision about what the words “in general” mean. They, of course, are not defined in the bill. This provision will inevitably violate free expression. It will also much more extensively cast a chill over expression. Some may be expression we would find offensive, disturbing, or even sinister; much will also be expression that engages in debate, asks questions and seeks answers. Beyond the forms of expression already criminalized in Canadian law, all should be allowed.

Fourth, the expansion of detention without charge powers under a recognizance with conditions is of concern to us, because liberty rights must be scrupulously protected, most essentially by ensuring that arrest is on the basis of intent to lay a recognized criminal charge, and that ongoing detention is connected to bringing someone to a prompt trial.

Reducing the threshold of suspicion for an arrest without charges from “will” to “may” be carried out, and the reduction of the assessment of the need for the arrest from being “necessary” to prevent terrorist activity to being “likely” to prevent it is of concern, as is increasing the potential length of arrest without charges from three days to seven. The UN Human Rights Committee has said that this sort of security detention should be used only to address a “present, direct and imperative threat” which “cannot be addressed by alternative measures”. These changes run counter to those UN standards.

The proposed new information sharing regime concerns us as well, because while we agree that information sharing is absolutely necessary in dealing with security threats, it also has a clear potential to violate human rights, most obviously, privacy rights. We also know that sharing information that has been inaccurate, irrelevant, unfounded, and inflammatory has led to very serious human rights violations, including torture. That has been documented in two judicial inquiries.

This means that the permissible reasons for sharing information widely must be tightly and carefully limited. The stunningly vast list we see in Bill C-51 with terrorism appearing only at number 4 on the list is anything but. That means also putting in place rigorous mechanisms and safeguards to ensure the accuracy and relevance of information that's being shared, as was recommended in the Arar inquiry is not here.

I have a couple of brief words about matters that are not in the bill.

First, we are deeply troubled that these reforms are not accompanied by a proposal to put in place a dramatically improved system of effective review and robust oversight of Canada's national security agencies. We've known of the need to move in that direction for a decade now, coming out of the Maher Arar inquiry. We've also had various important provisions for meaningful parliamentary oversight. We urge that these reforms, or any national security reforms, not go ahead without a parallel move to address Canada's national security review and oversight gap.

Second, numerous cases of Canadians who in the past have experienced national security related human rights violations still await answers and justice. We must deal with the past before moving ahead with new changes.

Third, it is time to legislate a human rights framework that will apply to all aspects of Canada's national security laws and explicitly guide the activities of all agencies and departments involved in national security. We all know the mantra that security and human rights go hand in hand. We believe it's time to put that clearly in Canadian law so that it actually will be implemented.

● (1955)

Thank you, Mr. Chair.

**The Chair:** Thank you very much, Mr. Neve.

Our third and final presenter is Mr. Tepper. You have the floor, sir.

**Dr. Elliot Tepper (Professor, Carleton University, As an Individual):** Thank you. The final presenter of a very long day for everyone, I'm sure.

I want to thank you, first of all, for the invitation to be here. It is truly an honour to be before this committee.

I will just introduce myself a bit more, because I think I bring a different perspective, and I've been asked because of having that different perspective from many of the other witnesses you're hearing from.

I've been a professor of international relations and political science at Carleton for some decades, and I've lived and worked in a number of countries whose names might come before this committee, so I bring a broad comparative politics perspective, and I have been following security issues for a very long time.

Also, some of my comments really are not as much directed to this very knowledgeable committee, but to the fact that there has been a lot of public discourse, which I very much welcome, surrounding Bill C-51.

This committee has more detailed knowledge, more expertise, and more background than the general public, so I hope to bring a perspective, then, to the record which otherwise might tend to get lost.... I'm tempted to say, mixing horribly some metaphors and some sayings, while we very much welcome and need the kind of detail that we are receiving from a wide variety of perspectives, there is some danger of getting lost in the weeds.

Bill C-51 is the most important national security legislation since the 9/11 era. My central message is that whatever the issues with the bill—and this evening we've heard a number of them, and you've been hearing them for some days already, and you will further after today—we need to remember the context.

Bill C-51 is designed for the post-9/11 era. It's a new legislation for a new era in terms of security threats. While it's understandable that various provisions of the legislation attract attention, we need to keep our focus on the fundamental purpose and the fundamental challenge of combatting emerging types of terrorism.

The central test of any legislation is why we need it and what difference it would make if we didn't have it, and there have actually been suggestions that we shouldn't in this particular case.

The short answer is the legislation is needed because it's a modernization of our security infrastructure, and we would be less secure if we did not have a legal update to meet the challenges of today and tomorrow.

The bill provides strengthened legal techniques for combatting terrorism in light of an enhanced global threat. This is legislation to prepare us for what I'm calling the transnational terrorism in the digital age, a new era.

Broadly speaking, our existing security legislation was designed to meet the types of terrorist challenges of previous eras, such as the PLO, al Qaeda, and ethnic irredentism.

We should recall that the worst terrorism in Canadian history, and we've heard something of this tonight, remains the bombing of Air India Flight 182. Indeed, the roots of the information sharing and passenger protection parts of the act can be traced back to the inquiry after that disaster.

Also, today the challenges include lone wolf attacks, returning trained terrorists, and the role of the Internet. We have certainly felt in Canada the impact of lone wolf attacks, self-radicalized individuals acting or preparing to act. We are becoming familiar with the role of the Internet on radicalization, recruitment, and propaganda, propagation of terror.

Bill C-51 is sparking exactly the kind of debate Canada requires, and this committee is hearing. I'm a lifetime educator, and I'm sorry we've had to have incidents to lead to this debate, but all democratic societies struggle to find the correct balance between freedom and security. The attacks in Quebec and here on Parliament Hill force us to face what others have faced before. Where are we as a society going to strike the balance in the face of terrorist attacks? Indeed, we are very late to this debate. Our insulation and good fortunes, however, have run out.

People of good will, and I am including in this legislators and my fellow panellists, legitimately debate where that balance should be, how we maintain a sense of individual and collective freedom while being sheltered from threats to that freedom. We've already heard that this is a false dichotomy. It's a question of how we handle where that balance lies.

● (2000)

The debate in Canada, of course, is now in its culmination. There's a bill on the table; there's a vote to follow, and this bill will set the parameters of our security apparatus in the new security era.

I will conclude with a few reminders and a few suggestions.

Regarding reminders, first is that, as important as this bill is, it is intended to fill just one niche in our overall response to the changing global environment. There are other dimensions of cybersecurity, intelligence gathering, and military preparedness. Another is that this bill and related legislation began before the attacks in Quebec and on Parliament Hill. However, as bad as those attacks were, we all need to ponder, particularly when we sit here with parliamentarians before us, how much worse those attacks could have been. They were by amateurs, one using an automobile as a lethal weapon, and the other an old hunting rifle. It must haunt many of the people in this room, our elected members of all parties, that the results could have been much worse had the attack been by a small squad of trained professionals who had surveyed their target and attacked with modern weapons. I know that it haunts me.

In conclusion, I have a few suggestions about the present and the future of Canada's legal security framework.

About the present, critiques of this pending legislation have come from many sides and have included trenchant comments tonight on the two panels we've had. I'm sure this committee will proceed on this bill as on all others, by analyzing the evidence and attempting to achieve consensus before the bill becomes law. I have two suggestions. Where consensus can be achieved within this committee, the committee may recommend that, in regard to the bill, first, constitutional issues, and they've been raised, may be referred directly to the Supreme Court of Canada under section 53 of the Supreme Court Act. It would be better to clarify agreed-upon constitutional issues in advance of litigation being brought by citizens at a much later date, when redress, if any, would be complicated, while perhaps compromising our security while they're being litigated. Also, with regard to this bill, amendments that improve the bill to all parties' satisfaction, or at least with minimal consensus, would strengthen the bill as well as generate wider acceptance.

In regard to the future, this standing committee's task, of course, will not be over. With the passage of the bill, the committee may have an ongoing role in monitoring, first, the law of unintended consequences. Once the bill has passed, over time unexpected results are likely to emerge. This bill clearly does chart unexplored areas in a variety of ways. In terms of an ongoing role for the future, it may also be required to monitor the law of unforeseen circumstances. This act, and the entire security infrastructure, will need to be revisited as we enter deeper into the era of transnational terrorism in the digital age. Unfortunately, what we have seen around us is likely to be just the beginning of a long-term requirement for new policy responses to protect our freedoms and security. The conditions leading to emerging security challenges are part of a historic global transformation.

Thank you.

● (2005)

**The Chair:** Thank you very much, Mr. Tepper.

We will now go to our rounds of questioning. We will have six minutes.

We will start with Ms. Ablonczy, please.

**Hon. Diane Ablonczy (Calgary—Nose Hill, CPC):** Thank you to all of you who came and shared your perspective with us. We're enriched by your insights. I know you come from different backgrounds, so that is very helpful.

Mr. Gardee, I'd like to start with you, because I think Canadians are hoping that moderate Muslims—and the majority of Muslims in Canada are moderate Muslims—will join and raise their voices against jihadism, jihadi terrorism, because, as you rightly say, that is a real threat here in Canada. I think your perspective on partnering with others in society in addressing the issue of the radicalization of our young people would be very welcome.

The question I have for you, though, will not surprise you, because as you know, there's a continuing series of allegations about your organization and its ties to your American counterpart. Why does this matter? It matters, as you know again, because your American counterpart has often supported radical views and publicly endorsed Islamist terrorist groups, including Hamas.

I'm sure you're familiar with some of these allegations, and I'm sure you're familiar with many more, but I'll put a couple on the record.

As you know, David Harris, who is a counterterrorism expert and director of the international terrorist intelligence program at Insignis Strategic Research, testified before a Senate committee in the U.S. saying that your organization was really the Canadian wing of the Council on American-Islamic Relations. Your own director, your own leader, Sheema Khan, swore in an affidavit in the Ontario Supreme Court in 2003 saying that your organization was under the direction and control of the American organization. Point de Bascule, a Quebec-based Islamist watch group, details a chronology of an operating relationship between a Hamas front group and your organization.

As you also know, two of your board members, who were board members for over a decade, were also on the board of the Muslim Association of Canada, and while they were on the board, the Muslim Association of Canada put out a news release openly endorsing Hamas. This was a year after Hamas had been listed by the Government of Canada as a terrorist organization.

I think it's fair to give you an opportunity to address these troubling allegations, because in order to work together, there needs to be satisfaction that this can't be a half-hearted battle against terrorism.

Where do you stand in light of these allegations?

● (2010)

**Mr. Ihsaan Gardee:** Thank you very much for your question, Ms. Ablonczy.

First and foremost, I'll say on the record that NCCM has condemned violent terrorism and extremism in all of its forms regardless of who perpetrates it for whatever reason.

However, the premise of your question is false and is entirely based on innuendo and misinformation. The NCCM is an independent and non-profit grassroots Canadian Muslim civil liberties and advocacy organization that has a robust and public track record spanning 14 years, 15 shortly, of anti-extremism work, promoting civic engagement, and defending fundamental rights.

These are precisely the types of slanderous statements that have resulted in litigation that is currently ongoing. The NCCM is confident that the courts will provide the necessary clarity on these points to ensure that they are never repeated again. The NCCM, as you know, is currently suing the Prime Minister's Office for defamation because of false statements made against our organization on the basis of innuendo and misinformation. We have every confidence that the outcome will be favourable to the NCCM.

Furthermore, the NCCM is not going to submit to a litmus test of loyalty used against Canadian Muslims and their institutions which underlies such offensive questions. We are here today to answer questions about Bill C-51 and the real concerns of Canadians, including Canadian Muslims, about the impact of this far-reaching legislation.

McCarthyesque-type questions protected by parliamentary privilege are unbecoming of this committee.

Thank you.

**Hon. Diane Ablonczy:** I see you were prepared for the question, as I thought you might be.

I think Canadians would be interested in knowing, just very briefly, the bottom line in how you believe Canadian youth can be protected from being drawn into jihadi terrorism.

**The Chair:** Go ahead very briefly, Mr. Gardee.

**Mr. Ihsaan Gardee:** In terms of how Canadian youth, and I would say all vulnerable Canadians, can be protected against the ideology of violent extremism—because I think we've seen that there's no particular profile of an individual who is more or less susceptible to radicalization, when we have individuals who were born here and individuals who are at different stages of their lives.... I think it's important to recognize that this is a complex issue. As such, it is going to require a multi-pronged, short-, medium-, and long-term strategy in order to be effectively dealt with. It's going to require assistance and input from all stakeholders, including government, security agencies, Muslim communities across Canada, and others.

We've heard in the case of Mr. Zehaf-Bibeau that there were issues of previous mental instability. Drug use has been mentioned. All of these social services providers, drug advisers, and those kinds of inputs from various aspects of society are going to be required, because as I said earlier, this is not something the Muslim community can deal with on its own.

**The Chair:** Thank you very much, Mr. Gardee.

Certainly we're over time. We will go now to Mr. Scott, please, for six minutes.

**Mr. Craig Scott:** I thank all the witnesses.

Mr. Gardee, thank you for keeping your composure and your dignity. You were correct to point out that parliamentary privilege was behind those questions being put the way they were put, knowing that if they were said outside this room, there might be other consequences, so let's leave it at that.

You said at one point you can't simply spy and arrest your way out of this problem. I thought that was a really evocative way to think about things. You talked about the fear of Bill C-51 being counterproductive. Earlier witnesses talked about aspects of the legal dimensions of that. A couple of the things that professors Roach and Forcese have talked about is the worry about outreach chill. Wherever we are now with engagement between institutional authorities, whether it's the police or CSIS in this case, the fear is that this new offence of promoting terrorism offences in general might recklessly lead to somebody doing something that is itself terrorist, and would get in the way of what Christianne Boudreau in her efforts is calling "extreme dialogue", where you are actually dealing with the alienation of individuals, dealing with anger, dealing with some of the reasons some youth in particular may have come to a certain point.

I've actually heard from police that they're concerned about the idea of a withdrawal and the fact that they'll no longer be welcomed into some communities.

Is anything of what I've said a concern that you have?

● (2015)

**Mr. Ihsaan Gardee:** Thank you for that question.

The idea of a chill and the idea of a sense of alienation are certainly matters of concern. In terms of how this threat is described, it's critical that we are discussing it. Our view is that it's important.

The language we use to talk about this issue is also incredibly important. Professor Errol Mendes recently wrote a piece about language. He said that calling them jihadis or whatever else gives them credibility and a legitimacy that they may actually crave and that could be used to attract others. Call them what they are, which is criminals, murderers, and thugs.

This is not about being politically correct. This is not about not wanting to call a cat a cat. This is about using terminology that accurately contextualizes the threat that we together face. As I mentioned, violent extremism, terrorism, affects all of us. Therefore, we all have to be a part of the solution, including Muslim communities.

**Mr. Craig Scott:** Professor Tepper, the *National Post* editorial talked about concerns that it had, and I think those concerns were derived from speaking behind the scenes to security officials. The worry was that Internet chatter would begin to dry up on the basis of this new provision. Monitoring Internet chatter allows agencies to detect where there might be real threats and where efforts might be well invested in order to reach out and prevent threats by using, hopefully, the best and most effective measures.

Would you have any concerns along those lines if in fact it proved to be an evidentiary matter that the Internet chatter scene would begin to go silent and would have a counterproductive, almost blowback effect on the bill? Would you be concerned if that turned out to be true?

**Dr. Elliot Tepper:** This bill, of course, and the agencies it covers are by no means the only security-related agencies that Canada has to monitor Internet chatter. If the bill were enacted as is and became law and led to a drying up of chatter, perhaps it might be achieving some of its goals. I have no concern whatsoever that Internet chatter will ever dry up. It will just permutate and go someplace else.

I would like to add that Canada has in the public sphere and in my kind of sphere, the academic side, and the private sector as well very advanced techniques for monitoring and making good use of Internet monitoring quite apart from Bill C-51 that can be tapped by any agency in Canada or for that matter any committee of Parliament.

**Mr. Craig Scott:** Mr. Neve, proposed section 9 of the information sharing act reads:

> No civil proceedings lie against any person for their disclosure in good faith of information under this Act.

Is this of concern to you and for any particular reason?

**Mr. Alex Neve:** It's of deep concern. When it comes to human rights issues of any kind, it's absolutely essential that there be strong ability to have justice and accountability when things go wrong, including redress and compensation through lawsuits. We have already seen many times that reckless, problematic, inaccurate information sharing in Canada has had serious consequences on individuals. We know it from two judicial inquiries. Some of that may have been in bad faith. Some of that was quite likely in good faith, but we need accountability for all of it and we're very concerned that this takes us in the wrong direction and thus doesn't help ensure best practice.

● (2020)

**The Chair:** Thank you very much, Mr. Neve.

Thank you, Mr. Scott.

Now Mr. Payne, for six minutes, please.

**Mr. LaVar Payne (Medicine Hat, CPC):** Thank you, witnesses, for coming today on this very important legislation before our committee, the Parliament of Canada, and the people of Canada.

Mr. Neve, Amnesty International is obviously known for standing up for human rights around the world. I want to quote from a news release, interestingly enough from the National Council of Canadian Muslims, formerly known as CAIR-CAN: "To cut short the opportunity for these enormously consequential changes to be thoroughly examined in itself is a grave human rights concern". That is a quote from you, as I understand it. I'm not sure how having a certain number of meetings on legislation is a human right, but that might be stretching your comment a little bit far. We know that this legislation in a number of places deals with peaceful protests, lawful or not, and is not attacking free speech, so it's not really attacking human rights.

Anyway, I have questions for Professor Tepper.

Certainly there's been a lot of media reporting about the information sharing and we've touched on that a number of times throughout our committee meetings. I believe there's a lot of misinformation being offered and some groups think that lawful protests will now be considered terrorism by our security agencies. It seems they are conflating language in this act with language in the CSIS Act and the Criminal Code.

My interpretation of this section of the legislation, on page 3, is that it lays out activities that would be interpreted as activities that undermine the security of Canada. Those activities listed would very legitimately undermine our security. Then it places a caveat:

> For greater certainty, it does not include lawful advocacy, protests, dissent and artistic expression.

It's also important to point out that this act has to do with internal information sharing. It does not equate to arrest or prosecution under any sort of terrorism charges.

That's noteworthy, and activities listed as undermining the security of Canada must also fall under the umbrella of undermining the sovereignty, security, territorial integrity of Canada or the lives or security of the people of Canada.

In order for them to be considered, could you comment on these concerns and on whether or not you feel they're legitimate and on the importance of filling in these gaps?

**Dr. Elliot Tepper:** The information sharing component of this, which of course is in the title of the act, is likely to gain more broad-based support than other aspects of the act, I suspect, but within that there will still be concerns raised, as you've already heard this evening and from others.

I'll answer that in two ways. This is where technical specialists, such as we've had already this evening, should indeed have a very close look at it, and I'm sure this committee has access to their own subcommittee works. I'm a bit concerned personally, for example, that the income tax information is now going to be shared for the first time as part of that.

I think the information sharing component has been pointed out repeatedly. We heard earlier this evening that as one of the most important aspects of enhancing our security, the siloing that was discovered by your 9/11 activities has to end, but the other side of that will be that information privacy concerns will be an ongoing concern, I would think, for this committee and for others.

I don't have the technical expertise that others have, and I know that on this issue you have drafting, and for that matter, Department of Justice expertise. I think it's likely to be the most accepted aspect of this broad legislation compared to other dimensions, provisions, we've been hearing about.

**Mr. Randall Garrison (Esquimalt—Juan de Fuca, NDP):** On a point of order, Mr. Chair, I would ask that you give Mr. Neve from Amnesty International 30 seconds to reply to the drive-by insinuations from the member.

**The Chair:** I'm sorry, but you don't have the floor. It's up to the gentleman who has the floor. He can direct the question where he wishes, and at that particular point we can have a response. If he requests one from Mr. Neve, he certainly can have that, sir.

You have the floor, Mr. Payne.

**Mr. LaVar Payne:** Thank you, Chair. How much time do I have left?

**The Chair:** You have a minute and a half.

**Mr. LaVar Payne:** Anyway, Professor Tepper, I just wanted to respond to your comments in terms of the—

● (2025)

**Ms. Roxanne James:** Excuse me. I'm sorry. On a point of order, I just want to make sure that the last point of order does not take away any time that my colleague LaVar Payne had on the clock, because I don't think that would be a fair thing to do to him during his line of questioning.

**The Chair:** That's fine.

I've heard that you were going to be actually very close to being able to fulfill the time commitments for everybody.

Carry on, Mr. Payne.

**Mr. LaVar Payne:** Thank you. I'm going to lose my train of thought here with all these points of order.

You touched on the Income Tax Act. I don't know enough about people's filing information and the Income Tax Act, but one of the concerns I might have is that if somebody were trying to funnel some money to an organization, particularly if it happens to be a terrorist organization, that could have a huge implication in terms of being able to share that information with the appropriate officials.

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

**Dr. Elliot Tepper:** I concur with that view.

**The Chair:** That's fine. Thank you very much.

We'll take a little bit less time and we will go now to Mr. Easter.

**Hon. Wayne Easter:** Thank you, Mr. Chair.

I certainly welcome all the witnesses, and I thank all of you for your presentations.

To start with you, Mr. Tepper, you said in your remarks relating to the kind of discussion that's going on out there over Bill C-51 that it's sparking the kind of debate we need. Mr. Neve mentioned that as well in regard to all the meetings he's been at.

We're in a different Parliament than we've ever been in Canadian history, in my view, because if you look at the record, you will see that this government has very seldom allowed amendments to bills. I think that's a sad commentary.

For that good debate that's happening and I think the good presentations we're having here to be effective, however, the government would have to show a willingness to accept amendments, which they have not to date. What kind of comment is that on our democracy if no amendments to this bill are allowed at the end of the day?

**Dr. Elliot Tepper:** I was speaking in my capacity basically as an educator. I happened to be on the BBC the night when you were under attack. There was a big comment that we must now in Canada be giving up our freedom in order to gain security. I said that no, Canada is about to have a conversation. That conversation has continued, and it's been of a high order, of an extraordinary order, and it's an overdue conversation. We've been blessed.

My comment regarding amendments, and also a reference on the constitutional issues to the Supreme Court, was prefaced by the assumption that it would only be as a result of consensus within this committee. This committee makes recommendations. Even if it's minimal consensus, that enthusiastic support, then I think those would get the kind of attention they require. Beyond that, we're entering into the wider waters of partisan politics, and that's not my role.

**Hon. Wayne Easter:** I definitely hope we can get there. The evidence to date hasn't shown that.

However, if there are no amendments, there are five backbench members over there who can stand up if they want to, to allow amendments.

Mr. Neve, you supported oversight, and I think you made four very good points in terms of areas where there need to be amendments. I don't know whether we'll be able to get to them, but I do need to go to Mr. Gardee.

Mr. Gardee, thank you for maintaining your cool under what I think was a concentrated attack on your organization.

You said that this is a complex issue, and it certainly is. Sometime ago, we had the RCMP commissioner before us. I want to congratulate you for your effort in this pamphlet, “United Against Terrorism: A Collaborative Effort Towards a Secure, Inclusive and Just Canada”, by the National Council of Canadian Muslims, the Islamic Social Services Association, and the Royal Canadian Mounted Police, although they withdrew at the last minute in terms of the press conference. However, they're still in the pamphlet and I think want to work together.

As you said, national security is as important to you and your organization, or even more so, than it is to all of Canadian society. How do we get away from the danger of stereotyping, this over-the-top language that I think we're seeing from the Prime Minister and some ministers, and prevent people from being targeted? Is deradicalization part of that in terms of what you've done here?

● (2030)

**The Chair:** You have 30 seconds Mr. Gardee.

**Mr. Ihsaan Gardee:** Okay.

In terms of the language used, yes. We certainly have a concern about the rhetoric and the language that has been part of the public discourse recently. We feel it's a corrosive approach that casts a pall of suspicion over all Muslims, or anybody perceived to be Muslim, by creating an ethnic or religious profile for what it is to be a terrorist.

In terms of its role in deradicalization, I think the language that we use is important, as I mentioned earlier. It's important to recognize that the actions of one person or a group of people tarnish entire communities. As an example, members of the KKK or right-wing zealots who bomb abortion clinics in the U.S. certainly might claim to be Christian, but I don't think anybody here would agree that they speak on behalf of all Christians. I think using this kind of language can tarnish entire communities.

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

The time is now up, Mr. Easter.

On behalf of the entire committee, I thank Mr. Gardee, Mr. Tepper, and Mr. Neve. Thank you so kindly for appearing before us here today.

Certainly we will continue the examination of Bill C-51 at the next meeting of the committee.

This meeting is adjourned