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Chair

Mr. Larry Miller

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•(0845)

[English]

The Chair (Mr. Larry Miller (Bruce—Grey—Owen Sound, CPC)): We'll call our meeting to order.

First of all, I'd like to thank our witnesses for being here. I appreciate it. Mr. Watson, just before we start, you....

Mr. Jeff Watson (Essex, CPC): Yes, Chair. I want to withdraw some remarks I made at this committee regarding the chief opposition critic at the last meeting. My facts were entirely incorrect, and I withdraw them unreservedly and with apology.

Ms. Olivia Chow (Trinity—Spadina, NDP): Thank you very much. I really appreciate it.

The Chair: Thank you.

With that, I'll turn it over to.... I don't know to which one of you, Mr. Dittmann, Mr. Armour, and Mr. Charpentier?

Colonel Steve Charpentier (Director of Flight Safety, Department of National Defence): Mr. Chair, good morning. It will be me.
[Translation]

I am colonel Steve Charpentier, the Director of Flight Safety for the Royal Canadian Air Force. I am also the Airworthiness Investigative Authority for the Department of National Defence and the Canadian Armed Forces, known throughout the air force as the AIA.

I am joined by Lieutenant Colonel Paul Dittmann, Chief Investigator, and Jim Armour, Senior Investigator, both from the Directorate of Flight Safety, as well as Alex Weatherston, Legal Counsel from the Office of the Legal Advisor to the Department of National Defence and the Canadian Forces. They all worked on the development of this bill.

The Airworthiness Investigative Authority, or AIA as I will abbreviate, is currently delegated, through a chief of defence staff order that was made on behalf of the Minister of National Defence, the necessary powers and duties to support the airworthiness and flight safety programs for the Canadian Forces and the Department of National Defence.

Thank you for allowing me to make some introductory remarks to this committee on the proposed amendments to the Aeronautics Act.

[English]

I would first like to say that these amendments are critical to the continued success of aviation investigation under both the Depart-

ment of National Defence airworthiness program and the Canadian Forces flight safety program.

By correcting multiple deficiencies that presently exist within the Aeronautics Act, these amendments will provide appropriate tools for the Minister of National Defence to execute the statutory Aeronautics Act requirement to investigate aviation occurrences.

As the airworthiness investigative authority, I have the Minister of National Defence's delegated statutory responsibility to investigate matters of aviation safety for the Canadian Forces as part of the department's airworthiness program. Additionally, as the director of flight safety, I'm charged with the maintenance and implementation of the Canadian Forces flight safety program. In order to continue to carry out my airworthiness investigative authority function in a transparent, competent, and independent manner, the powers contained in the proposed amendment are essential.

Please note that the sole purpose of investigation carried out under both the airworthiness program and the flight safety program is to identify military aviation safety deficiencies and to make recommendations to eliminate or reduce the recurrence. An important concept within this process is that these investigations are not used for disciplinary or administrative purposes. This promotes a free and open reporting culture because the outcome of the investigation process is a blameless series of findings and recommendations aimed at prevention.

However, over time there have been changes to the way that the Royal Canadian Air Force's operation and training are conducted, and these changes have led to concerns in the capacity for the airworthiness investigative authority and his delegated investigators to investigate military aviation safety matters, particularly when civilians are involved.

The National Defence Act provides legal authority in respect of persons subject to the code of service discipline, meaning military members of the Canadian Forces. This authority works very well to investigate the military elements within the Canadian Forces because lawful orders may be given to ensure the cooperation of military personnel during the course of military aviation investigations. However, the National Defence Act does not generally apply to civilians and civilian contractors who are becoming increasingly more engaged in our air operation and training, with activities ranging from total maintenance of search and rescue and transport fleets to the lease of civilian-owned training aircraft at the flying training centres in Moose Jaw and Portage la Prairie.

Next I would like to point out that the civilian Transportation Safety Board is prohibited by the Canadian Transportation Accident Investigation and Safety Board Act from investigating military aviation accidents unless they involve civilian aviation facilities or non-military aircrafts, in which case the investigation must be coordinated with the airworthiness investigative authority.

● (0850)

So while the Minister of National Defence is responsible under the Aeronautics Act for military flight safety investigation, military investigators have no appropriate legal means to deal with civilian and civilian contractors involved in military aircraft accidents. To respond to this deficiency, the proposed Aeronautics Act amendments import many powers and provisions that are largely consistent with those that the Transportation Safety Board utilizes for investigating civilian accidents. This strategy will enable these powers to be used by the airworthiness investigative authority and its delegated investigators to properly conduct the investigation that they have been charged to carry out regardless of the occurrence, the location, or who is involved. Furthermore, civilians and industry that support military aviation will be completely familiar with the investigation process because essentially the same investigative powers will be utilized by both the airworthiness investigative authority and the Transportation Safety Board.

However, there are some differences with the proposed Aeronautics Act amendments when compared to the similar provision of the existing Canadian Transportation Accident Investigation and Safety Board Act, which I would refer to as CTAISB act. I would like to take the time to explain these differences, most of which deal with on-board recorders and the use of data from such devices.

The amendments will permit the on-board recorder of an aircraft operated by or on behalf of the Canadian Forces to be made available to military boards of inquiry convened under section 45 of the National Defence Act. Similar to the requirement in subsection 28(6) of the CTAISB act, when a civilian court or coroner must decide when a request is made for the production and discovery of an on-board recorder there is a test in subsection 23(1) of the amendments to the Aeronautics Act by which a military on-board recorder would be made available to a board of inquiry if the public interest in the proper administration of the Canadian Forces outweighs the privilege associated with the on-board recorder. The Minister of National Defence would make the final determination of the balancing of these interests. This provision is a welcome process change considered necessary to avoid a circumstance where, at present, one Canadian Forces authority, the AIA, might be in court trying to protect an on-board recorder while another Canadian Forces authority, the board of inquiry, would be in the same court attempting to get access to the on-board recorder.

Also, unlike under the CTAISB act, the new legislation provides that on-board recorders that are made available for a board of inquiry could subsequently be used in other proceedings that relate to determining the capacity or competence of an occurrence crew member who is a military member. This would not include any use of an on-board recorder in any military disciplinary proceeding. On-board recorder use in capacity or competency proceedings is considered appropriate given the need to safeguard the military aviation assets necessary for the defence of Canada.

As well, the AIA may authorize the use of on-board recorders for purposes other than aviation safety investigations that are in the interests of aviation safety, such as for debrief or training tools. This allows dual purpose systems, such as a head-up display with voice, to be fully employed both as an on-board recorder and a flight line training aid. This is seen as a great savings of resources for the Canadian Forces while facilitating safety investigations.

Finally, under the amendments, the AIA will provide reports to the Minister of National Defence, whereas under the CTAISB act, the Transportation Safety Board makes its reports public. This is appropriate given the AIA's wider scope of investigation and reporting, which may include operational and other classified information. It is expected that the Minister of National Defence, consistent with current practice, will permit the AIA report to be made public, less any items that could compromise operational and security considerations.

● (0855)

Another related problem is the inability to obtain information critical to flight safety investigation from civilian companies and individuals. Civilian companies and individuals have a wealth of technical data and could be a valuable source of feedback after reviewing a draft investigation report.

However, there is currently no penalty for unauthorized or premature release of information in a draft report, given that early release of such information could compromise an investigation. This leaves the Canadian Forces reluctant at present to consult civilian companies and individuals in the review process. These release problems will be solved by the provision of amendment that will prohibit by law the release of information in draft investigation reports.

[*Translation*]

In summary, the new proposed part II of the Aeronautics Act will enable the Department of National Defence to execute its statutory Aeronautics Act requirements by providing military investigators with the appropriate powers to conduct full and proper investigations into military aircraft accidents that may involve civilians.

Military investigators will be thoroughly trained in respect of all aspects of the new powers before being allowed to exercise those powers.

The amendments will also facilitate the sharing of information with the Transportation Safety Board for coordinated investigations, since both offices will have essentially the same obligations to protect information.

Last and most importantly, the proposed amendments are critical for improving the ability of the Canadian Forces and the Department of National Defence to ensure the safety of the men and women in the military aviation community, civilians involved in military aviation and the general public.

I am ready to answer any questions that the members of this committee may have.

[English]

Thank you.

The Chair: Thank you very much.

That's it for the presentation. If no one else wants to add anything at this time you are open for questions.

With that we'll move to Ms. Michaud for seven minutes.

Ms. Olivia Chow: On a point of order, Mr. Chair, I believe that we need to shorten the meeting on February 27 because we need to be in the House at around 10:15 or so—

The Chair: Ms. Chow, I've already taken that into note and I think there shouldn't be any problem shortening the meeting by 10 or 15 minutes, but it will allow all of us there. That was my intention.

Ms. Olivia Chow: If you could perhaps extend the meeting on Tuesday February 25 so that we will make up, because some of the witnesses may have traveled a long distance. We only have two meetings for witnesses in that week.... I'll let you make that—

The Chair: Well, we'd have to have consent from the whole committee for that. Just to note, February 25 and 27 will be different witnesses.

Ms. Olivia Chow: That's true. Would 15 minutes be adequate, or do you need half an hour?

The Chair: Sorry?

• (0900)

Ms. Olivia Chow: How much time do you need from our meeting on February 27 in order to get to the House? Just a few minutes?

The Chair: I would say 10 minutes, max. That would end the meeting at 10:35, and we don't have to be up there until 11:00 or 10:55.

Ms. Olivia Chow: Then it doesn't matter. Don't worry about it if it's only 10 or 15 minutes. I thought it was half an hour.

Élaine Michaud is the deputy critic for National Defence for our party. That's why since the defence folks are here—

The Chair: So who's taking the first round?

Ms. Olivia Chow: She is taking the first round.

The Chair: Okay. Ms. Michaud, seven minutes.

The Clerk of the Committee (Mr. Philippe Grenier-Michaud): If the committee consents that Ms. Chow can be present in the room...

The Chair: Any member can be present, that's not an issue.

The Clerk: The question is the question of substitution. Because Ms. Chow is an official member of the committee, if she is substituted she needs to not be present for the substitution to be valid, or you can give consent to Ms. Michaud to ask any question that she wants.

The Chair: Okay. Let's use some common sense here.

Ms. Michaud, seven minutes.

[Translation]

Ms. Élaine Michaud (Portneuf—Jacques-Cartier, NDP): Thank you very much, Mr. Chair.

I want to thank the witnesses for joining us.

I would like to quickly go over one part of your presentation to clarify something. You say that the investigations carried out by the Airworthiness Investigative Authority will be open and transparent. Did I understand correctly that investigation reports will be made public?

Col Steve Charpentier: Allow me to clarify.

Since the 2000s, once an investigation is completed, the relevant report is published on a website available to the general public. All investigations, without exception, are published in that manner.

My responsibility is to submit investigation reports to the Minister of National Defence, to whom I report as an employee of the Canadian Forces. By making our investigation reports public, we are demonstrating the transparency and thoroughness of our investigations. There aren't any problem when it comes to that. No changes are made to the reports before they are published on the website. That is one of our obligations. Even in exceptional cases, we could not circumvent the Access to Information Act, so it would always be possible to obtain investigation reports in this manner.

Ms. Élaine Michaud: What kinds of cases would be exceptional? Earlier, you talked about operational considerations. Could other factors justify an exception?

Col Steve Charpentier: To my knowledge, only operational factors or matters of national security could justify an exception.

Let's use the example of the helicopter crashes in Afghanistan. Our investigators on site may have been more careful in the drafting of their reports if they had good reasons to believe that the information could potentially be misused by our Afghan adversaries. Yet even in that specific case, the investigation reports produced were made public. That being said, the process is fairly long, as a whole year—sometimes even two or three years—may go by before an investigation is completed.

Ms. Élaine Michaud: Is that lengthy time frame due to administrative constraints or to a comprehensive investigative process?

Col Steve Charpentier: It is more due to the comprehensiveness of the investigative process.

The objective of our investigations is not to establish administrative measures or to impose disciplinary measures, but rather to determine the cause of the accident and to figure out what needs to be done to avoid similar cases going forward.

Often, we carry out in-depth analyses and visit laboratories. For instance, if an engine was the cause of an accident, we would carry out in-depth examinations and question the company who built the engine. That takes a lot of time, and it explains the fact that an investigation can take one, two or even three years.

However, allow me to reassure you. When our investigations reveal causes that, if addressed, would help prevent another accident, we do not wait for the end of the investigation and the publishing of the report to take action. Our main objective is to prevent accidents. That sometimes lengthy time frame does not prevent us from protecting our resources and people.

•(0905)

Ms. Éloise Michaud: Whose job is it to decide whether a report should be published or not?

Col Steve Charpentier: My job is to conduct investigations and report on their results to the minister's office. I have never had to make such a decision, but I think that, if the situation presented itself, this decision would be made when the investigation's results were reported.

Investigations are carried out independently. They are finalized, and their results are reported. The chain of command does not get involved in the investigation process. The chain of command is informed on the investigation's conclusions after the report has been presented to the minister's office. It would probably be at that point that the chain of command would share its concerns with the minister, who would then make the final decision.

Ms. Éloise Michaud: So the decision would be made directly by the minister.

In cases involving civilian aircraft, how much would the civilian party be involved in such a decision? Would that party even be consulted on the issue?

What would you do if the investigation report was not published, but recommendations or other information had to be communicated to the civilian aviation party?

Col Steve Charpentier: We work closely with the Transportation Safety Board of Canada. I met with that organization's representatives about two months ago. We have a memorandum of understanding for training. We do need to have a parallel process, as we are trying to be equivalent, to a certain extent. When it comes to our investigations, we use the formats of the International Civil Aviation Organization. That format is the most commonly used one around the world for investigation reports. That is what the TSB is doing, as well.

We invite TSB representatives to participate in our investigations if they want. In exchange, we have an agreement with them whereby, for the purposes of training, one of our members can be invited to participate in an investigation, even if that investigation is not of a military nature, but is fully civilian. We work together in this manner.

The TSB investigates civilian accidents, and we investigate military accidents. However, when a civilian aircraft and a military aircraft are involved, a whole host of factors come into play. The context of the accident is taken into account—for instance, whether it took place on a military base. In cases where only the civilian side is involved, my counterpart from the Transportation Safety Board and I work together. I assume that, in that type of situation, the Transportation Safety Board carries out the investigation, and military members are invited to participate in it. However, perhaps I should let Jim tell you about that, given the amount of time he has spent with the organization.

Ms. Éloise Michaud: Mr. Armour, can you tell us more about that?

[*English*]

Mr. Jim Armour (Senior Investigator, Department of National Defence): I will let you take this one.

[*Translation*]

Lieutenant-Colonel Paul Dittmann (Chief Investigator, Department of National Defence): Okay. I will answer in English, to be more specific.

[*English*]

The Canadian Transportation Accident Investigation and Safety Board Act identifies that the TSB can enter into agreements with other departments as required, and as a result of that, the TSB and DND have a working agreement that facilitates,

[*Translation*]

exactly as the colonel just explained,

[*English*]

how we work together in the various situations in which we find a mixture of military conveyance and civilly operated aircraft. In that sense, we have a very clear boundary that's known by both the Transportation Safety Board and DND with regard to who does what in which case, depending upon who needs to exercise the authority to investigate, whether it's Transportation Safety Board or the Minister of National Defence.

The Chair: Thank you. Your time has expired.

Mr. McGuinty, you have seven minutes.

Mr. David McGuinty (Ottawa South, Lib.): Thank you, Mr. Chair.

[*Translation*]

I would like to begin by congratulating you, Colonel Charpentier, for this morning's presentation. This may be the most coherent presentation I have heard in a few years.

[*English*]

Thank you very much for your brief. It's very comprehensive and very easy to understand.

As I understand it from your presentation, these amendments are trying to deal with two interfaces that need to be improved. One is the interface between military and civilian roles, and the other is the interface between the AIA and the TSB. Is that right? A number of changes are being made here to improve the way we do what we do under both acts, and there are a number of measures here I wanted to explore with you.

Over the last several years, many Canadians have been concerned because the government, taking a general approach, has moved to concentrate more and more power into the hands of specific departmental ministers. We've seen in a number of different areas how decision-making has been elevated to the office of the minister, including, for example, being able to reverse decisions made by arm's-length statutory bodies.

Can I just explore with you a little bit the new powers that are being vested in the Minister of National Defence here? One is described on page 4 of your brief, regarding this test around on-board recorders, whether it would be made available to a board of inquiry, and whether the public interest and proper administration of the Canadian Forces outweigh the privilege associated with the on-board recorder. There is a new power being vested in the Minister of National Defence.

Do I have that right?

• (0910)

Col Steve Charpentier: Yes, that's the case. However—I'm trying to find the right words to explain it.

[Translation]

Mr. David McGuinty: You can speak in French if it's easier for you.

[English]

Col Steve Charpentier: No, that's fine.

Dealing with on-board recorders is like having a tape that is listening to what the crew is saying all the time, so initially when they wanted to kick in that concept in the civilian world, there were a lot of concerns about privacy. They don't want tapes to be listened to that concern the privacy of the crew.

Mr. David McGuinty: The charter rights of Canadians.

Col Steve Charpentier: Exactly. So that's why it became.... There's a law, an act, that was voted to protect that type of information.

When it comes to the military, that's the same idea, however this part we're talking about is for the military to be able.... It's going to help us also because it's a different business, our business. Let's say we have F-18 guys training together, and they have a close call or something like that. We want to be able to use those tapes for training purposes also, to listen to what a guy has said and so on.

Mr. David McGuinty: So the guys in the cockpit whose voices are being recorded, do they agree with this?

Col Steve Charpentier: They have no problem with this because most of them right now expect they're going to.... When you join the forces, they expect this type of thing can happen. We can listen to the tape.

I'm going across Canada because part of my role is to promote flight safety and I'm doing the reverse right now. I'm explaining to most of the air crew that they do have some protection, that nobody can listen to those tapes unless it's for an investigation or it's for training purposes because there's a misunderstanding at Canadian Forces that all your tapes are being listened to every day.

Mr. David McGuinty: I'm just struck by the fact that this new power, and perhaps Mr. Weatherston as counsel can explain....Page 5 of your brief says, "It is expected that the Minister of National Defence, consistent with current practice, will permit the AIA's reports be made public,...."

I assume that's another new power being vested in the minister.

Col Steve Charpentier: To permit? No, because we already make the report public.

Mr. David McGuinty: Then why does it say we're expecting the Minister of National Defence to permit or not to permit the AIA's reports to be made public?

Col Steve Charpentier: We're trying to say what I was explaining a little earlier, the fact that if he wanted right now he could say we're not going to make it public.

Mr. David McGuinty: So this is not a new power being vested in the minister?

Col Steve Charpentier: No.

Mr. David McGuinty: It's an existing power. Is that right?

Col Steve Charpentier: Yes, it is.

Mr. David McGuinty: But the termination of balancing these interests, this test, this is a new power being vested in the minister, *plus ou moins*?

Col Steve Charpentier: Would you like to clarify that? That's new, we are right?

LCol Paul Dittmann: Yes, it is, sir.

The way the structure is in place currently, there is no mandate for the minister to make his reports public. The CTAISB Act mandates statutorily that reports are made public and currently the very significant, serious reports go to the minister. For the most part, the Airworthiness Investigative Authority, Colonel Charpentier, directs that the less significant reports are made public and go online.

What we envisage is going to happen is once the amendment is put through, we will have an administrative process in place that will outline from the minister and direct the Airworthiness Authority how to make those reports public.

• (0915)

Mr. David McGuinty: But whether to or how to?

LCol Paul Dittmann: How to. We don't feel that it's a question of "if" because one of the founding principles of the flight safety program and accident investigation is an open and transparent and independent process. We don't feel that it would be in the minister's interest to not maintain that transparent posture.

Mr. David McGuinty: How's my time, Mr. Chair?

The Chair: You have 30 seconds.

LCol Paul Dittmann: Lastly, the Access to Information Act would always allow access to the reports.

Mr. David McGuinty: Last question, 10 seconds, page 5. You talk about other problems resolved. You say: "Another related problem is the inability to obtain information critical to flight safety from civilian companies and individuals".

Is the problem really to obtain it or is the problem to protect it?

LCol Paul Dittmann: It is to obtain it, sir. When we deal with on-board recorders for example, there are many occasions when an original equipment manufacturer, a civilian company, has proprietary software and information that is able to provide a code, which then is utilized to validate the data on those recorders. DND has neither the facilities nor the expertise to guard or utilize that software. Currently we rely on their cooperation and perhaps contractual obligation and not a statutory obligation to provide that. Of course, contracts can be broken and goodwill can cease.

In those cases, they can provide a real impediment to accessing flight data recorders, the on-board recorder, to analyze it so we can make a full discovery of the information to determine the findings and preventive measures.

Mr. Alex Weatherston (Counsel, Legal Advisory Services, Department of Justice): If I could add one thing Mr. McGuinty, on the question of the minister's power to decide on the balancing test, section 11 of our amendments also allows the minister to delegate any matter under part II to any officer or member of the department. So one could expect perhaps, that power to balance could be going to a senior officer or a senior departmental official.

The Chair: Thank you, Mr. Weatherston.

I now move to Mr. Watson, for seven minutes.

Mr. Jeff Watson: Thank you, Mr. Chair. Thank you to our witnesses.

To pick up on your point, is the test, then, in effect a limitation of the minister's power with respect to publishing reports? Presumably he could quash a report for any reason currently. Is that fair enough to say or not?

Col Steve Charpentier: There are four classes of accidents. All of the major accidents are investigated, a report is produced, and a final report is published. I don't recall any of them that have not been published. I could ask. My staff have been around for more than 10 years, and I don't think there have been any cases. Actually, our motto is that you have to learn from the mistakes of others to make sure you don't do them yourself. So in that view, we are clearly transparent. And many of the things we do are also valid for civilian companies, because we do fly helicopters that are similar. They may not have armaments, but if we have a tail rotor failure that results in a catastrophic accident on a Bell 412 helicopter, well, civilian operators use the same helicopters. We want to share with them, because we want them to share with us as well, and we want to establish this relationship.

Mr. Jeff Watson: Colonel, in your written statement on page 6, as you summarize you said that the Aeronautics Act requirements would give investigators the appropriate powers to conduct "full and proper investigations". Is that to say that without them, investigations have been less than full and proper?

• (0920)

Col Steve Charpentier: They could be.

Mr. Jeff Watson: And in what sense?

Col Steve Charpentier: We do have some examples of where we've had some issues. We've been pretty successful in going around them through convincing people because of the contractual arrangement we have.

Mr. Jeff Watson: Convincing what people?

Col Steve Charpentier: Well, the civilian contractors who are involved in providing us some services.

Let's say hypothetically that we have something really bad happen. Maybe those civilian contractors at some point will feel the heat a little bit and be a bit less cooperative. We're not there yet. But with those authorities changed, we can make sure we will never face a situation where we will not be able to complete a full investigation.

Mr. Jeff Watson: Okay, very good.

In the situation of a military-civilian accident, you enter into a memorandum of understanding with the TSB. That would be to determine who presumably has the lead on an investigation. Does that mean that the military does the investigation with respect to the military vehicle involved in the accident, and the TSB investigates the civilian vehicle in the accident?

Col Steve Charpentier: No. There are many factors that have to be looked at, such as whether it happened on a military base, and so on. But let's say it happened in civilian airspace and the military was involved. I predict this would be led by the Transportation Safety Board, and we would be a participant. We would not have a parallel investigation; there would be only one investigation.

Mr. Jeff Watson: Does the TSB have powers to investigate civilian contractors when a military vehicle is involved in an accident?

Col Steve Charpentier: No, they don't.

Mr. Jeff Watson: Some may suggest that the TSB be given the authorities to investigate these types of military-related accidents. Why is that not a valid assertion? What are the concerns with that particular avenue? Presumably, the first thing I can think of off the top of my head is that if an accident occurs in Kandahar, we don't send the Transportation Safety Board to Afghanistan to investigate.

Maybe you could walk us through that a little bit.

Col Steve Charpentier: Thank you, sir. That's a good question and actually you provided one of the answers.

Other points to consider are that the TSB investigations are carried out under the CTAISB Act. Section 18(2) of the act provides that the Transportation Safety Board "shall not investigate a transportation occurrence that involves a military conveyance or military transportation facility" unless the occurrence also involves a non-military conveyance or facility. In occurrences where both military and non-military aviation resources are involved, the investigation, as I explained, will be coordinated between the TSB and DND.

However, many occurrences involve only military aviation resources, but have civilians associated with the military resources. The proposed legislation addresses this situation. The legislation would permit appropriate investigation of occurrences in this category, which are increasing in number, because we have more and more civilian companies being involved.

We have protocol and understanding with NATO and the U.S. I'll give you an example, which is still under investigation, so I'm not going to go into the details. We had a Hercules that had an accident in Key West in Florida. Initially the U.S. reacted by sending their military, because it's a bit similar to us, sending the military to investigate. According to the MOU we have, Canada will investigate if one of our assets is involved in an accident or something happens in the United States.

All those things the TSB doesn't have; we have to build them, and then after that it's a question of credibility. We have a Canadian asset talking to the U.S. military—

Mr. Jeff Watson: I would presume the question is how to deal with national security as well, and the public disclosure of information.

Col Steve Charpentier: Absolutely. The three helicopter accidents in Kandahar would be cases where you need specialized training in order to go there, to access the location, and do your work—

Mr. Jeff Watson: They would have to hire military expertise, would they not?

Col Steve Charpentier: You'd need the military, yes.

Mr. Jeff Watson: On the administrative process to determine how reports will be posted, how will this committee or anyone know what the process will look like when it's fully operational? Could that be reported to the committee?

I think it was the lieutenant-colonel who mentioned some sort of an administrative process for determining how reports get to the released-publicly stage. What factors would influence how that's done? Could the public know about that at all? Would this committee be able to know about that? How would we know if it's operational at all or if there is any administrative process?

Col Steve Charpentier: I guess the first thing I should say is that there's really no change in the way we do business. It would be the same.

There are many occurrences happening in Canada and many investigations happening. I think we have over 3,300 investigations per year. Many of them are very minor. It's rare that we have one of those big ones that we call a class one investigation. When we do have those we have a special investigator, mainly guys here in Ottawa who have special training, who go in the field with some experts and they conduct the investigation. This is done independently of the chain of command and the minister and so on. This is all internal to my group. When this is done, we look at it, we make sure everything is fine, we consult some people, and then the report is produced, signed, finalized—

Mr. Jeff Watson: Does the chain of command get to see it?

• (0925)

Col Steve Charpentier: No, it stops at me. I'm the final level that will approve the release. It's for the credibility of the system, so there's no interference from my boss, the chief of the air force, and so on in the report.

When I'm finished with that, then I need at least to inform my chain of command of the conclusion of the report. So the steps are that we first go to the chief of air force and tell him that this is what

we found, this is the preventive measure that should happen, and so on. After that we inform the chief of the defence staff and then this goes to the Minister of National Defence.

The Chair: Okay.

Please finish. I thought you were done, sir.

Col Steve Charpentier: The Ministry of National Defence may ask us some questions, but the type of questions I have seen so far are very minor, such as have we actioned a preventive measure, or that type of clarification and so on. For the minor stuff, it is available but it is not published on the website, but part of this, when we submit it, is we clearly say to the minister, we clearly mention in the briefing note, that it is our intent for the major ones that they will be published within 30 days on the website and made available.

Despite all of what I have been saying, there is no change to what we are doing. We are going to do that same thing. If someone was concerned, they still could go and use the Access to Information Act and the report would be made available as well that way.

The Chair: Okay. Thank you very much.

Mr. Braid, seven minutes.

Mr. Peter Braid (Kitchener—Waterloo, CPC): Thank you, Mr. Chair.

I'm going to share my time with Ms. Young.

Thank you, gentlemen, for being here today, and for your presentations and for your service to Canada.

I have just a couple of simple questions to start. Does this act apply only to military accidents involving civilians? Or does it also apply to military accidents involving military personnel only?

Mr. Alex Weatherston: There is a clause in the bill that provides certain provisions in part II to just the military investigations. That is clause 24.7.

Mr. Peter Braid: Is that being amended as well?

Mr. Alex Weatherston: No. All these clauses are new clauses for us. Up until now we've relied on certain of the privileged sections in the CTAISB Act, but all the other ones are building this whole system now for accessing the civilian information.

Mr. Peter Braid: Just to help us understand the context, can you give us an example or two of the last time investigations like this occurred?

Col Steve Charpentier: Involving civilians?

Mr. Peter Braid: Yes.

LCol Paul Dittmann: Since the early 1990s we've had an increasing participation of our contracted partners in our flight ops, our maintenance operations, and today it is not far off the mark to say that the majority of the 3,300-some-odd accidents and incidents that we had last year had some sort of civilian or contractor involvement. Industry is involved in everything, as the colonel said, from search and rescue to fleet maintenance, to target towing for our fighters, working with our navy, and working with the army. Those are all contracted flight or maintenance operations, so it is extensive throughout the air force and they are involved in that regard at all times.

• (0930)

Mr. Peter Braid: Thank you.

With respect to the powers of the minister on the balancing test, what various factors might the minister consider in applying that test, and might some of the factors be security related?

Col Steve Charpentier: There might be a little confusion, I'm not too sure, because this test is for the OBR. It's for the on-board recorder. It's not for the publication for the report, there is no test function. Actually, the default setting is we are going to publish it.

Mr. Peter Braid: Publish the report.

Col Steve Charpentier: Yes. There is no test, are we going to publish or not type of thing. It is us, so far in all the business we've done, we go ahead and we publish it. But in the process of informing the chain of command that we are about to publish it, if they look at the final report and so on, they cannot put any pressure to change the report whatsoever. But they may be concerned about saying something that was, for example, deeply concerning for security matters and say, "Oh, we have to be careful about that one". I suspect if that were to happen, which I haven't seen, in that case maybe that part would be removed. Still we would publish the report, but without that information, which quite frankly would be irrelevant for the purpose of making sure we share the lesson learned and prevent accidents from happening.

Mr. Peter Braid: So there may be a situation where the report is published but information that could compromise Canada's security would be left out?

Col Steve Charpentier: That could be. I haven't seen it, so I don't know, but that's how I would play it for sure. We wouldn't want to subtract the whole report because the whole report goes into a lot of detail about training of the pilot, about the engine malfunction, which is valid and we would like to share for sure.

Mr. Peter Braid: Thank you.

Ms. Young.

Ms. Wai Young (Vancouver South, CPC): Thank you so much again for coming today and for your precise answers.

My question has to do with, and I think you alluded to it, Lieutenant-Colonel Dittmann, the history and the background and why we are now looking at these new changes. Can you provide us with a bit more on that?

LCol Paul Dittmann: Certainly. Since the mid-1940s the air force has been investigating accidents and incidents. That process became somewhat more formalized as the Aeronautics Act matured. In the early 1990s the minister directed that an airworthiness program be put in place for the Canadian Forces, and there were several airworthiness authorities that were generated from that, one of which is the Airworthiness Investigative Authority.

At that time, the only mechanism to investigate accidents and incidents was under the National Defence Act. We quickly realized in the mid-nineties, through a board of inquiry process, that this was coming into conflict with the free and open reporting culture, the transparency, and the perception that the chain of command was influencing the outcome of preventive measures, which is the furthest from the intention. As a result of that, the minister had

directed that the chief of the defence staff establish an independent airworthiness investigative authority, which is what we have today.

One element that's important, particularly to the ministers making the reports public, is that the chief of the defence staff's delegation order to the airworthiness investigative order has been modified over time. The last was modified in 2008 when the chief of the air force said that the airworthiness investigator was not independent enough from the chain of command, and so he specifically directed that terminology with respect to independence be inserted. The intention there is to again modify the delegation order from the chief of the defence staff to include that administrative process to make the reports public.

• (0935)

Col Steve Charpentier: I would add that we have a very good system and we have been a bit of a leader in that system, which started in 1942. At the time there were a lot of crashes because of the new jet engine, and so on. The core of our program is free and open reporting. In order to make sure that people feel confident that they can report without being disciplined, losing their job, or going to jail, we established that system where we protect testimony. They can come to us, they can send emails, we connect to them, and we never use that information. This is really at the heart of this in order for people to feel good about it.

After that, because of that, they come, they report, we are able to come up with good preventive measures, but the other aspect of the program is to be very transparent and to share as much as possible all the relevant information—not the testimony, of course—to make sure it's not going to happen. This is well understood by everyone in the chain of command because it's part of our culture.

I did some exchanges as part of my career in the Canadian Forces with foreign military. I spent three years in another system where it's a punitive system. Everyone hides stuff, and this is bad, this is really bad.

The Chair: Your time is well over.

Mr. Sullivan, five minutes.

Mr. Mike Sullivan (York South—Weston, NDP): Thank you, Mr. Chair.

Thank you to the witnesses.

Hearing Colonel Charpentier, I feel very confident. I get a wonderful feeling of your sense of what this system should look like, and I appreciate that.

For clarity, because I was just rereading the definition of "military civilian", it is anything that involves a civilian, or more than one civilian, and a military aircraft, or an aircraft that is being used by the military. But it doesn't necessarily, for example, mean that any aircraft that the military were to contract to someone, or, for example, if a bunch of military personnel were flying on a civilian aircraft, that would not constitute a military-civilian occurrence. Am I right?

Mr. Jim Armour: It depends on the contract. If you're a ticket-buying passenger on Air Canada, no, but if there was a contract in place that had a special military application for an Air Canada appliance or aviation resource, then it might.

So let's say we were contracting to X company and they were going to haul munitions for us to an operational zone. Even though it's a completely civilian-driven aircraft, the regulations with respect to what's on it are military, so it becomes a military aviation resource. In that case if there was ever an occurrence or an accident in that case, we would be the lead investigators.

Our MOU with the Transportation Safety Board would also pull them in because they have expertise, knowledge in the type of operation that would be going on with that aircraft. So military investigators have a tremendous amount of experience with various aircraft, but they don't have excellent knowledge of every aircraft. So if an aircraft of that nature was involved, we would use our MOU with the TSB. We would bring some of their experts in and conduct the investigation as a coordinating investigation, but it would be led by the military.

Mr. Mike Sullivan: Okay, that's much clearer. Thank you.

Colonel Charpentier, you mentioned that there are 3,300 investigations a year already, and I believe there's an increase in involvement of civilians in aircraft and in connections between the military and civilian personnel. So you see this number going up, I suspect. Or do you?

Col Steve Charpentier: Actually, the good news is we try to invest a lot in prevention. When we do investigations, somewhere we have failed prevention. Prevention, as you know, is a very tough job.

So the number is going down. I'm going around showing the stats right now, and we have fewer accidents than we had in the last 10 years. So we're doing better through prevention, through better airworthiness, and possibly through a better investigation process and sharing all that information. We have a system in which each one of those occurrences is reported. Everybody in Canada can access it and see what happened there—what they have done and the lessons learned. We use that and hammer down the thing. It's all about sharing information.

I must put a caveat in that contrary to the TSB.... the TSB doesn't investigate everything. They investigate no major accident, which would be in the best interests of the public and so on. We investigate everything. Somebody installed a wrong bolt to something somewhere and someone cut that, they would come forward and say that during the inspection for the pre-flight this morning, they realized that was not the right bolt there. All right, fine, we enter it, this is an occurrence.

We have a network of more or less 330 investigators. They all report to me for investigation purposes only. Some have different qualifications, but those types—you know, like investigating why this bolt was there instead of that bolt—that would be done locally. They would follow the process, they would report to us, and so on, just to explain.

As I said, there are four classes of investigation. Most of those 3,300 things are little stuff like that, or a pilot that did not sign the

proper documentation before going flying, and that type of thing. That's what I mean by we invest a lot in prevention. Those could have led to an accident, but never had an accident. But for us there was a possibility, so we investigated.

• (0940)

The Chair: Your time has expired, Mr. Sullivan.

Mr. Toet, five minutes.

Mr. Lawrence Toet (Elmwood—Transcona, CPC): Thank you, Mr. Chair.

Thank you very much for this wonderful presentation today. It is very helpful.

My question is on the military investigators and the new powers that they will essentially have under this. You talked about that in your brief on page 6 and some of the changes that will happen there. You also just mentioned you have 330 investigators. Will all of them have these new powers and how are they going to be trained in this? What kind of training and qualifications will they require to exercise these new powers in an appropriate manner?

Col Steve Charpentier: No. We have a system. We have a book and a special annex that mentions what authority is delegated to certain types of investigators, and so on.

The higher levels of those types of authorities will be retained here in Ottawa and will be delegated case by case if we assess that there's a need to delegate that. We're not going to go and give authority to everybody. Only people who would have received special training and clearly understand it would be able to do that.

The example I was using of the young guy in the unit in charge of investigating missing bolts and those types of things would never have that type of authority. But if he needs to, because he is following a lead that leads to some information that is, in the end, a civilian contractor who he doesn't want to provide, then he would have to go up to us. Most likely, in this case, when we are at that stage, one of my key experts who is trained and has a lot of experience would go down, and I would delegate some of those powers in order for him to be able to conduct it.

Mr. Lawrence Toet: Okay, I have just one follow-up question.

You talked about the civilian information. It's been mentioned many times. There seem to be two aspects of this, and correct me if I'm wrong on that. One of your concerns was their being able to release information on part of an investigation, so there was a bit of a lack of a desire to go to them because you had that fear of communications going out that you didn't want going out. But you also just talked about now the ability to have them have to give you information. Is that the other aspect to it? Or is there more to it besides those two parts as far as that interaction with the civilian information is concerned?

Col Steve Charpentier: You're bang on, I would say.

Right now the only thing that enables us to go and get that information is a contractual arrangement that we have with them where they must participate and voluntarily release the information. This is good, as far as contracts go, but there could be some cases where they don't want to release that information.

This relationship with civilian contractors is not new, but we don't have a lot of history behind it. If we ever get to a case where there are fatalities involved and there's really bad stuff and the deeper we're going to go...we don't administer disciplinary...but sometimes the perception in the civilian field is just that. All we want is to find out what happened and to prevent it from happening, but we sure don't want people trying to retain some information that would be valuable in trying to identify it, because maybe the cause is bad training on their part, bad systems. That's where there's a little bit of controversy.

• (0945)

Mr. Jim Armour: I'd like to add something to that.

When civilians supply us with information, this is going to allow us to protect that information. The information that's provided to us would only be for accident investigation purposes.

With that in mind, they're more likely to share information that they may have, whereas if they're worried about it being released and having negative consequences for their business, then they're much more reluctant to share that type of information.

Mr. Lawrence Toet: Thanks.

Ms. Young, I think you had a follow-up, didn't you?

Ms. Wai Young: Yes. I'd just like to probe that a little bit more, Mr. Armour. However, given the fact that the report is free and open, and it's published, and the fact that people can get it through FOI, what exactly are you saying, then?

Mr. Jim Armour: Our reports are a compilation of all the facts that we've gathered in our analysis. From the analysis we make findings and preventive measures.

Particularly for detailed information, we're not obligated to publish that in our reports. So we don't say, "He said this, she said that, and from that we conclude that..." We make conclusive statements based on facts and information that we've gathered, and from that we make our recommendations. It's not attributable in the way we compile our reports. That's because in the process of producing a report, we do a draft for comment that goes out to anybody who has a concern with the accident. They make comments back to us and that may amend what we are actually saying in our report. It's a fact check. They may be reluctant to fact check if they are worried about anything they were to say being open for anybody to look at.

The Chair: Your time is up. We will come back to you.

Ms. Wai Young: Thank you.

The Chair: Mr. Mai for five minutes.

Mr. Hoang Mai (Brossard—La Prairie, NDP): Can you give us an example of the last investigation? Mr. Sullivan was saying that there are a lot of investigations but not a lot of incidents or accidents. Could you give us the bigger accidents in terms of what has happened?

Col Steve Charpentier: A bigger accident that has been investigated?

Mr. Hoang Mai: Yes.

Col Steve Charpentier: The recent one that you probably saw on TV was a controlled ejection over Moose Jaw where two pilots

ejected and the aircraft crashed. That one is a top investigation right now.

In July on the news a Sea King at Shearwater cut his tail and rolled on the side and self-destroyed. This is one major investigation on the go right now.

Two years ago a Hercules flew up north in a search and rescue mission. The search and rescue specialist attempted to save two Inuit people in distress. The sergeant who was a part of this mission died. We've just finalized the report and it will be released to the public in about a month. Next week is actually the final stage of this, because I forgot that that step is after the Minister of National Defence.... We go and meet with the next of kin in order to give them the first information openly and after that we release it. This one you'll see being released with no modification whatsoever.

• (0950)

Mr. Hoang Mai: What are the cases where a report would not be released or where it would be stopped? Can you give us an example of why it wouldn't be released?

My colleague, Mr. Sullivan, mentioned it.

[*Translation*]

I want to thank you very much for all the information you have given us. We have a great deal of respect for the work you do and the services you provide.

You have especially reassured us about your publication process, which gives everyone access to the information. We are also reassured to see that you work with civil officials. That was one of the questions the committee members were asking themselves, and you answered it really well.

Could you give us some examples of situations where information would need to be classified as secret? In what type of situation would information not be made public?

Col Steve Charpentier: Unfortunately, or fortunately, no member of my office's staff—not even those who have been there for 15 years—can remember a case where information was not provided, and I can't either. That has never happened.

I can envision certain cases where that could happen, but it would be for reasons of operational security—for instance, during missions abroad such as those in Libya or in Kandahar, which has ended. Otherwise, on Canadian soil, I cannot recall a single case. It has never happened.

Mr. Hoang Mai: Thank you so much. All the members of the committee are very impressed by the information we have been given today. Thank you for your services, as well.

[*English*]

Mr. Sullivan will ask some more questions.

Mr. Mike Sullivan: I have two small things. One, do you find that there is need for more funding for your department? Are you constrained? Are you restrained? Are there any limits? I mean, you're doing a lot of really great work.

Col Steve Charpentier: Quite frankly, I don't have an issue with funding.

Mr. Mike Sullivan: Excellent.

Col Steve Charpentier: With those new powers with this act it's not going to change anything, I mean, in the sense of funding and so on. I don't have to increase the number of people I have and so on. It's going to facilitate my work actually.

Mr. Mike Sullivan: My second question, very briefly is, do you ever, and I assume no, but do you ever have any interference through the course of your investigation from more senior or political personnel? For example, the case you're just about to wrap up regarding the person from Trenton who perished in the north.... The folks in Trenton told me they would rather have helicopters that could reach the north so they wouldn't have to parachute from a Hercules but I can imagine the department not wanting that kind of information to be released.

Is there any kind of interference that ever happens with these things?

Col Steve Charpentier: No. You will see when the report is out and you go through it, we do make some good recommendations. That may be some guys.... It's transparent. There's no interference. I haven't seen any of it.

I took over this job last July and being away from that, because I was deployed on a mission in Haiti, I came back and I looked at that. I was a bit questioning myself about that, but I really had a good test, which was the Sea King crash in July. Some of the EA administrative people came to me and said the chief of the air force wants to know what happened in the crash. So I said, okay, I'll go up and brief him about it. When he saw me—and he knew I was the new director of flight safety—he said he didn't want to hear about me, he didn't want to be seen as interfering in my protocol. He told me to go back and do my stuff and he would get his information from the chain of command.

I really felt great about that because that was the test for me, that it's very respected and I haven't seen any of that. In the case of Sergeant Gilbert, who is the SAR Tech who died in Nunavut, we went through a very long and good investigation, but at no point whatsoever was anyone interfering in it. We consulted a lot of people directly. Let's say we have to talk to a sergeant, but technically in the Canadian Forces, a colonel doesn't talk to a sergeant. He talks to the colonel who talks to the light colonel and so on.

But we do have that power. We go direct. And we tell him that he can not repeat that. We just want you to double-check here, to make sure we have it correct. We sure don't want to release the wrong information in the report and he comes back to us.

So this is well understood and I think there's a little bit of a good fear in the chain of command that no one wants to put their hand in this thing to be seen as trying to interfere because after that I could go straight to the Minister of National Defence and create a bit of turmoil.

● (0955)

The Chair: Okay, thank you. I think you were very clear on that.

Voices: Oh! oh!

The Chair: Mr. Komarnicki, five minutes please.

Mr. Ed Komarnicki (Souris—Moose Mountain, CPC): Thank you very much for that, Chair.

I have questions with regard to the amendments that would permit the on-board recorder of an aircraft to be made available to the military boards of inquiry.

You're saying that under the CTAISB Act, a civilian coroner would have to decide that based on a test, and the test would basically be whether the public interest outweighs the reasons why you might not want to do that. You said one of the disadvantages was that you'd have one arm asking for its release and another arm saying it shouldn't be released. You say this system is better because now the Minister of National Defence would make the final determination balancing the interests.

But my question to you is, if you have an independent party from the military making a decision with respect to what's in the public interest or not, even though there are two competing interests, how is that worse than having someone who's actually involved with the military—like the Minister of National Defence—make that decision? Would it not be better to have an independent party outside the military making that decision?

Col Steve Charpentier: That's a good question. First, before I go there, I just want to give some background to this thing. As I said, I'm in charge of the flight safety program. I want to make sure that free and open reporting is happening and people don't fear reporting. So that's why I would fight to keep the information of the OBR and the testimony not to be released, to be privileged. Because if we start messing with that type of information and people start to understand that this information could be turned against them into discipline action, then I'm going to kill my free and open reporting thing.

Mr. Ed Komarnicki: But that's not the substance of my question or the issue. The issue is, who best can balance the public interest and who is in the best position to do that? You're saying a system where an independent party like the court is not that system. It would be the Minister of National Defence and I'm asking why that is better.

Mr. Alex Weatherston: I think, sir, we're trying to avoid—as Mr. Armour mentioned—having to go to court to settle these matters because under the current law, the board of inquiry has an independent status. They could demand the on-board recording from the colonel here. They have an infinite mandate and likewise does the DFS and the AIA.

So now we have potentially two people going to court here, so these provisions have created what we think is a fair and balanced process internally.

Mr. Ed Komarnicki: So that decision as to balancing the interest would be made internally as opposed to an outside source? And you're saying that's better?

Mr. Alex Weatherston: I think it is better. First of all, the man beside me here is going to have the first decision. If the board of inquiry wants that particular on-board recording, they've got to come to the AIA, the colonel here, to make that initial decision. We have to think that it's going to be an unusual case when they're coming to the colonel. There's going to be a case where perhaps the only evidence that's around on a particular event that the board of inquiry is investigating is on the tape. There may be no other evidence. That has to be a big factor in the AIA deciding.

Secondly, the tapes are not to hide blatant conduct.

Mr. Ed Komarnicki: The point is, who is in the best position to objectively determine the public interest? Is that somebody independent of the military, or is it somebody who has to do with the military?

Mr. Jim Armour: It's the proper administration of justice. We're proposing a slightly different test in this amendment. Currently, the public interest is weighed by a judge under section 22. Then in section 23, in our proposed amendment, we're saying that when we're weighing...and that provision is still there by the way, we've imported that from CTAISB. Section 28 is now section 22 in our proposed amendment. We've added a section 23 whereby the test is proper administration in the Canadian Forces versus the privilege associated with the recorder.

If it's the proper administration in the Canadian Forces, a Canadian Forces person really should be making that decision. The first decision is made by the AIA. There's an appeal process. The next level would be the minister or an officer delegated by the minister. The test is literally the privilege associated with what's on the on-board recorder. That means the protection of the flight safety blameless culture versus the proper administration of the Canadian Forces. Has he breached some blatant rule or regulation? The only piece of evidence that somebody else can look at is that on-board recorder.

• (1000)

Mr. Ed Komarnicki: There are two tests. When is one used and when is the other? What's the difference?

Mr. Jim Armour: If something were to come into a public court, then section 22 would apply. If something were happening inside the Canadian Forces, section 23 would apply. We haven't removed the ability of a court to look at the public interest in justice and the privilege associated with that. That is still in our amendments. We've added a second test possibility, and that is with respect to proper administration of the Canadian Forces.

The Chair: There's one five-minute round left, and Mr. Komarnicki, I had a feeling that you maybe wanted to follow up on your last question. If you want to do that then we'll go to Ms. Young.

Mr. Ed Komarnicki: Who determines whether you go to process A or B?

Mr. Jim Armour: Process A would be initiated exterior of the Canadian Forces because it would be a case where we would have an on-board recorder, and somebody would say that they want to

discover what's on it. They would go about getting it by going to a court. There's a set of regulations in section 22 as to what the court is supposed to consider.

In case B, a board of inquiry is almost always called when there's a death or an aircraft writeoff or a very serious accident. In the case of B where a board of inquiry may wish to see what's on an on-board recorder, that's why those sets of regulations are there. This is set up to guard the just culture that flight safety stands for. The blameless dissociation with flight safety protection is to protect. You did your best, but you made an error or you mistook an order or something like that, but if you—

Mr. Ed Komarnicki: What happens when you discover something that is blatantly more than just error in judgment?

Col Steve Charpentier: I can answer that because I'm briefing a lot of people about it. In the old days, we were maybe a little more into blameless, but nowadays...and the civilians are also using the same because... I participate in some panels with civilian aviation. We're talking nowadays about the just culture, just culture being a limit to this blameless thing. If you happen to be in front of a drug addict who is pissed off and that morning decided to put sugar in the fuel tank, which resulted in a crash, we're not going to protect that type of information. We're not going to participate in the disciplinary matters. We will turn to the chain of command and tell them they have to look into this because we came across some stuff that is outside our just culture.

Mr. Ed Komarnicki: I guess I should give my time up. There's an interesting thread there.

Go ahead.

Ms. Wai Young: No. I'm going to share my time with Mr. Komarnicki and let him finish his thread.

The Chair: There's a little less than three minutes left.

Mr. Ed Komarnicki: If indeed you want to encourage people to come forward and there be no blame, what's the objective standard to decide when you change from that and will that in itself prevent some people in some cases from coming forward?

Col Steve Charpentier: Again, what we do when we have a difficulty like that is my team will not investigate those matters. We will turn that information over to the chain of command.

Normally the way that happens is we say that during our flight safety investigation we came across some serious allegations concerning something that you should investigate. We're trying to, basically, walk out of it and leave it to the chain of command to conduct their own investigation, testimony, and all of that.

Mr. Ed Komarnicki: Everyone in the military would be aware that that's the fact.

Col Steve Charpentier: They know that, and I would say it's also to protect the military member. When I brief people everybody agrees with the just culture. No one wants to be working and not be able to trust one of their teammates because he is a drug addict or something like that and he's doing stuff that would put his life and the lives of others who he cares for in jeopardy. So the just culture is there to protect them both.

Mr. Ed Komarnicki: I think you've answered that. Go ahead.

Ms. Wai Young: Thank you.

How much time do we have left here?

•(1005)

The Chair: A minute and a half.

Ms. Wai Young: I wanted to get back to Mr. Armour and what we were talking about earlier regarding the contractual resource and when that resource fails or leads to an accident and then it is investigated by AIA and is released in a report.

I'm assuming that the reason for this amendment is because in this area of litigation we're in right now the department anticipates that there may be issues in the future about sharing information obviously on the recordings, etc., so this provides the minister with the authority to compel cooperation from the civilian side. Is that correct?

Mr. Jim Armour: Yes. You've actually summarized it very well. There are circumstances in the past 10 years where we've had some difficulty trying to conduct an investigation because a contractor has been reluctant to either share information or do the things that we want them to do.

Under the current legislation there's the ability for the Minister of National Defence to call a board of inquiry under the Inquiries Act, a completely different process from what are blameless investigations. It can involve lawyers and is a very different process.

The AIA has the power to do a board of inquiry. If we had to do a board of inquiry, it's not really the right tool to do what it is that we want to do. We think the Transportation Safety Board Act methodology for approaching these situations is really the right way to go. This amendment really gives us all those powers. On the other hand, if we run into a situation now with an uncooperative civilian agency, we're forced into this board of inquiry situation. It never actually has happened yet, but we've threatened to do it twice. In the end it was a very valuable investigation and we found some very good information about it.

Eventually the contractor agreed that our approach was the way to go, but we could certainly run into a situation in the future, particularly as more and more contractors get involved, where they simply do not want to cooperate and they're not obligated to from a statutory perspective. So that fixes the problem.

Ms. Wai Young: Thank you very much.

The Chair: Thank you very much, gentlemen.

Mr. Charpentier, I appreciate your answers. Indeed all of you were very clear and concise and I think answered a lot of questions today. I think it's fair to say on behalf of everybody, colonel and lieutenant-colonel, we appreciate what those of you in the military have done in the past and continue to do. We do appreciate that.

Mr. McGuinty, you had a point of order.

Mr. David McGuinty: Mr. Chair, I asked the other day about the state of the documentation that we asked for I think it's over two months ago. Can you let us know where this is at? I don't understand why this is taking so long. I'm a former senior public servant. These things can be turned around in 48 to 72 hours.

The Chair: I would ask the clerk to speak to that.

The Clerk: I can give an update to the members of the committee. The department has identified in the transcript the questions that were asked and the information requested by the committee. They have prepared an answer.

They're at the level of approval right now. Once the documents are approved by the department they will be forwarded to the committee. We're just waiting for them at the moment.

Mr. David McGuinty: Why don't we just request them now?

The Chair: I think we have requested them. I'll have the clerk ask for them again and maybe that will jog their memory.

Mr. David McGuinty: I have a second question, sir, on this point of order.

My whip told me yesterday that there was a situation in the House yesterday, where all travel for all committees was eliminated in the House of Commons. What's going on? Can you help us understand? I'm trying to plan the next three months here.

The Chair: Committee work is going to go on whether it's here or not. But there was, I guess, a motion in the House yesterday that needed unanimous consent, and the opposition—

Mr. David McGuinty: Which opposition...?

The Chair: The official opposition, the NDP, didn't give that approval. So what it means at this point, unless something changes, is that there will be no travel as far as the rail study, which personally I find very disturbing, because I think that's an important part of the rail safety study. That's all that I can tell you, Mr. McGuinty.

•(1010)

Mr. David McGuinty: Was it travel for all committees, Mr. Chair, or just this committee?

The Chair: All committees, I believe.

Mr. David McGuinty: All committees....

The Clerk: There's FEWO, finance, and also HUMA, and us that travel was not—

Mr. David McGuinty: So all requests for travel have been blocked in the House.

The Chair: Yes.

Mr. Watson.

Mr. Jeff Watson: On that point, that affects immediately the three proposals that were approved for travel with respect to the east coast, west coast, and the U.S., but we had also discussed the potential of a day or two trip to Lac-Mégantic. Would that rule out something along those lines or not?

The Chair: I can't give a specific answer to that, Mr. Watson, because that request hasn't officially gone in. For now, I'm hoping that cooler heads will prevail. I think the travel on this is an essential part of rail safety. If we're all really serious about it, cooler heads will prevail. For now until something changes, we're just going to continue with the meetings. If we're not travelling on those weeks that we had planned to, we will fill them with meetings here in Ottawa. That's all we can do.

Mr. David McGuinty: Mr. Chair, with all due respect, there are 10 extremely busy parliamentarians here. I don't think many of us are in a position to wait to find out what's happening in the next two or three months. My calendar is booking right through until the end of June right now in terms of travel, meetings, speaking engagements, etc. So we need to have a drop-dead date by which we decide what's being proposed here as a work plan.

The Chair: If cooler heads prevail, Mr. McGuinty, we will be travelling the week of March 30 to April 4. In the event that we don't, then we'll be here. What I'm doing is pencilling off those planned travel weeks, and I can't recall the second one offhand—

The Clerk: It was April 6.

The Chair: April 6, no, that week is not one of them. Anyway, pencil that week off and we can go from there.

I'm keeping our witnesses here. You are free to go. I apologize for that. Thanks again, gentlemen.

Mr. Mai.

Mr. Hoang Mai: Just on that point of order on the travelling—and I understand your position with respect to travelling—did we confirm with respect to travelling to the U.S., because with a limited amount of time—

The Chair: Yes, we have.

Mr. Hoang Mai: There's nothing we can do in terms of not doing that part of the travel?

The Chair: The commitment, Mr. Mai, was to do it. If the committee wants to change that, fine, but the commitment was to do it. Okay?

Everybody have a good weekend.

The meeting is adjourned.

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