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# **Standing Committee on Government Operations and Estimates**

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**EVIDENCE**

**Thursday, February 3, 2005**

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**Chair**

**Mr. Leon Benoit**

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## Standing Committee on Government Operations and Estimates

Thursday, February 3, 2005

• (1530)

[English]

**The Chair (Mr. Leon Benoit (Vegreville—Wainwright, CPC)):**  
Good afternoon, everyone.

We're here today pursuant to the order of reference of Monday, October 18, Bill C-11, An Act to establish a procedure for the disclosure of wrongdoings in the public sector, including the protection of persons who disclose the wrongdoings. I deliberately wanted to read the formal name of the legislation that's being proposed because of course it applies in a very special way, I would suggest, to the four individuals who I welcome to our committee today.

We welcome four individuals whose testimony will remind us all of why we're studying this important piece of legislation. It is individuals like the four of you here today in fact who this legislation is intended to protect, and that's indeed why we are here today. I'd like to welcome Mr. Allan Cutler, Mr. Brian McAdam, and Mr. Selwyn Pieters. Corporal Read, I believe, will be here in the near future.

Perhaps we could get started. I would encourage you gentlemen to keep your presentations to five minutes if you possibly can. I know that members have a lot of important questions to ask you. Also, I understand that you have a lot you want to say, because every one of you has been put in a very difficult situation as a result of the service you provided.

I would like to start with Mr. Cutler, and we'll proceed on down to Mr. Pieters, Mr. McAdam, and then Corporal Read, if he's here at the time.

Please start, Mr. Cutler.

**Mr. Allan Cutler (As Individual):** Mr. Chairman, I'm going to be a little longer than five minutes. I was told I had between five and ten.

**The Chair:** That is correct. Go ahead.

**Mr. Allan Cutler:** Mr. Chairman and members of the committee, thank you for the invitation to appear here. I hope my experience will shed some light on the issues you're dealing with in consideration of Bill C-11.

In the mid-1990s, I became aware of persistent irregularities in the procurement of advertising and related services within Mr. Guité's group at PWGSC. At first I didn't think of myself as a whistle-blower. I simply thought there was a serious abuse of the contracting rules that needed to be rectified.

What I observed going on was totally outside my experience as a long-time procurement officer at PWGSC. This relates to the first point I would like to make. Where there is a culture of integrity and ethical behaviour in an organization, employees will be prepared to come forward when they see wrongdoing, but if employees are cynical about the integrity of an organization where ethical standards at the top are lax, then employees will have little motivation to disclose wrongdoing. Only when there is confidence that abuses will actually be corrected will employees be prepared to come forward.

In my case, it was clear that my immediate supervisors did not appreciate my raising concerns. In April 1996 I was told I would suffer the consequences and pay the price if I continued to refuse to sign the documents that were improper.

Because there was no established procedure for reporting wrongdoing within the department, I approached my union, the Professional Institute of the Public Service, for advice. The union wrote to my ADM outlining my concerns about contracting irregularities. I was asked to go to the internal audit branch within PWGSC.

When I reported the situation to internal audit, I was promised protection from retaliation. I knew I would quickly be identified as the source of the disclosure; that went without saying. For that reason, I considered the promised protection from retaliation to be essential. Unfortunately, the promised protection wasn't there when I needed it. Shortly after I went to internal audit, Mr. Guité called me in and told me I would be declared surplus.

From my perspective, real protection against retaliation is essential if whistle-blower legislation is to be effective. If the protection from reprisal is hollow, the legislation, no matter how well intentioned, will be a failure. Even though internal and external auditors verified my concerns about contracting irregularities, I was left in an extremely vulnerable position.

The Professional Institute attempted to protect me through the only means available, filing a grievance. But grievances are dealt with by managers in the departmental chain of command, not by an independent third party. There was no appetite on the part of senior management to deal with what was going on in Mr. Guité's group, or with what was happening to me.

I think my experience underscores the need for employees to have recourse to an independent tribunal when they suffer retaliation. It was left to me to find a permanent position outside Mr. Guité's group. The department gave me no assistance or support at all. Fortunately, with the help of some sympathetic colleagues I was able to obtain a position in another area.

Eventually I agreed to settle my grievance. I received a letter of apology and a written assurance that the concerns I had raised about contracting practices in Mr. Guité's unit had been corrected. We know now that didn't happen.

• (1535)

One of the reasons it didn't happen was that others had seen what I went through. One of my former colleagues in Mr. Guité's section told the Gomery commission that he had seen what had happened to me and didn't want to go through the same experience.

This was a very difficult time for my family and me. My career was permanently sidetracked. There was no hope of promotion or advancement. At best, I was tolerated by the department. At the same time, I saw people who had turned a blind eye to what was happening getting promotions and a raise. Retirement income reflects promotions; therefore, rewards or penalties last a lifetime.

I think it's important to realize that reprisals against whistle-blowers will often be subtle. Labelling someone as not being a team player can be a very effective way of undermining a career.

Last year, after I testified before the public accounts committee, Mr. Guité went before the committee and claimed to the nation that I was a problem employee. No one from the department came forward to defend me. Bill C-11 states that employees owe a duty of loyalty to their employer. I agree, but loyalty is a two-way street. Employers also owe a duty of loyalty to the employee.

Bill C-11 restricts compensation for reprisals to loss of pay and direct out-of-pocket expenses. I feel that's too narrow. I realize that losses such as loss of reputation, mental distress, and loss of career advancement are harder to quantify, but those losses are very real.

Another problem I see with Bill C-11 is that the employee has the onus of proving there was a reprisal. Often whether something amounts to a reprisal depends on motive, but motives can be disguised and are usually discussed behind closed doors. I feel that where any action is taken that has an adverse effect on a whistle-blower's employment, the onus should be on the department to prove there was a valid reason for the action.

I also feel the sponsorship affair has shown that only an independent agency is in a position to deal seriously with matters brought forward by whistle-blowers. It was only when the Auditor General investigated and made her report that the sponsorship problems surfaced.

When the Auditor General made her initial report public in 2002, she stressed that any public servant who had relevant information should come forward. In May 2002, I sent an e-mail to PWGSC requesting permission to go to the Auditor General and asking for confirmation that there would be no reprisals for doing so. The next day I was told that I would have to meet with the manager of internal disclosure at PWGSC. I was informed this authorization would not be granted for me to provide information to the Auditor General until managers in the department had an opportunity to vet the information. Nothing at all was said about protection from reprisals.

I believe a whistle-blower should be able to go to an independent body—I can't stress that enough—that's at arm's length from the

public service. The Public Service Commission is too closely linked to departments. There are too many personal and institutional ties.

To digress, if you go to the sponsorship issue or the advertising issue, we were buying advertising for the Public Service Commission—just as an anecdotal note as to how it relates.

The body that deals with disclosures by whistle-blowers should be able to investigate and deal impartially with sensitive situations with no outside pressures of any sort. I believe an independent agency reporting to Parliament, such as the Auditor General, would best serve this purpose.

• (1540)

Thank you for the opportunity to share my perspective with you. I hope my experience and reflections will help in your consideration of Bill C-11.

**The Chair:** Thank you very much, Mr. Cutler, for your helpful presentation. You had some specific recommendations and suggestions, and I do appreciate that.

We'll go to the other witnesses before we go to questioning.

Mr. Pieters.

**Mr. Selwyn Pieters (As Individual):** Thank you, Mr. Chairman.

Mr. Chairman, I am employed as a refugee protection officer at the Immigration and Refugee Board, and I'm currently on a leave of absence for a year without pay. This leave of absence directly relates to my coming forward with allegations of wrongdoing in the reasons-writing and decision-making process at the Immigration and Refugee Board.

I should tell you that my complaints were investigated by the Public Service Integrity Office, and the office has found four of the five allegations to be substantiated. I say that from the inception, just to dispel any aspersions that the allegations had no merit.

When I came forward and blew the whistle on the refugee board, a number of negative reactions occurred. They included an anonymous note that I received, calling me a troublemaker and telling me I should quit the refugee board. The executive director took a decision that my access to the office should be denied, and my access card was deactivated. The executive director then wrote me a letter and said, well, we told you that your access card was deactivated and we also told you how you could access the building. In fact, no such directions were given, and through the Access to Information Act, the Freedom of Information Act, and the Privacy Act, I received that information.

I was assaulted by the regional director in Toronto. I was subjected to a disciplinary hearing for seeking the advice and assistance of a lawyer. I was harassed by IRB managers when I was on sick leave. The IRB engaged in a cover-up sanctioned at the highest level of that organization. My health and dental benefits were cut off effective July 1, 2004, and I have not received any pay from the government since March 15, 2004.

I mention this to you because I thought about you committee members last night and about how important you are, because challenging unethical workplace conduct comes at a price. That price includes threats to one's physical, psychological, and financial integrity. The current system and the proposed system for dealing with these matters are inadequate, and it is you, the committee here, who have an important role to play in terms of giving whistle-blowers who come forward meaningful protection.

Mr. Cutler, in his testimony, mentioned to you the inefficacy of having the Public Service Commission deal with these matters. He's right, because I can tell you, for example, that the executive director of the IRB and the chairperson of the Immigration and Refugee Board were both senior officials at the Public Service Commission, and that is the body to which I would have to complain. If I'm at the refugee board, these people have a direct link to the executives there because, of course, they probably were their bosses before.

I made a wish list for the committee, and in my speech I also have a Supreme Court decision to present, because this also has some relevance to whistle-blowers. The Supreme Court said in a 1987 case:

Work is one of the most fundamental aspects in a person's life, providing the individual with a means of financial support and, as importantly, a contributory role in society. A person's employment is an essential component of his or her sense of identity, self-worth and emotional well-being.

Where should a person go when they have to make a complaint of wrongdoing? My view is that an employee should be able to go directly to a neutral third-party entity to make that disclosure. There should be no requirement of internal disclosure as a prerequisite for external or public disclosure.

• (1545)

The next question is what support should be available to employees? I believe that public servants who reveal wrongdoing in the workplace and suffer financial loss should be compensated. This is something that is in the legislation and that should be strongly pushed forward.

There should also be provisions in the legislation for independent legal advice for public servants who are contemplating internal or external disclosure of wrongdoing, and legal assistance for public servants throughout the process. As an example, the departments have teams of lawyers who deal with these matters. In my case with the IRB there are about four or five lawyers who are almost working full-time dealing with these matters. I went to some lawyer who was helping me pro bono and they actually called a disciplinary hearing, because they said, "We don't think you have strong enough solicitor-client privilege here, because we didn't see a written retainer here between you and this lawyer". I also mention that all out-of-pocket expenses that a whistle-blower incurred as a result of a disclosure that is substantiated should be reimbursed.

My next issue is who should be responsible for investigations of complaints, and if not the department or the Public Service Commission, what qualifications should these investigators have? I believe the proposal suggested by the Public Service Integrity Office for an independent integrity officer should be adopted. With respect to appeal mechanisms, I believe that a finding from an independent

neutral body should be appealable directly to the Federal Court and not to the Public Service Staff Relations Board.

In terms of recommendations I have, the first one is that the legislation as it is should not be passed.

The second one is that there should be protection of wages, salary, benefits, pensions, overtime and, most of all, protection from reprisals.

My third recommendation would that there be provision for independent legal advice for employees who wish to make a disclosure of wrongdoing and who have made a disclosure to assist them throughout what can be described as an unfair, biased, convoluted, and inaccessible system. This can be in the form of having a duty counsel available through a 1-800 number or through the establishment of an employee adviser office.

The fourth recommendation is that a truly independent body be legislated to handle claims of wrongdoing in the workplace. Simply assigning the task to the Public Service Commission is not satisfactory and does not give employees any degree of confidence that the legislation will protect them or grant them a degree of freedom to act in the public interest.

And the fifth is that the independent body should report directly to Parliament, and the head should be an officer of Parliament.

As parliamentarians and legislators, you are responsible for the sort of mechanism that will facilitate the report of wrongdoing in the federal public service. You're also responsible for protection, support, and resources that are available to employees who have reported wrongdoing. And I'm telling you that the legislation is deficient. It does not ensure accountability, and it does not ensure that the public interest takes precedence over the culture of secrecy and impunity that appears to pervade the public service.

Subject to any questions that the parliamentarians may have, those are my submissions.

• (1550)

**The Chair:** Thank you very much, Mr. Pieters, for your very helpful submission.

Mr. McAdam.

**Mr. Brian McAdam (As Individual):** Thank you, Mr. Chairman, for the opportunity to present my views regarding Bill C-11.

When I was appointed a foreign service officer, I never thought as myself as a whistle-blower, I thought I was simply doing my job. I now know that telling the truth about something someone else does not want others to know about is called whistle-blowing.

My 30-year foreign service career ended, taking a huge toll on my health, reputation, and credibility. I wrote and spoke about the negligence and corruption at the Canadian consulate in Hong Kong and the threat that Chinese organized crime groups, known as triads, and the Chinese government posed to Canada. This was actually part of my job description, but I apparently was not supposed to do it. Telling the truth in the Canadian bureaucracy can be career suicide and dangerous.

There is a desperate need for whistle-blowing protection in Canada, but this bill under consideration is fatally flawed. Had this bill existed when I needed it, it simply would not have protected me from the retaliation I experienced, corrected any problems, or vindicated my work.

Let me begin with basics. Every country has a degree of corruption. The problem of corruption at Canada's missions abroad is systemic, but the government downplays it and destroys anyone they see as a threat in telling the truth. Admitting that there is a potential for corruption is a hard thing for any government to deal with. So what may start off as a small problem easily corrected is swept under the carpet, and then it develops into a monstrous problem. The triads are an example.

The Chinese triads are inextricably woven into the fabric of Chinese society. For the last two centuries, wherever the Chinese have emigrated, they have taken with them their secret groups. Triads are the world's largest criminal fraternity, and Hong Kong, with four major triad societies and numerous smaller ones, 55 in total, is the home to more ethnic Chinese gangsters than anywhere else on Earth. Today the triads operate an unrivalled criminal empire. Extortion, gambling, international prostitution, illegal immigration, smuggling, money laundering, fraud, corruption, arms, and narcotics dealing all fall within their remit.

Triads have been coming to Canada since 1863. There have been two royal commissions probing Chinese illegal immigration and opium smuggling, the first one in 1885, the second in 1911. From 1923 to 1959 triads plied what would become the biggest fraud of the post-war era. Half the Chinese immigrants in Canada had entered illegally as impostors. A massive RCMP investigation, concluded in 1962, revealed the extensive control the triad societies had over the Chinese community in Canada.

Hong Kong was the world centre for heroin trafficking. Only a few minor players were ever prosecuted, and everything else was quickly covered over again. At that time, one in six people in Hong Kong was a triad member. The Canadian mission was warned in the early sixties and seventies that many in the Royal Hong Kong Police were triad members. Those warnings were ignored, and Canada accepted many Hong Kong police, some joining the RCMP. However, in 1977 a scandal dubbed *The Quiet Dragons* was aired on the CBC. It revealed that at least 40 corrupt policemen who were also triad members were living comfortably in Canada, with tens of millions of dollars gained from bribery and drug trafficking. Requests for a royal commission were dismissed.

In 1986 an intelligence report prepared by the immigration department said there were no triads in Canada. Quite soon afterwards the Commissioner of the RCMP also said there were no triads in Canada. However, from 1991 to 1993 I reported, in a series of more than 30 extensively detailed reports, that triads had infested Canada's immigration system. Leaders of the largest organized crime groups in the world had established themselves as entrepreneurs in Canada. This really wasn't anything new, but the bureaucrats panicked.

So for over a century Canadian government officials have for the most part denied that Chinese criminals, known as triads, were in

Canada and posed a threat to the country. The big question is, why did they act as they did?

An Asian organized crime expert wrote that "Canada is rapidly becoming one of the world centres for Chinese organized crime and espionage". So the problem of Chinese triads, heroin and people smuggling, and corruption that has been going on for over a hundred years has never been resolved. It has only grown larger, causing far greater damage to the country. The typical attitude of bureaucracies to bad news is that we do shoot the messenger: if it happened in my ministry or division, then it's a negative reflection on me, and no news is good news. A disclosure protection act should counter the above mindset.

The problem of corruption at Canadian missions abroad is systemic. Canada's foreign affairs department learned there were 197 cases of corruption by locally engaged staff from 1996 to 1999 at its missions abroad, and many more were discovered later. The Canadian government itself admits that 1.5% of its immigration employees are corrupt, or thieves, or taking bribes, or have other illegal problems.

• (1555)

The Auditor General highlighted in the 2001 report that, "A weak immigration service is putting Canada in danger because it isn't weeding out applicants presenting criminal, security, or health risks". Last year, a high-ranking Canadian diplomat based in China left his post suddenly after he was suspected of accepting bribes to help Chinese nationals enter Canada illegally. He is thought to have made well over \$1 million before he bolted a few days before his posting expired.

The government continues to play down the problems and serious security implications. It destroys and sees as a threat anyone who tells the truth. Both RCMP Corporal Read and I have experienced this. So too have two CSIS officers whose careers were also destroyed working on the Sidewinder project, which examined Chinese espionage activities in Canada in alliance with the triads; I instigated that.

Why has the government been so duplicitous?

I believe the problem with this bill began at the design phase. It did not consult with the whistle-blowing community or with experts like Dr. Keyserlingk and his staff.

Joanna Gualtieri, Canada's expert on whistle-blowing, wrote:

So flawed is the Bill that Louis Clark, founding member and President of the Government Accountability Project in Washington, D.C.—the world's leading authority on whistleblower protection and legislation—said:

The government has said that the goal of the legislation is to "protect employees and encourage them to come forward if they have reason to believe that wrongdoing has taken place." I do not see how the proposed legislation could encourage any but the most uninformed to step forward. In fact, from my limited understanding of Canadian civil service law, I think some whistle blowers might well be better off with no new statutory protections.

Mr. Pat Martin, MP, said it was an act to protect ministers from whistle-blowers, not an act to protect whistle-blowers. I completely agree with him.

Bill C-11 should be tossed out in its entirety and replaced with a bill closer to Bill C-205, a private member's bill put forward by Gurmant Grewal, MP for North Delta, that has much more positive potential.

I won't go over this clause by clause, but I want to focus in on a couple of elements of what whistle-blowing legislation should have.

First of all, reprisals: the core problem with being ethical is the reprisals that often follow. Bill C-11 only conceives of a few reprisals, like demotions or loss of promotions, but there are endless ways in which bureaucracies will cover up mistakes and destroy its black sheep. A whistle-blower can experience a vast range of retaliations. These may include verbal threats; verbal attacks; one is silenced; ostracization; isolation; hurtful gossip; stigmatization; they are given dangerous work tasks; others threaten or attack them physically; or they are sexually harassed in an active way, etc.

This comes from the late Swedish professor and psychiatrist, Heinz Leymann:

In the highly industrialized western world, the workplace is the only remaining "battle field" where people can "kill" each other without running the risk of being taken to court. In Sweden, it has been found that approximately 10-20% of annual suicides have mobbing processes at work in the background.

According to the professor, mobbing means harassing, ganging up on someone, or psychologically terrorizing others at work.

According to Professor Robert Hare, an expert in psychopathy at the University of British Columbia, "corporate psychopaths" are ruthless, manipulative, superficially charming, and impulsive—the very traits that are landing them high-powered managerial roles. Psychopaths are called by many in offices as "psychos in suits".

The exclusion of the RCMP and over 100 divisions and branches is most curious. One has to wonder why this bill excludes RCMP, CSIS, CSE, the military, etc., and, under clause 6, a total of about 63 divisions or branches of government and 49 corporations.

Bill C-11 imposes a 60-day statute of limitations from the date on which the complainant knew, or in the board's opinion ought to have known, that reprisals had taken place. U.S. legislation and other legislation does not have any limitations, because it knows that whistle-blowing activities are not usually a single event happening in a nice, neat timeframe.

This bill does not encourage whistle-blowers in any way, and neither does it value their contributions. In the U.S., whistle-blowers are rewarded and recognized, as it should be. For example, according to statements by the government, my work saved the government \$50 million, and in the long term prevented the entry of at least 2,000 organized crime figures. But I've never received any recognition—only scorn and abuse.

Most whistle-blowers are 40 years of age and over and are forced to retire early. Most will never be able to be employed again. There has to be not only some restitution for what is lost but also substantial rewards for the persons with the courage to speak truth to power.

● (1600)

Legal expenses can easily cost hundreds of thousands of dollars. Formost, this means they are financially unable to get any justice in the courts. However, this bill would pay the legal expenses of the wrongdoers but not those of the whistle-blower.

Scott Newark, a highly respected lawyer and friend of mine, has assisted me and other whistle-blowers for more than 10 years. He suggests the following. There must be an office independent of the structure of the bureaucracy to which complainants' information from within the bureaucracy can be provided. Any other model is simply a facade. Once this is done, the office should have the power to protect employees from job-related actions. The office must have the authority to hand over to police, and not just the federal RCMP, or another investigative body where there is evidence of potential criminal wrongdoing. The office must issue an annual report to Parliament detailing complaints and investigative results.

In conclusion, I suggest that this committee call in outside authorities for advice. Members of this committee should also rely on their own instincts and experiences rather than tinker with an already badly written bill.

I'd like to conclude by saying that "All that is essential for the triumph of evil is that good men do nothing". This was written by a British political writer and statesman in the 1700s.

Thank you very much.

**The Chair:** Thank you very much, Mr. McAdam. Again, we certainly appreciate your specific recommendations.

Mr. Read, would you like to make a statement? Five to ten minutes.

**Corporal Robert Read (As Individual):** Good day, sir. Thank you for inviting me here.

My name is Robert Read. I'm now retired, but I was a corporal in the RCMP. In 1996 I was assigned to Mr. McAdam's case and appointed to meet with him, listen to his complaint, and try to find what was actually happening with his complaint, what were the facts of the matter. Many parts of Mr. McAdam's complaint are detailed, and many were found to be true. I worked on Mr. McAdam's case until 1996, when I was ordered to desist, in September, I guess it was, 1997.

What I discovered was that when Mr. McAdam made his complaint in 1991 and it was investigated by the RCMP in 1992, the RCMP discovered that the computer in Hong Kong was entirely vulnerable, that the safeguards were not put into effect. Anyone and everyone who had access to the system could issue visas in Hong Kong, that is, anyone in the high commission in Hong Kong who had access to the computer, with a little bit of knowledge, could issue visas. It appeared that this had been happening for years, probably from 1986 until 1991. I compare Mr. McAdam to the sheriff in town, because various people in the high commission brought their suspicious pieces of evidence to him, and he gathered them and presented them to the RCMP when the RCMP arrived in 1992.

So after listening to various pieces of the story, I went to the RCMP central file room, got the 1992 files, and sat down and started to read them. After I had been reading them for several weeks, I came across a report called the Balsler report, which, in obtuse language, said the computer is vulnerable and showed how it was possible to misuse it.

The thing to understand is that Mr. McAdam in 1992 was on station in Hong Kong. Mr. McAdam is a very frank person. He was kept out of the informed circle. The RCMP and his superiors told him everything was under control and in good hands. It was in their hands, but what they were in fact doing was covering up the facts from Mr. McAdam, because he had been in the service for 29 years and was not one to mince words. So through bureaucratic manoeuvring, they got Mr. McAdam back to Ottawa and isolated him. Finally, he took his retirement, because he was so entirely frustrated by his superiors' apparent lack of interest in the details of his findings.

The thing was that they knew before he did; they knew that the RCMP had found this. Their own technician, Mr. Balsler, had found this and had told them they had a disaster here. It was a disaster beyond bureaucratic scope. It was actually a political silver bullet, which it would have been a disaster to report honestly. So they kept this from Mr. McAdam, because he was not someone who could be told to keep it under his hat.

• (1605)

It was just the fact that he came back to Ottawa and periodically came to the RCMP and demanded answers and demanded inquiry. My boss, of course, did not know of this cover-up that had been perpetrated in 1992—we were now in 1996—so he assigned me to delve into the case and I looked into it. It was only by an examination of these files from 1992 that I discovered the cover-up.

I also was not one to mince my words. I said to my boss, "This is what's happened". My boss is a very nice gentleman, but he just wasn't responding to what I was telling him. As the months went on, it occurred to me that the RCMP were going to continue this cover-up, which I believed at that time was perpetrated by Immigration and Foreign Affairs.

Finally, I made a complaint against my boss for obstruction of justice. That was in 1997. I then went on sick leave when I perceived that, yes, this was really going ahead and the cover-up would continue no matter what I did. So I was off on stress leave, sick leave, for six months, during which time I reformulated my complaint, now against four superior officers who had direct knowledge, who I had evidence were part of the cover-up.

A few months later I went back to work. The RCMP gave me a job essentially shuffling paper—making photocopies, you might say—for a while. Finally, six months later they sent me to the personnel office to work as a personnel clerk.

What happened after that was that they cornered me in a bureaucratic way. It appeared that I was going to be stabbed in the back, so what I did was go public. This was now in September 1999, and I went public in a newspaper. I didn't really understand this at the time, but I believe now that this was in fact done expressly, that my

bosses in fact had made a decision and put this pinch on me and made me go public.

I did go public and made allegations in 1999 that there was a cover-up, that there was loss of control of the computer. I was subsequently suspended with pay, was charged with divulging confidential information, was put on trial, and was convicted of doing that, in fact, in 1992. It was at my trial in 1992, through listening to the testimony of various people who were called to my trial, that I realized the RCMP had to have been in the know from 1992, from the original investigation. I had suspected the original investigator from the RCMP was in fact on the take or corrupt or something else. From my trial, however, I can see that he was following orders when he covered up the whole affair in his files.

• (1610)

The reason the RCMP would do this, I think, was for fear of national security. This problem was big enough that it could be a real arrow through the heart of the government. To admit that our way of life is now so complex that we cannot control our own computers in the federal government is a very serious matter. It's a political problem as well as a bureaucratic problem. So this is my opinion of why it happened. It was a question of national security taking precedence over a criminal investigation. I believe this is why Mr. McAdam was frustrated for so long and that, in fact, the national security question was being addressed.

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

We'll go to questions now. Of course, members can ask questions of any individual they want or put questions to all the members, as they choose.

Mr. Poilievre.

[*Translation*]

**Mr. Pierre Poilievre (Nepean—Carleton, CPC):** Mr. Chairman, I would like to begin by thanking our witnesses. You have shown much courage today and in the past. I would like to congratulate you for that.

[*English*]

I want to go straight to Allan Cutler, because I'm more familiar with his case than with others. So that I understand your testimony correctly, are you telling us that after the Auditor General revealed to the public the sponsorship scandal and both the Prime Minister and the Auditor General went public, calling on anyone in the government who had any knowledge to come and speak out, you were then told to be quiet?

• (1615)

**Mr. Allan Cutler:** I am not 100% certain of the timing. I can tell you that the Auditor General came out very publicly saying it. She was investigating 1997 to 2000. My information related to 1994 to 1996. I was not 100% certain that the information was still relevant, but nevertheless, I felt she should see it.

**Mr. Pierre Poilievre:** When were you told this, roughly?

**Mr. Allan Cutler:** May 2000. It's in the testimony. That was when there was an exchange of e-mails in the department.



**Mr. Pierre Poilievre:** So as this scandal was brewing behind the scenes, there was an active campaign to batter down anyone who could have stepped forward and revealed what had actually been going on.

**Mr. Allan Cutler:** I do not know if there was an active campaign. I can only tell you about my particular situation, and I was a known entity in the department.

**Mr. Pierre Poilievre:** Okay.

As I understand all of your testimony, what you've told us today is that if this bill had been in effect when your cases were ongoing, when your challenges and problems were before you, it would not have helped you. Is that an accurate understanding of your testimony?

**Mr. Allan Cutler:** Yes, you have it right.

**Mr. Pierre Poilievre:** We've had testimony from the Information Commissioner, for example, that if the bill had been in place when the sponsorship scandal occurred, not only would it have failed to reveal the scandal, it might have further suppressed it. Do you believe this is possibly true?

**Mr. Allan Cutler:** I would agree with that.

**Mr. Pierre Poilievre:** So we have before us a piece of legislation that is not supported by the Professional Institute of the Public Service, not supported by PSAC, not supported by the Information Commissioner, and not supported by a whole diverse list of whistle-blowers, for whom the law is meant to be written, and yet we call it a whistle-blower protection act. Do you find any irony in this at all?

**Mr. Allan Cutler:** I think we all do.

**Mr. Pierre Poilievre:** I think most of us in the committee do.

I want to move to the question of consequences. If we put in place a whistle-blower protection act that in theory protects whistle-blowers but issues no consequences for those who initiate reprisals against people who speak out, there will be no deterrent whatsoever for senior political leadership or senior bureaucratic leadership in continuing to attack whistle-blowers. Is that not correct?

**Mr. Brian McAdam:** I agree with you completely on that. Let me give you an example in my case.

The retaliations against me have lasted for fifteen years, and the retaliations have been extremely serious. I have been subjected to death threats for five years. Particularly disturbing to me was that my former colleagues gave copies of my confidential reports on international gangsters to the gangsters themselves. Knowing that colleagues told these people where I lived, what I was doing, and that I had this information from so many sources was quite extraordinary.

Let me just tell you about a quick example, to give you an idea of how far this type of thing can go. One of the major gangsters I was writing reports about had been granted...I think it was 20 visas to Canada in a period of 20 years. The file on this man was quite thick. It was four volumes. If you read any of the material in this file, you realized this was a pretty serious individual. He was involved in drug trafficking, money laundering, people smuggling, arms deals for China, and particular contract murder.

One day I learned from a police source that there was a wiretap that picked up a conversation that went like this—and this is not the man's real name. He was talking to someone in the office of the Minister of Immigration—and I still don't know who that was—but the conversation went like this: “Yes, John, we know all about McAdam's reports about you. Yes, yes. Don't worry about it, John. We'll take care of McAdam”. I tell you, I lived for five years under incredible threats, and the retaliation against me has been just phenomenal, just unbelievable.

The bill as it is now is just a total joke. There have to be penalties.  
● (1620)

**Mr. Pierre Poilievre:** That's right. That's exactly what we need. We need in effect a solid deterrent against reprisals in order for this bill to mean anything at all.

If this bill is presented to Parliament in its current state, would you recommend that it be defeated or passed?

**Mr. Brian McAdam:** Personally, I'd say it should be defeated.

**Mr. Pierre Poilievre:** Defeated. So we'd be worse off than we are right now.

Finally, I want to utter my support for your remarks with respect to restitution. There is a tremendous human cost that all of you have suffered, and there are these armies of government lawyers who have endless hours of billing time and who come after you, and you are nearly defenceless. I believe you need to be made whole in what you're doing to protect Canadian taxpayers and, in your case, Mr. McAdam, Canadian security.

Please discuss with us how this restitution might be instituted in the law.

**The Chair:** We'll have to have extremely short answers. Mr. Poilievre's time is up.

Go ahead, Mr. Cutler.

**Mr. Allan Cutler:** I don't think any of us have an easy answer for you, except that nobody has a desire to do any type of restitution that I've ever heard of. The subject comes up and then people walk away.

**Mr. Selwyn Pieters:** The U.S. legislation has a provision in there whereby, if there is a recovery of finances as a result of whistle-blowing, a whistle-blower gets a percentage of it. There is another alternative whereby there could be a quantifiable sum given to a whistle-blower as restitution, whether it's for lost wages, emotional distress, or whatever consequences the whistle-blower has suffered.

I think the member also raised an interesting issue with respect to consequences. Not only should there be penalties, there should be a performance-based system for executives. Executives in the public service should be assessed and evaluated in their performance based on how they deal with whistle-blowing issues.

**The Chair:** We'll have to go to the next questioner. Thank you very much.

Monsieur Sauvageau.

[Translation]

**Mr. Benoît Sauvageau (Repentigny, BQ):** Thank you, Mr. Chairman.

Following the example of my friend and colleague Pierre, I would also like to thank you and salute your courage for coming before the committee. We greatly appreciate it. You help us improve and strengthen Bill C-11, and you are an inspiration to us.

My first question is for Mr. Cutler, if you will. Several questions have been suggested to us. One of these questions is to ask whether Bill C-11, in its current form, would have made any difference to what happened to you. Based on what I've heard, the answer is no. I will therefore move on to another subject and will try to be more specific.

**Mr. Cutler, I simply want to make sure that the last page of your presentation has been correctly translated. It says:** I believe that an independent agency reporting to Parliament, such as the Auditor General, would best serve this purpose.

Are you referring to an agency similar to the Office of the Auditor General of Canada? Or are you saying that the Office of the Auditor General of Canada should be involved?

[English]

**Mr. Allan Cutler:** Not the Office of the Auditor General. The Auditor General has one major failing: that office is not responsible for protection of people. To be honest, the Auditor General audits and looks at a lot of different issues. I think we need an office that deals with human issues, human realities, and human consequences—because this is what we're talking about, the consequence to individual people—an office that's independent, that has that type of responsibility.

• (1625)

[Translation]

**Mr. Benoît Sauvageau:** So you are talking about an agency modelled on the Office of the Auditor General of Canada.

[English]

**Mr. Allan Cutler:** Yes.

[Translation]

**Mr. Benoît Sauvageau:** You don't want this job to be taken on by the Public Service Commission, but rather by an independent agency.

My question is for all of you. Let's say we propose an amendment to the bill whereby an independent agency with a staff of 10, 12 or 15 employees be created. If you could directly file a complaint with this agency, do you feel it would have more credibility than if you had complained to your supervisor, to the supervisor of your supervisor, and so on? Or would you prefer to have an agency affiliated to the Office of the Auditor General, as is the case of the Office of the Commissioner for the Environment and Sustainable Development? What I'm talking about is an autonomous agency affiliated with the Office of the Auditor General which has a lot of credibility and which is well known.

I'm wondering whether you would prefer to have a completely independent agency or one which is affiliated to an office which has a great deal of credibility and which is very well known. Back when you had to deal with all those problems, what type of agency would you have rather turned to?

[English]

**Mr. Allan Cutler:** I will answer first. It should be totally independent, in my view.

**Mr. Brian McAdam:** I agree completely. It has to be totally independent.

[Translation]

**Mr. Benoît Sauvageau:** There are two other examples. First, the Official Languages Commissioner, who is completely independent but rather isolated. For her part, Ms. Gélinas, who is the Commissioner for the Environment and Sustainable Development, is also completely independent, since she tables her reports before Parliament. However, she is affiliated with the Office of the Auditor General, which increases her profile.

In short, I would like to know whether you prefer an agency modelled on the Office of the Official Languages Commissioner or on the Office of the Environment Commissioner, or whether it does not matter as long as it is an independent entity.

[English]

**Mr. Allan Cutler:** It should be completely independent, on its own.

[Translation]

**Mr. Benoît Sauvageau:** Fine. That's clear.

Mr. Read, under sections 52 and 53 of Bill C-11, the Royal Canadian Mounted Police is not covered by the bill. I would like to know what you think about that, although I can guess what your answer will be. Do you think the RCMP should be included in an improved version of Bill C-11?

**Cpl Robert Reid:** Yes and no. In my opinion, the bill as it now stands does not make any sense. It's just not serious.

**Mr. Benoît Sauvageau:** But if an independent agency was created and this whole issue were taken seriously, would you want the RCMP to be covered by the bill?

**Cpl Robert Reid:** It's difficult to answer that question. In the case I mentioned, there are two aspects, namely the criminal aspect and the national security aspect. That's why there was such a battle within the RCMP.

**Mr. Benoît Sauvageau:** It's difficult.

**Cpl Robert Reid:** I represent the criminal investigation, and the principles which guide me don't include the national interest. If criminals are involved, it is my responsibility to go after them. I was never told anything, but I see what is going on. I concluded that people acted the way they did because of the national interest and because it would have been extremely damaging for the federal government.

Therefore, the RCMP should be covered by the bill as regards criminal activities, but not as regards national security.

**Mr. Benoît Sauvageau:** Excellent. I still have a bit of time left, which I would like to share with Mr. Gagnon. I still have about one minute.

**Mr. Marcel Gagnon (Saint-Maurice—Champlain, BQ):** I am completely floored by what I have just heard. It ultimately means that we are not protected. Not only is the whistle blower not protected, but it seems that nobody is. You were the first ones to pay the price after you denounced what you witnessed.

I won't refer to the bill because in your opinion it should be completely overhauled and strengthened. As I listened to each of you, I realized that things happened despite your actions. Now you're gone. Most of you are retired or...

In your opinion, has anything changed at all today? Is it fair to ask you that question? Is it fair to assume that those types of activities are still ongoing today? Were you the only victims in all of that?

•(1630)

[English]

**Mr. Brian McAdam:** As I told you, these activities have been going for hundreds of years, and they continue to go on. They'll go on for another hundred years. I think they're probably getting worse.

[Translation]

**Cpl Robert Reid:** I agree with Mr. McAdam. It's half-political, half-bureaucratic. The national interest was deemed more important for political reasons. In my view, Canada's political system is in a crisis. The political system will have to be changed radically because technology is evolving so quickly. Major changes have to be brought about.

[English]

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

Mr. Szabo, seven minutes.

**Mr. Paul Szabo (Mississauga South, Lib.):** Thank you, Mr. Chairman.

Thank you, gentlemen, for your input. It is actually difficult, in fact quite inappropriate, to discuss the merits of your cases in detail. We obviously don't have the information to do that justice. But we are here to deal with a bill. You should be aware that we have this bill before second reading, which means we can change any part of it, including every word of it. What is extremely important is the principles within which whistle-blowing legislation is going to come forward. We're going to have to establish these principles, and you've all basically said that there should be an independent agency. It must be really and perceived to be independent, and we will make sure of that.

One of the other aspects we're wrestling with is whether there should be some limitations on the matters that can go forward. The current bill basically says, if you're really not comfortable doing it at all through the existing bureaucracy, you can always go to this body. Let's refer it to the commissioner, and the commissioner can deal with it. We had one case, the George Radwanski case, where there were significant problems and a whistle-blower, and the committee took on that role. There are, I'm sure, many human resources complaints that should be dealt with at the departmental level, using the human resources mechanisms that are established. Are we going to be able to do that? Do we have to create a whole new bureaucracy to handle everybody's complaint about anything? Or can we restrict this to wrongdoing, breaking the law, putting people at risk, etc.?

Can we restrict it to the senior people within departments, organizations, agencies, crown corporations?

**Mr. Selwyn Pieters:** The question you ask is appropriate, but the answer is already obvious, because you have the Supreme Court decision, for example, in Fraser that defines what is serious wrongdoing. You have the Chopra decision. You have the Treasury Board policy now that describes what—

**Mr. Paul Szabo:** The bill defines wrongdoings, breaking the law.

**Mr. Selwyn Pieters:** And then you have the bill itself. So no, there are not going to be any human resource issues. There will be a way of screening those issues so that even if someone goes to the independent entity, the independent entity can come back and say to that person that it is a complaint that is more appropriately dealt with through the grievance process, it is a complaint that is more appropriately dealt with through the Canadian human rights process, or it is a complaint that is more appropriately dealt with within their own office structure.

•(1635)

**Mr. Paul Szabo:** Okay, I get your point. We should be able to identify it to the most serious.... To be realistic, if we make it too broad, you all understand that it will create an enormous bureaucracy, and that will not create the confidence level within the bureaucracy. If you're comfortable with that direction...

One of the things that concern me is that, should someone have an allegation of a wrongdoing, under the law their identity will ultimately have to be made known to the person against whom the allegation is being made; i.e., you're going to be known. To me, that really makes it impossible to address the concern about reprisals. Reprisals can occur from the very simple things, like making a simple complaint that somebody is always late. You'll never know whether they got you or they're getting you or they will get you, so really the only way to protect against reprisals is to protect your identity. Would you agree?

**Mr. Brian McAdam:** If it's possible to do that, yes.

**Mr. Paul Szabo:** In some cases it's not, because if an allegation comes forward in certain agencies, departments, or whatever, there are sometimes very few people who would even have any knowledge of that information and someone would be able to probably pretty well zone in. But in the vast majority of cases, really, it would appear to me—and I hope you will have a comment here, I hope you will agree—that we should find a way to protect the anonymity of someone who makes an allegation. I hope you would agree that there's nothing for anybody to gain or to get a gold star for, for being the guy to bump somebody off.

**Mr. Allan Cutler:** There might be a difference in semantics. I have no use for anonymity. I have use for confidentiality, but an anonymous complaint can be a frivolous complaint.

**Mr. Paul Szabo:** Let me clarify: public anonymity, but obviously direct identification to an independent commissioner.

**Mr. Allan Cutler:** Where possible, yes.

**Mr. Paul Szabo:** Somebody suggested that the onus is on the employee to prove a reprisal, or maybe even an allegation. Do you think this bill should be structured in such a way that someone who has knowledge or becomes aware of a matter that could be wrongdoing as defined would be permitted to bring forward that allegation or information and in fact back off? "I don't know, but here it is; I just want to know you've taken reasonable steps to investigate and to find out". The allegation then becomes the property of or the onus shifts to that office, that commissioner.

Sometimes you won't have perfect information. I'm a little concerned that if you don't have absolutely perfect information, you may not make an allegation, but that others who have investigatory powers may be able to carry something further than you might. Would it be a good principle that there be no onus of proof, but rather a good-faith gesture, in that if I find out information and I'm concerned about it because it could be a breach, it should be brought forward and the commissioner should follow through with a proper disposition of an allegation of wrongdoing?

**Mr. Brian McAdam:** If I may answer that, my experience is that it would be a wonderful model. In my case, I launched seven or eight—I lost count—RCMP investigations in my career, and a major investigation with CSIS and the RCMP. One would think those organizations that are charged with that responsibility of investigating would carry out their mandates, and in fact they did not.

**Mr. Paul Szabo:** So it comes back to real independence, then.

**Mr. Brian McAdam:** Absolutely.

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

Mr. Martin, followed by Mr. Lauzon.

**Mr. Pat Martin (Winnipeg Centre, NDP):** Thank you, Mr. Chair, and thank you all for being here.

I think I can safely say I speak for most Canadians when I say it makes my blood boil when I hear the stories you bring to us today and hear you explain the nightmares you have lived through as a result of doing the right thing, the honourable thing, and telling what you know of wrongdoing, maladministration, or however you want to phrase it. As a former union rep, I've represented workers in the field, and it makes me furious to think you're still suffering repercussions for doing nothing more than coming forward with wrongdoing.

Something is completely upside down with our world. This should be rewarded. Good managers should welcome whistle-blowing, and there should be a positive reward. I'm not sure how I feel about the United States having an actual monetary reward in keeping with the amount saved, but there certainly should be a big gold star on your career portfolio, not a big blemish, a negative, or a minus.

You've answered many of the questions I had. You've given testimony that gives us clear direction on some specifics about the bill. So I will stop short of some of those questions, but there's one specific thing that maybe you could help me with.

In the current bill, which I sense you don't have a great deal of confidence in as it is, there's swift punishment contemplated for false, malicious, or vexatious complaints, but there's no corresponding swift justice for managers who may mete out some kind of punishment for a whistle-blower. In fact, the only avenue of recourse

for them is the ponderous route of the CIRB, essentially no better than filing a grievance, which you have recourse to already, and this can take years. I'd ask if anyone has any thoughts about how that may be addressed, a parallel avenue of recourse for those who feel they've suffered reprisals that is at least as swift and symbolic as the punishment that's there for those who make false claims.

• (1640)

**The Chair:** Mr. Cutler.

**Mr. Allan Cutler:** I'm not a person who is much on wanting revenge on anybody. I'm not that type of person. It should be there; in my case it wasn't. The department flatly refused to even consider that type of action. What do you do? You get on with life.

I would like to see something that puts a tremendous onus on management to glorify a whistle-blower, if you will. Actually, a whistle-blower generally—and we all are examples—is someone really trying to do their job in the way the job is meant to be done. I'm speaking for myself, others can speak for themselves. That doesn't mean you're going to be a team player in a small group that's abusing all the rules and regulations or any of the investigation powers. You're doing the job the way the job is meant to be done. The incumbent management, whoever the management is, always seems to be embarrassed by a whistle-blower coming forward, instead of saying, now I have a problem, and it's the people who are above the whistle-blower who should have solved the problem, so the reverse onus is there. I see this in the bill. You're really worried about the whistle-blower coming out and saying, look at what's wrong. What you should be saying is, why, if we have an ethical public service? Is there such a thing? We shouldn't exist. The problem is the culture. The problem is not the whistle-blower.

**Mr. Selwyn Pieters:** I also would like to respond briefly to that.

For example, in the Human Rights Act, if an employer takes action against an employee, that can be considered retaliatory, and there are penalties that can be meted out. I'm thinking about the case of McKinnon v. Ontario Ministry of Correctional Services. Mr. McKinnon was a correctional officer who was discriminated against. The findings were that he should be promoted two levels above his current position, that all the perpetrators in the workplace should be removed, and that the deputy minister should be assessed in his performance based on the steps he took to remedy the situation.

So you are thinking in the right direction with things that can occur with respect to managers who are complicit or facilitate these things.

• (1645)

**Mr. Pat Martin:** That's very helpful. Thank you.

**Mr. Brian McAdam:** Mr. Martin, if I may go back to the issues that I talked about as far as reprisals are concerned, these reprisals can be extremely serious. As I mentioned, the Swedish studies showed that 10% to 20% of the people who are mobbed or harassed, whatever term you want to use, end up committing suicide.

Most whistle-blowers will end up with a depression. I have ended up with severe depression that is supposed to be with me for the rest of my life. I was certainly very suicidal for a year and a half. Thank God, with the support and love of my wife, I have succeeded in getting over it.

It is almost like having someone assault you. I try to use this example: if someone came in with baseball bats and hit you over the head and broke your legs, your arms, and everything else, quite honestly the pain would not be as bad as having a severe depression. I can assure you of that. Not only that, but that person would also get all kinds of sympathy: "Oh, my God, look at that", and people would be very empathetic. Not only that, the perpetrators would also be charged with assault causing bodily harm. However, in this case it is all very invisible; these are psychological harms that come to people, and the consequences can be very, very serious indeed.

I actually remember the first time I saw this. It was a very close contact of mine in Hong Kong in 1968 who was a whistle-blower. The retaliation against him was so intense that within two months of his arriving back in Canada, he had a heart attack and died at age 45. These types of things go on all the time. They go on very quietly, very secretly; everybody is hush, hush, hush.

These are the consequences. They are very, very serious.

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

Mr. Martin, your time is up.

Mr. Lauzon.

[*Translation*]

**Mr. Guy Lauzon (Stormont—Dundas—South Glengarry, CPC):** Thank you, Mr. Chairman.

I would like to follow the example of my colleague, Mr. Poilievre, and congratulate these gentlemen for the courage they showed over many years.

[*English*]

When I look at you four gentleman... I should preface my comments by letting you know that I spent 22 years as a public servant myself. I witnessed some treatment similar to that which you people had and have been exposed to it, but certainly not anywhere near the degree that you people have, so I applaud you for your courage.

Actually, on behalf of Canadians, I really must apologize as a member of Parliament, and I apologize on behalf of the Canadian public, for the way you have been treated in our public service. I feel it's a scandal that four dedicated public servants end up being treated like you people have; it is just unconscionable.

When this bill first came before committee, and because of my experience as a public servant, I said this bill had to serve the clients that it was meant for. When we pass a law, you are the customer, you

are the client; the public servant was supposed to be the client. That's why I am so glad to hear you people agree that we have to have an independent commissioner, because I knew from my experience in the public service that there is no way the person is going to go to anyone if the latter is not independent. I am really glad that all four of you agree on that point.

Mr. McAdam and Mr. Read, your situation particularly intrigues me. I will just go through my understanding of what happened.

I understand, Mr. McAdam, that you spent something like 29 years in the public service. You made some findings known to the RCMP, and my understanding is that some of the findings were very serious. From the information I have, one of your findings or reports to the RCMP included a list of names of Canadian government co-conspirators with China and the triads, including people at the government's highest levels. This is the report I have.

Obviously, if I were receiving a report like that, I would get the RCMP involved, so Corporal Read got involved. If the information I have in front of me is right, you went public with the information that authorities had tampered with files to conceal criminal backgrounds; there was a case where 800 computer files of prospective aliens were tampered with, and 2,000 blank visas went missing during the same period. It goes on and on.

Finally, I understand, you went public, Mr. Read. After all of that, a year after you went public you were prosecuted for talking to the media. Then in September 1999, it says that Mr. Read was suspended, and in April 2002, after a service court trial by a tribunal of senior officers—RCMP officers, I assume—you were found guilty of discreditable conduct and ordered to resign within two weeks or be subject to summary dismissal.

If my facts are right, before Bill C-11 you weren't protected. They're suggesting that the RCMP not be included in Bill C-11. Can I have some opinions on how you feel about that?

• (1650)

**Cpl Robert Read:** For me, whatever law you passed would not have helped me in my situation, because the RCMP decided that they were going to railroad me.

As I've said before, there are two positions within the RCMP, a concern for national security and a concern for prosecuting a criminal case. I was on the path of the criminal case. Having found this large problem with a government computer being abused by many people, my divulging such information would grow a political problem.

The thing about government is that we trust government to be in control. In this case, government would have to admit they couldn't control something. It's kind of like the atomic bomb. The government controls bullets, and perhaps hand grenades, but they can't control nuclear weapons. To compare that with information technology, the government controls typewriters and fountain pens, but they can't control the Internet or computers. This is a new reality that has to be faced politically.

**Mr. Guy Lauzon:** I want to share some time with my colleague, so perhaps I can ask each of you to give me a one-word answer here, just yes or no. If you had to go through again what you went through, would you do the same thing?

**Cpl Robert Read:** Yes, I would.

**Mr. Allan Cutler:** Yes.

**Mr. Brian McAdam:** Yes.

**Mr. Selwyn Pieters:** Yes.

**Mr. Guy Lauzon:** I really admire your courage.

Thank you.

**Mr. Joe Preston (Elgin—Middlesex—London, CPC):** And I'll use the same word; "courage" describes it exactly.

You're all fairly well known for having come forward against a bureaucracy as whistle-blowers. Has anyone come to you to ask you for input into this legislation, before today?

**Mr. Brian McAdam:** Absolutely not.

**Witnesses:** No.

**Mr. Joe Preston:** As my colleague described you, you're the customers of this legislation, and I think it would have been appropriate to have gone to at least the four of you and maybe quite a few others to get that information.

I have one other question for anyone on the panel. The independent entity that we're talking about, that you would come forward to, obviously would investigate whistle-blowing. Are you asking that this entity also do the research on reprisals after the fact? Would it also still be that same entity?

**Mr. Selwyn Pieters:** Yes, it could be the same entity.

**Witnesses:** Yes.

**Mr. Joe Preston:** Thank you very much.

**The Chair:** I think that was a yes from everyone on the panel.

Madame Marleau.

**Hon. Diane Marleau (Sudbury, Lib.):** I have a particular interest, as you know, in some of these files.

First, to Mr. McAdam, did they take steps to correct the problem after you pointed out what the problem was?

**Mr. Brian McAdam:** No, absolutely not. They just covered everything up, constantly.

I think probably the perfect example is the wonderful analytical work that Corporal Read did in discovering what happened as far as the computer was concerned. It's a long story, but in essence the RCMP, after him, assigned a couple of investigators, and they could find nothing wrong. They told me in a meeting that there was absolutely nothing wrong, that this problem simply evolved because of a technicality in transferring information from one computer to another.

I knew this was absolutely false, so I went to the Auditor General, because I knew they were going to Hong Kong to investigate. I told them about this issue. They went, they investigated, and they found out exactly what I found out, exactly what Corporal Read found out, and in their report for the year 2000 said, yes, the computer was compromised; it was being operated illegally by locally engaged staff and there were hundreds of visas missing, something like \$15 million in visas.

• (1655)

**Hon. Diane Marleau:** So you were aware of that...well, you left there in 1991.

**Mr. Brian McAdam:** In 1993.

**Hon. Diane Marleau:** You knew about it, and it continued until 2000, you're saying.

**Mr. Brian McAdam:** It's still going on.

**Hon. Diane Marleau:** You think it's still going on?

**Mr. Brian McAdam:** Sure.

**Hon. Diane Marleau:** I've been a minister, as you know, and I can tell you that as a minister of a department sometimes, and I've had that experience in some of my mandates, you're not always told what's going on. It's incredibly difficult to get to the bottom of things. It's not because people want to do bad things but because they want to give the minister the answer that they think the minister wants.

Am I correct in that?

**Mr. Brian McAdam:** Absolutely.

**Hon. Diane Marleau:** That creates on its own a whole other problem within the bureaucracy.

Mr. Cutler, I don't know whether in a small organization like the one you were in you could have been protected by any kind of legislation unless you were pulled out of that department completely after you made the allegations. Do you think there should be some way—I don't know if it should be in the legislation—of pulling a whistle-blower completely out of the area where he or she is working, to protect them and to ensure that they continue up the chain of promotion and so on?

**Mr. Allan Cutler:** That is a possibility, but why should the whistle-blower be the one who has to move?

**Hon. Diane Marleau:** I ask you that because until it's actually proven that there is wrongdoing, you have to be protected.

**Mr. Allan Cutler:** I was supposed to have been removed out of that situation within three weeks after the time I reported it, and it took over three months.

**Hon. Diane Marleau:** When was this?

**Mr. Allan Cutler:** In 1996.

**Hon. Diane Marleau:** But you weren't removed from that position?

**Mr. Allan Cutler:** Not from that position. Eventually, two colleagues of mine who were a little higher up and in a different organization offered me a permanent job.

**Hon. Diane Marleau:** And so you moved away from there.

**Mr. Allan Cutler:** I moved away from there.

**Hon. Diane Marleau:** Of course, the protection in this bill didn't exist. But when you reported it, you reported it to people above you, and they took no action.

**Mr. Allan Cutler:** I reported to those above me, and I also went via a parallel chain of command, which is internal audit.

**Hon. Diane Marleau:** And they did it, and the rest is history.

In a piece of legislation like this what we want is to protect people like you and to make sure that in the end, because you have come forward and done the right thing, you're not penalized in any way, but quite the opposite. How can we do it with legislation? That's the problem we have. That's what we're trying to do here. Yes, we can have an independent body. How do we treat the complainant until it actually gets found out? As you say, a lot of it is very subtle; they won't report it. I've been around for a while and I know what happens, and it's sometimes extremely subtle and very difficult to prove.

**Mr. Allan Cutler:** I'll turn to Mr. Pieters in a second, but first I would say that what you have to do is change the culture at the top. The ethical standard of the civil service does not start at the bottom, it starts at the top, and that goes, quite honestly, right up to Parliament. You set the bar. The civil service will be no more ethical than the top levels. All the rules I've seen coming out lately say the normal civil servant has to be ethical. That's not where you have to start. You need to have the leadership, and then people will follow.

**Hon. Diane Marleau:** I also believe crown corporations and the RCMP should be included in this bill. They shouldn't be set aside. So I think you'll see things of that nature occur with this legislation.

• (1700)

**Mr. Selwyn Pieters:** I think there should be penalties, and Mr. Martin raised this. For example, in the Pelletier case, there was a firing when the Prime Minister learned that retaliation was being taken against a whistle-blower. The deputy head downwards should be responsible, and if the deputy head is tolerating retaliation against a whistle-blower, if the deputy head is complicit in wrongdoing in the workplace, quite frankly, they should be fired. The senior executives shouldn't even be moved to another organization, because those are the senior people who leave the Department of Fisheries and Oceans and go to another department and carry on the same way they did in the other department. So it's almost incestuous, almost an infestation in the public service, moving these managers around. If they're incompetent, fire them.

**The Chair:** Thank you very much, Mr. Pieters, Madame Marleau.

Monsieur Sauvageau has asked for just 10 seconds. I'll keep you to close to that anyway.

[Translation]

**Mr. Benoît Sauvageau:** I would like to come back to what Ms. Marleau said. She said that officials tell ministers what ministers want to hear and, as a result, often don't tell the truth. I think that it's a problem within the culture which must be changed.

I would like to ask Mr. McAdam to clarify something. I want to make sure I understood correctly. You said that there was corruption in every Canadian mission abroad. Is that correct?

[English]

**Mr. Brian McAdam:** In one form or another—not necessarily every mission abroad, but a great many of them.

[Translation]

**Mr. Benoît Sauvageau:** Are you saying that there is corruption in many Canadian missions abroad?

[English]

**Mr. Brian McAdam:** Yes, and there have been all kinds of public reports on that topic.

[Translation]

**Mr. Benoît Sauvageau:** Is it especially prevalent in the area of immigration?

[English]

**Mr. Brian McAdam:** Not necessarily. The last time I saw something like this was an accountant in Venezuela who may have extorted a couple of million dollars. Generally, the Department of Foreign Affairs never wants to sully its reputation, so they will go out of their way to keep things quiet and arrange things. So there should be prosecutions, but there are not.

**The Chair:** Thank you very much, Monsieur Sauvageau.

Thank you, gentlemen, very much for your presentations here today. They will be extremely helpful to the committee, and I believe the process will lead to a good piece of legislation going to the House. It is very valuable information. Thank you very much for your service here today.

We'll suspend for about two minutes while we have the witnesses from Privy Council and Public Works come to the table.

• (1703)

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

• (1709)

**The Chair:** We will start again as soon as we get a member from the government side in her or his seat.

**Mr. Joe Preston:** We're willing to go out there.

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

We will resume. For this last part of the meeting we are dealing with the issue of a question on the Order Paper that wasn't answered in time. We agreed at the last committee meeting to have witnesses from the two departments that are represented here today.

I understand we also have in the room people from the heritage department, which actually was the department that was late in responding. If any committee members would like to have individuals from that department to the table, I understand they'd be prepared to come. We'll proceed with this in mind.

Mr. Williams, the individual whose question hasn't been answered, is here today. We'll give him the first round of questioning, but first we'll hear any presentations from the people at the front.

• (1710)

[Translation]

**Mr. Matthew King (Assistant Secretary, Legislation and House Planning, Privy Council Office):** Thank you, Mr. Chairman. My name is Matthew King and I am the assistant secretary, Legislation and House Planning within the Privy Council Office. I was asked to explain to you this afternoon the process we follow to answer questions on the Order Paper. I will do this very briefly so that we have as much time as possible for questions.

The process has changed a lot over the last few months. In March 2004, the head of government announced in the House of Commons measures to better answer members' questions. Simultaneously, the government asked the Auditor General to look into these changes and to determine whether they would make the process more efficient.

In her 2004 report, the Auditor General made other recommendations to improve the process, as you perhaps know, the government accepted all of her recommendations and we are now in the process of implementing them.

[*English*]

If I may add, Mr. Chair, I understand from discussions with your staff there was a feeling that it might be helpful to very quickly run through the process, and I wouldn't mind doing that now.

Within the legislation and House planning secretariat is the office of the coordinator of parliamentary returns. It's in this office—OCPR, if I might be permitted to use the acronym—where the process begins and ends. It starts with an MP submitting a question to the Clerk of the House, who then places the question on the Notice Paper. OCPR, in our office, scans the Notice Paper on a daily basis to get on these things as quickly as possible.

We have a newly identified director now for OCPR, which is a change from the past for us, who reviews the questions. It's a very senior official. For questions that are particularly complex—and these usually involve multiple departments and agencies and tend to extend over a fairly long period—the director often calls the member in question to seek clarification, if needed. This is something that has worked quite well over the last number of decades. We've been very fortunate in being able to develop good relationships with committees and with members to do what we can do to get the information requested in its fullest form as quickly as possible.

If the question is straightforward and involves only a single department or a small number of departments, the Privy Council Office alone would coordinate the response. We do this by tasking departments to comply with the question, by coordinating and then validating departmental responses, and ensuring that a comprehensive response is tabled in the House on time.

Pursuant to the March 2004 process improvements that I referenced earlier, we have made a fairly significant change, one that I think we will see pretty strong support for in the Auditor General's report. The PCO is now permitted to designate a lead department that would review and validate data on behalf of all of the departments that make submissions. This is another way we are pursuing to make sure mistakes—some large and some not—are minimized and to speed up the process.

Once the range of departments that will be asked to respond to questions is identified, the Privy Council Office itself then sends out written tasking instructions. These set out the question, any clarifying instructions that have subsequently come from the member, and the required timelines. From this point departments are required to undertake the appropriate searches and ensure that individual responses are comprehensive and in fact completed on time.

Again, pursuant to the March 2004 process changes, all departments are now obliged to designate a senior official to sign a statement of completeness certifying that the answer is complete and accurate—obviously this wasn't the case before. The statement also has to describe how the search was conducted and the steps that were taken to ensure that the response is complete and accurate. Once departments have completed the research and the statement of completeness is submitted—again, this goes back to the March 2004 changes—the response is then signed off by the minister's parliamentary secretary.

One of the other changes to come in at this time was an agreement that parliamentary secretaries would also sign off on all responses. Once this step is completed, all departmental responses are sent back to PCO. In those cases where we've designated a lead department to coordinate and validate the response, which is happening more and more frequently, the PCO would then send the all of the responses to the lead department.

• (1715)

**The Chair:** Excuse me, Mr. King, we'll have to get to the questioning in one minute. Could you wrap it up, please?

**Mr. Matthew King:** That's not a problem. I have only one more step to cover.

The final step in the process, then, which came out of the November Auditor General's report, is to ensure that for responses that are complex and financial in nature, the lead department will do what it can to aggregate the data to make it more accessible to the member. We hope this would avoid situations like those in the past where we simply dumped 800 pages of tables on a member.

Those are the changes we've put in recently, Mr. Chairman. I'll now turn things over to my colleague or take questions, whichever you wish.

**The Chair:** Thank you very much to Mr. King from the Privy Council Office.

I'd like to introduce also Ms. Aloïsi and Mr. Marcoux from the public works department.

Did either of you have a brief statement to make, or do you want to go straight to questions?

**Ms. Yvette Aloïsi (Assistant Deputy Minister, Corporate Services, Human Resources and Communications Branch, Department of Public Works and Government Services):** I have a very brief statement to make.

**The Chair:** Go ahead.

[*Translation*]

**Ms. Yvette Aloïsi:** Mr. Chairman, my name is Yvette Aloïsi. I am assistant deputy minister for Corporate Services within the Human Resources and Communications Branch at the Department of Public Works and Government Services Canada. With me is Mr. Laurent Marcoux, who is the director general, Public Opinion Research and Advertising Coordination within the Department of Public Works and Government Services Canada.

I would like to begin by apologizing to committee members for arriving late.



I would like to point out to committee members that the Department of Public Works and Government Services Canada has two roles with regard to the issue concerning the answer to question 39.

As a department of government, Public Works and Government Services Canada originally submitted its response on time, after having consulted with each branch and special service organization within the Department of Public Works and Government Services Canada. But the department also plays a second role, which is that of lead department, which means that it is responsible for collecting all the information which goes into the government's response. I will come back on that in a moment.

[English]

Mr. Chair, Public Works and Government Services Canada has an excellent record in responding to order papers. In the 37th Parliament, we received 106 questions and were late on one occasion.

**The Chair:** If you don't mind, we're here to deal with a particular question and a particular response. If we could start the questioning, we'll get right to it.

Mr. Williams.

**Mr. John Williams (Edmonton—St. Albert, CPC):** Thank you very much, Mr. Chair.

I appreciate the opportunity to be here this afternoon regarding question 39, which I had put on the Order Paper on November 25, 2004, and which required a response by January 31, 2005. The question was basically on how much money the government was spending on polling by department, what they were asking, what the results were, and so on. It may have been a comprehensive question, but the rules call for an answer in 45 days.

Mr. King has been telling us how he's improving the system to ensure that everything is completed on time, but this new system is obviously not working.

I refer back to the Standing Committee on Public Accounts on Wednesday, January 29, 2003, almost exactly two years ago, when another of my questions was not answered in time, Mr. Chair. At that time it was referred to the public accounts committee, which I happen to chair, as you know.

Ms. Sgro, the member for York West, was the parliamentary secretary at the Department of Public Works. She apologized to the committee because the answer was almost ready and it would take a few more days. I said surely if they had the courtesy to inform the member that they needed three or four more days, the member would not get upset. But because it has passed the deadline, as the chair, you are obligated to raise the issue within five days. You have no choice on that matter.

Now we have the debate and the witnesses are here. If they had sent a letter saying that in three or four more days the answer would be complete because it was complex and required investigation, nobody would have had any trouble whatsoever.

Two years ago the public accounts committee passed a motion that said:

That the Standing Committee on Public Accounts express its concern in the Ministry in failing to answer Question 85 within the 45 days prescribed in Standing Order 39(5) and that in the event an answer is not forthcoming in the near future, the Committee will revisit the matter.

As the parliamentary secretary to the department, Ms. Sgro assured me that they would adopt this policy of ensuring that they respected Parliament as somebody they worked for, not as something they have to add on to their workload and deal with whenever they want to.

The impression we get is that Parliament isn't important. You work for Parliament, you work for the government, and government is accountable to Parliament. When we ask for 45 days and those are the rules, we expect it in 45 days. But at the same time, if you need three or four more days, nobody is going to get upset. Surely it was incumbent upon you to communicate either with the chair of the committee, who was going to receive this complaint, or the member in question to ask for a little delay. Is that too much? That surely is the question.

To avoid half an hour of time at this committee, Mr. Chair, members of Parliament, civil servants, the cost is all for the lack of a little courtesy, asking for a few more days.

Is that too much to ask, Mr. King?

• (1720)

**Mr. Matthew King:** First, Mr. Williams, thank you for the opportunity to respond.

I have to say straight up front that I'll take complete responsibility for that. The fact of the matter is that my own group is responsible for this and, by the way, is responsible for communicating with members. We dropped the ball. We had an unexpected departure, and this fell through the cracks.

We called your office at the front end to get clarification. You should have been notified before the end. I can only assure you that in the future, as long as I'm in this position, that will happen. I do apologize.

**Mr. John Williams:** All I ask is for something at the back end. Yes, I acknowledge that you talked to my staff at the front end saying, there is a simple response, but if you want the full one, it'll take some time. It's not a problem. If it takes 48 or 54 days, it's not a problem. But you must expect that Parliament deserves the courtesy of some communication, because, to me, no news means that you're avoiding the problem and therefore the whole machinery of accountability swings in. That's why you're here and all the members of Parliament are here. It's being televised, and so on.

I appreciate and accept your apology.

**Mr. Matthew King:** Thank you.

**Mr. John Williams:** But it was unnecessary for us to go through this exercise, Mr. Chair, and I would hope that you take this and make sure you put this into your improvement practices to ensure that from here on in you communicate with members of Parliament, recognize they are entitled to the answers, and as the rules say 45 days, you will deliver in 45 days. If you have a problem, you communicate with the member and say, "We are working on it, give us a few more days", and even a committee will accept that you may need more time. It's not a problem.

**Mr. Matthew King:** Understood, thank you.

**The Chair:** Mr. Szabo.

**Mr. Paul Szabo:** I think this is wonderful, but I want to know this, Mr. King. You've looked at this, we've got new procedures, the Auditor General's been involved, but what is the current policy and practice with regard to situations where you cannot meet your deadlines? What is in the published policy right now?

**Mr. Matthew King:** There's nothing.

**Mr. Paul Szabo:** Did I hear you right, that there's nothing?

**Mr. Matthew King:** There's nothing, to my knowledge, that sets out the steps as to how you communicate when you get close to the deadline.

**Mr. Paul Szabo:** Sure.

Other members may want to ask questions, so we'll just have to keep this crisp. I would have thought that if we actually went through the process of coming up with new procedures, or better procedures, and had the Auditor General, then clearly there must have been some reasonable person there who would have looked at this from the standpoint of members of Parliament and the rules of the House. And you have not, so you've been deficient in giving it an exhaustive review.

I believe you now have to come up with further changes to the practices and policies to say that as soon as those responsible become aware they you cannot meet the 45 days, you must give written notice to the member with reasons therefor and give an undertaking as to when you will do it. That ought to deal pretty effectively with it.

I am asking you, will you do that?

**Mr. Matthew King:** I have no trouble, sir, saying yes, we will.

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

Does anyone else have questions?

Mr. Martin.

**Mr. Pat Martin:** Perhaps I could ask you a brief question as almost a layperson on this issue, as I don't know a great deal about it. Within the office of the coordinator of parliamentary returns, the director first reviews the question and, I suppose, starts to figure out how it will be dealt with. Has there ever been a case, to your knowledge, where a political figure from the PMO might intervene at that stage and suggest, "We would prefer that this question took the full 45 days to answer, because this is a politically sensitive issue"? For instance, the question that Mr. Williams asked deals with the same contractors who are involved in the sponsorship scandal. Has there ever been a time, to your knowledge, where a political figure on behalf of the PMO or the government might have intervened and asked the director to put the brakes on, "to act as slowly as you can because we don't want this particular answer to come out at this particular time"?

• (1725)

**Mr. Matthew King:** I've been in this position since, I believe, August 1 of last year, and I've never had anything close to a conversation with anybody from PMO or the PCO proper, for that matter, along this line.

I have had discussions within PCO, though, on very big, complex questions about whether or not we would be able to deliver in 45 days, and oftentimes I've precipitated those discussions when it looked as though the question could go over 10 years, involving, in this case, 128 departments and agencies. In those cases, you do get worried very quickly about your ability to deliver within the 45-day time period. So I've often precipitated those discussions and, to be quite frank, done what I could do to kickstart the system to make sure the information was flowing into PCO on a more timely basis.

But no, just to come back to your question, I've never had a discussion or I've never had anyone tell me in any way anything like that.

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

Are there any more questions?

Mr. Preston, I believe, has a question.

**Mr. Joe Preston:** Yes, just very quickly, the 45 days seem to be the limit. Is it your habit to hand the answer over at the 45-day mark, or do we generally get it done earlier?

**Mr. Matthew King:** I'm afraid I'm going to have to ask someone with a little bit more experience than I have how many times.... Does anybody know?

My colleague in the rear, who has a bit more experience, says that generally we hand them in as soon as they're available, and quite frequently that's before 45 days.

**Mr. Joe Preston:** All right, we'll certainly look at that. The other portion of the commitment you made is that you would let the questioner know if it weren't going to be ready under 45 days. Could we also have a commitment from you that if partial information is ready, the questioner is welcome to it until such time as all the information is ready?

**Mr. Matthew King:** Absolutely. My understanding, sir, is that this type of arrangement has been made in the past as well, so I'd be happy to talk about that.

**The Chair:** There is a motion coming. We will be done with this meeting within five minutes unless there's a lot of discussion on the motion, which I doubt, but there is one more question from Mr. Lauzon.

**Mr. Guy Lauzon:** When I was a public servant, I used to deal with speed of service targets. I'm wondering if you people have such targets. Can you enlighten me as to what percentage of these replies are not delivered within the 45-day period?

**Mr. Matthew King:** I don't know of a speed of service chart, sir, but we did a little bit of research on the way in. I wanted to get a sense of how isolated or not this issue was. From a PCO perspective, I can say in the 37th Parliament, January 2001 to May 2003, we received 568 written questions and were late on 41 of those, about 7%. People tell me that's pretty much what it's been like over the last number of Parliaments as the questions have become more frequent and complex.

**Mr. Guy Lauzon:** Do you feel that's a bit high, 7%? Do you find that's acceptable?

**Mr. Matthew King:** No. In fact, the reforms I talked about earlier in part are meant to reduce that yet again, and I'm confident we'll be able to. I do have to say in defence of my staff, and I think the Auditor General was quite expressive in her report on this, we can't underestimate the complexity of these. They are becoming increasingly complex over time, and quite often they don't match up to the nature and the state of departmental information databases, they don't match up to the period of time of the official records-keeping period, and that sort of thing. We're often forced to marry disparate databases and make manual calculations to do whatever we can do to get an answer together.

**Mr. Guy Lauzon:** There are exceptions to every rule, but I think 7% may be a bit high. I share my colleague's point that just out of respect, maybe, if the 45-day target can't be met, it might be a good practice to let the member of Parliament know.

**Mr. Matthew King:** I agree.

• (1730)

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

Thank you all very much for coming. We appreciate your coming and appreciate the apology. The committee obviously does take this seriously. We didn't need this half-hour session this afternoon. I'm looking forward to an improved process.

Before members leave, there is a motion coming from Mr. Williams. Mr. Williams, please make the motion.

**Mr. John Williams:** Thank you, Mr. Chair.

I would move that the Standing Committee on Government Operations and Estimates express its displeasure with the ministry in failing to answer question 39 within the 45 days prescribed by Standing Order 39(5), and that in the event the answer is not forthcoming in the near future, the committee revisit this matter.

**The Chair:** That is a motion arising from the meeting this afternoon. It is a substantive motion.

(Motion agreed to)

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

This meeting is adjourned.

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