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# **Standing Committee on Procedure and House Affairs**

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**EVIDENCE**

**Thursday, June 9, 2016**

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**Chair**

**The Honourable Larry Bagnell**



## Standing Committee on Procedure and House Affairs

Thursday, June 9, 2016

• (1155)

[English]

**The Chair (Hon. Larry Bagnell (Yukon, Lib.)):** We're in public, so the media knows the cameras have to leave. It is televised, though, so you'll have access to it.

Mr. Reid.

**Mr. Scott Reid (Lanark—Frontenac—Kingston, CPC):** Why don't we just wait until the actual appointed beginning time? I just thought it was a good idea to gavel to get the media out of here, but let's give the minister and Mr. Christopherson the time they need.

**The Chair:** I'm going to read the mechanics so it's out of the way.

Good afternoon. We are in the 27th meeting of the Standing Committee on Procedure and House Affairs for the first session of the 42nd Parliament. This part of the meeting is televised.

We are resuming our study of the question of privilege related to the premature disclosure of the contents of Bill C-14.

Mr. Reid had asked a question of the researcher on similar types of cases in New Zealand, the U.K., and Australia. The quick answers, unless you want to hear them from the researcher, are that Australia hasn't answered yet, and New Zealand and the U.K. do not have similar provisions. It's totally different. He's going to send you a briefing note with the details of that, if that's okay.

**Mr. Scott Reid:** Thank you. That's very helpful.

**The Chair:** I want to be exemplary in starting on time, which is not yet. It's in two minutes.

We have a couple of special guests coming, so I'll just say who they are now so it doesn't take up committee time. Two of our colleagues who retired in 2011 are sort of icons of Parliament.

Derek Lee will be here. He wrote a book, *The Power of Parliamentary Houses to Send for Persons, Records and Papers*. That's kind of interesting. He was almost the dean of the House. Except for Mr. Plamondon, he would have been the dean of the House when he left. He's also, I think, the only member of Parliament in history who sat on a committee for 20 years straight, the scrutiny of regulations committee. He has lots of background, there.

Also here is Paul Szabo. If you remember, he spoke more times in Parliament than any other member for the years he was here.

There are very interesting former members here in the audience today.

I would like to welcome our witness, the Honourable Jody Wilson-Raybould, the Minister of Justice and Attorney General of Canada.

Thank you very much for coming. I know all ministries are very busy, so we really appreciate this.

Without further ado, I invite the minister to make her opening statement of 10 minutes, and then we'll proceed to questioning.

• (1200)

**Hon. Jody Wilson-Raybould (Minister of Justice and Attorney General of Canada):** Thank you to all honourable members here for the opportunity to appear before committee to address the alleged breach of privilege with respect to Bill C-14, a matter that I take incredibly seriously.

First, I'd like to speak to various measures and policies that are followed by my department and my exempt staff to protect legislation prior to its introduction. I want to be very clear that none of my staff nor any of my officials were involved in any alleged leaks in this matter. Second, I want to highlight that the drafting of legislation spanned several departments and agencies. Third, I'll turn briefly to the article in question.

To begin, I can assure my honourable colleagues that my department and my exempt staff take the safeguarding of information regarding the contents of all bills intended for introduction very seriously, and they adhere to all relevant policies and procedures.

My departmental officials, through my deputy minister, are instructed to follow all precautions as outlined in "A Drafter's Guide to Cabinet Documents" and the policy on security of cabinet confidences, both of which can be found on the Privy Council Office website. According to the PCO policy on security of cabinet confidences, draft bills, with the exception of versions used for public consultation, upon agreement of cabinet, are deemed confidence of the Queen's Privy Council. These documents must be marked, handled, and safeguarded accordingly. Documents may only be handled by those with valid security clearance at the appropriate level, and a valid need to know the information to perform their duties. Restricted access to cabinet confidences extends to all stages of drafting.

The following individuals are considered to have a need to know status: employees who are responsible for developing policy and for developing proposals for the minister; ministerial and departmental personnel supporting a minister on a particular policy proposal or issue that is the subject of cabinet discussion; central agency employees who help advance policies and proposals brought forward by departments of sponsoring minister; and legal advisers providing advice relating to a policy proposal or issue that is the subject of a cabinet discussion.

As per PCO policy, these individuals are required to use appropriate means, including IT systems, to prepare, store, and transmit cabinet confidences; mark cabinet confidence information at the appropriate level of sensitivity, and with the caption "Confidence of the Queen's Privy Council" on every page of the document; handle such information in restricted access areas; use security equipment and procedures approved for the level of sensitivity of the information to transport, transmit, store, and dispose of cabinet confidences on paper or in electronic format; ensure that the information is not discussed with, viewed, or overheard by unauthorized individuals; and refrain from discussing such information on cellular telephones or wireless devices, unless approved security means are used.

All my departmental officials who worked on this draft legislation, as well as all of my exempt staff, had valid security clearance at appropriate levels.

As a general practice, any security incident involving cabinet confidences, however slight, must be immediately reported to the responsible departmental security officer. This would include unauthorized disclosures, loss, theft, transmission, and discussion over non-secure channels, unaccounted documents, and other actual or suspected compromises. The departmental security officer, in turn, must immediately report the incident to the PCO security operations division. Unless directed otherwise by PCO, the departmental security officer is expected to conduct an initial administrative inquiry to determine what happened and to identify corrective action.

Generally, an inquiry would include an examination of the circumstances surrounding the incident; if possible, the source of the unauthorized disclosure; the adequacy of the departmental procedures for the protection of sensitive information; an assessment of injury to the national interest arising from the compromise; and an outline of corrective measures that have been or will be put in place to minimize the risk of similar occurrences in the future.

● (1205)

The Clerk of the Privy Council and Secretary to the Cabinet, after consultation with the appropriate department heads, may involve the RCMP. The RCMP will then determine if there is sufficient grounds to investigate. Where appropriate, department heads are responsible for applying sanctions.

Let me be clear. I have spoken with my deputy minister and I can assure you that my department follows all necessary precautions. In this particular matter, I can assure you that no breach of information nor evidence of such a breach was reported from departmental staff, and therefore, no internal inquiry was initiated.

Further, I can personally assure you that I spoke to all of my exempt staff about this matter, and none of them were involved in any breach of information. I believe and trust my departmental officials and my staff, and I take them at their word.

Second, honourable colleagues, it's worth remembering that this sensitive piece of legislation was not crafted by the Department of Justice alone. My department worked closely and collaboratively with officials in other departments, and my exempt staff worked with their counterparts in other offices.

Further, as per PCO guidelines, drafts of memorandums to cabinet containing specific policy recommendations were shared with central agencies and other departments and agencies to solicit feedback and to address any potential concerns from various policy perspectives. As the Minister of Justice, I certainly cannot speak on behalf of other departments or agencies.

Third, I want to briefly address the article in question. As you know, on April 12, 2016, public notice was given for the introduction of Bill C-14 in two day's time. Like my honourable colleagues, I was dismayed to learn that the article was published in *The Globe and Mail* that same day and made reference to specific aspects of the bill, mainly what would not be included in the legislation, and to a source familiar with the legislation who was not authorized to publicly speak about the bill.

Let me be clear. I did not know the identity of the source at that time, nor do I know it sitting here today.

What I can offer, honourable colleagues, is that the few details about the bill in this article are not entirely accurate, and this inconsistency between the bill and the article may be relevant to your investigation.

Specifically, the article begins by stating that the bill will exclude those who only experience mental suffering, such as people with psychiatric conditions. While it is the case that those who suffer from mental illness alone may not be likely in practical terms to qualify for medical assistance in dying, pursuant to the eligibility criteria set out in Bill C-14 as it was originally drafted and tabled in the House, the proposed legislation in no way categorically excludes such individuals. It is possible, although unlikely, that someone who only experiences mental suffering could meet all of the eligibility criteria, and therefore be able to obtain medical assistance in dying under the proposed scheme.

It is also worth noting that the article mostly speaks to what will not be in Bill C-14 and does not disclose major elements of the bill. For example, it does not address items like the eligibility criteria, the safeguards, and the monitoring regime proposed in the legislation.

Finally, I would highlight that I'm quoted toward the end of the article referring to various principles that our government sought to balance with this legislation, but of course, refusing to go into any detail about its contents.

In conclusion, honourable colleagues, let me assure you that my department, my staff, and I take this issue incredibly seriously. All matters of privilege implicate the foundational principles of our constitutional democracy, and so I commend you on the work you are doing, and I am happy to participate and take questions.

Thank you, Mr. Chair.

• (1210)

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

We'll go to the first round of questioning. Mr. Graham, you have seven minutes.

**Mr. David de Burgh Graham (Laurentides—Labelle, Lib.):** Thank you, Chair. I may be sharing my time with Ms. Sahota.

Thank you, Minister. Our study here is based on a finding of a prima facie case of breach of privilege by the Speaker, which, as we all know, refers to...at first glance, at first appearance, that there may have been a breach here.

You mentioned in your opening remarks that the article that is the basis of this motion contains inaccuracies about the bill. It did not obviously contain the bill itself. The title of our study refers to the premature disclosure of the contents in Bill C-14 on a prima facie basis.

In your view, Minister, were the contents of Bill C-14, in fact, prematurely disclosed?

**Hon. Jody Wilson-Raybould:** Thank you for the question, and again, thank you for the study that you're undertaking.

As I said in my remarks, there were some aspects in the article that was written on the 12th that reflected some of the excluded parts of Bill C-14, those being mature minors, advance directives or requests, and persons suffering from mental illness alone. What the article reflected mostly was what was not included in the legislation. As I commented, the specific provisions in terms of eligibility, safeguards, and monitoring weren't mentioned in the article.

**Mr. David de Burgh Graham:** So the bill itself was not really disclosed, as far as you can tell.

In your study, you also mentioned the department security officers. Now, this is something I'm not familiar with. I've never been in such a department. Can you tell us a bit more about who they are and when you'd talk to them and about what, and what their powers are in terms of department security officers?

**Hon. Jody Wilson-Raybould:** Certainly.

We have within the Department of Justice security officers who, upon my coming into this position, and certainly with my exempt staff and departmental staff, have gone through the necessary security measures in all different forms in terms of documents of a secure nature that have different levels of categorization and the requirements to ensure that those are kept protected and secret. They go through procedures in terms of where those documents can be read, how those documents should be carried, and the responsibilities that one has in terms of the security clearance that they have. They make it very clear to me and the exempt staff, as well as departmental officials in terms of what the responsibilities are upon receiving a specific level of security clearance.

In this case, as I said in my remarks when the article was brought to my attention, and certainly when it was made public in the House of Commons, I immediately acted and asked my staff and advised my deputy to do the same with the public servants to ask and ensure that we were not the source of any breach and that we followed and complied with the strict instructions that were provided by security departmental officials.

**Mr. David de Burgh Graham:** Thank you.

**Ms. Ruby Sahota (Brampton North, Lib.):** Minister, thank you so much for making yourself available and being here before this committee today.

I'd like to talk a bit more about the psychiatric condition that you were referring to that was mentioned in *The Globe and Mail* article. Correct me if I'm wrong, but you stated that they didn't really get it right, that the description that was in the article was in fact not an element of the bill. Could you get into that more specifically?

**Hon. Jody Wilson-Raybould:** Certainly. Thank you for the question.

The article that we're talking about said that the bill will exclude those who only experience mental suffering, such as people with psychiatric conditions, and this was according to that source familiar with the legislation.

I'm pleased to speak about Bill C-14 and the eligibility criteria that we have put into the legislation. The eligibility criteria does not necessarily exclude people suffering from mental illness or psychiatric conditions, but it contains a number of criteria that need to be met and circumstances in terms of the individual patient's situation and health concerns that need to be read in a comprehensive way. A person who has medical conditions, including a psychiatric condition or a mental illness, is not precluded from qualifying to meet the eligibility criteria in medical assistance in dying. A person who's suffering from a mental illness or a psychiatric condition alone would have more difficulty in qualifying. The reality in what we've done in the legislation is to look through amendments, and otherwise that we ensure that we study mental illness and we learn the risks and the benefits with respect to that, and that study in the proposed legislation has a commencement timeline of six months.

• (1215)

**Ms. Ruby Sahota:** Would the people who worked on writing this piece of legislation within your department and the various other departments have been familiar with that element of the bill? Would it be accurate to say that somebody who has worked on this legislation that was privy to this confidential material would be properly able to explain...that source would have the proper information, if it was in fact somebody from within the department?

**Hon. Jody Wilson-Raybould:** The Department of Justice, as I mentioned, does not develop legislation in isolation. There are many other departments and agencies that would have been involved in some fashion and had some access to the documents, to the draft legislation, because of the need and the reality of different departments contributing toward its development and the public policy framework around it.

People have varying degrees of access to it and differing levels of investment of time, in terms of its development. However, everyone who had access to the draft legislation or the development documents for the legislation would have had, and did have, the appropriate security clearances, and understood the necessities around ensuring that those security clearances and the responsibilities that go with them were followed.

**The Chair:** Thank you, Minister.

Now we will go to Mr. Reid for a seven-minute round.

**Mr. Scott Reid:** Thank you, Mr. Chair.

Thank you, Minister, for being here in what is probably the busiest month, possibly one of the busiest weeks, of your life. We appreciate it.

I want to start by dealing with two things.

The first is what the Speaker said in his ruling when he sent this to us. He was talking about the difference between this issue and that of a former case where a private member's bill was released before its time, and whether a privilege issue is there. He said that, at that time, with the private member's bill, "no doubt existed as to the provenance of the leak". Thereby, he directed us to the fundamental issue here, which is establishing the provenance of this leak.

Now let me read from *The Globe and Mail*. It says:

The Liberal government is set to introduce its much-anticipated physician-assisted-dying law on Thursday, a bill that will exclude those who only experience mental suffering, such as people with psychiatric conditions, according to a source familiar with the legislation.

The bill also won't allow for advance consent, a request to end one's life in the future, for those suffering with debilitating conditions such as dementia. In addition, there will be no exceptions for "mature minors" who have not yet reached 18 but wish to end their own lives.

Those three issues, however, will be alluded to in the legislation for further study, according to the source, who is not authorized to speak publicly about the bill.

You made two assertions. One is that only negative information is included. That is not strictly true. That these issues "will be alluded to in the legislation for further study" is positive information about what is in the bill. You also say that the leak is incorrect in some of its information. I have to say that, with regard to the issue of incorrectness, this could well be a result of the journalist, Laura Stone, making a transcription error in an interview, so it may not actually be the source who was incorrect.

Additionally, with regard to only negative information being included, first of all, it is not, strictly speaking, a true statement. Second, I would submit to you that disclosure of what is not in a bill actually implies a greater comprehension of the complete content of the bill than merely being able to point to individual pictures that are in the bill, which could have resulted from somebody who was familiar only with a part of that legislation. It would suggest that, if the government is sincere in its search for the provenance, the source of the leak, it ought to be looking at someone who is familiar with the entire text of the bill.

Let me ask you this question. I apologize for being so direct, but I am sure you will appreciate why I need to do this. Are you the source of the leak?

● (1220)

**Hon. Jody Wilson-Raybould:** I appreciate the question, because it gives me the opportunity to be crystal clear. I do not know the source of the leak. I did not know, when the article came out, where the leak came from. It was of tremendous concern to me that somebody had information about a fundamental piece of legislation that I was going to be introducing. Today, as I sit here, I do not have any idea of the source of the leak.

I am confident, however, that my—

**Mr. Scott Reid:** I want to be very clear. I gave you that question so that you could make that clear. I appreciate that.

You mentioned there were other departments involved. The ones that come to my mind—and I'm asking you if I have the whole list here—are the Department of Justice, obviously, the Department of Health, the Prime Minister's Office, and the Privy Council Office. Would there be additional departments, or is that the complete list of where the leak could have come from?

**Hon. Jody Wilson-Raybould:** I'll answer the question, but I'm not inferring in my answer that I have any idea where the leak came from.

**Mr. Scott Reid:** It wasn't meant to draw that inference.

**Hon. Jody Wilson-Raybould:** In developing the legislation, certainly the Department of Justice was involved and engaged with many other departments and agencies. You're correct in saying that those included Health Canada. Certainly, on such a transformative piece of legislation, the Prime Minister's Office was aware of the contents of the legislation.

**Mr. Scott Reid:** Are you aware if the other departments have engaged in a similar sort of process to the one you described in confirming where the leak could have come from? In other words, has there been an investigation in any of the departments to your knowledge? Perhaps you don't know that, but I will just ask that question.

**Hon. Jody Wilson-Raybould:** I can speak with confidence on behalf of my department. There is no evidence of a breach with respect to my department. I'm confident that the breach did not occur within my department. I can't speak on behalf of any other department.

**Mr. Scott Reid:** Fair enough. I think the answer is that you just don't know about the other departments' internal investigations.

**Hon. Jody Wilson-Raybould:** I feel confident in speaking about things that I have direct control over.

**Mr. Scott Reid:** That's fantastic and that's very much appreciated.

I want to ask this question. As I say, I think that any incorrect information, and it would be frankly a very slight technical error, can be explained by the journalist's misunderstanding of what would have been a verbal conversation. It's also possible, and only you would know this, that the wording as described in Laura Stone's article in *The Globe and Mail* is consistent with an earlier draft of the bill.

If our goal is to search for the provenance, the source of the leak, then it is not inconceivable that it could be someone who had access to an earlier draft. I'm asking you now, is the information inconsistent in the ways that you described with the current wording of the bill, or the bill as it was released, but consistent with an earlier draft? If so, we can narrow our search to individuals who had access to that version of the bill, but not the final version.

**Hon. Jody Wilson-Raybould:** You've mentioned the reporter a number of times, and potentially, it was a technical error in terms of the reporting. I can't say one way or the other in that regard. The draft of the bill as it was introduced, and every previous draft, however different, if they were different at all, is subject to the same confidences of the Queen's Privy Council and the same procedures. Whether it was the final bill that was introduced, or previous iterations of that bill, they are subject to those same security realities. I am confident that we followed all security measures.

• (1225)

**Mr. Scott Reid:** I just want to say thank you. I really do appreciate your taking the time in what really is a busy time, and being as helpful as you've been. Thank you.

**Hon. Jody Wilson-Raybould:** If I could, Mr. Chair, I want to thank the member for the thoughtful nature in which he engaged with his constituents around Bill C-14.

**Mr. Scott Reid:** In case you were wondering, we had a constituency referendum, and 67% of my constituents voted in favour of Bill C-14, on what I thought was an objectively worded question. So there you are.

**The Chair:** Thank you.

Now we'll go to Mr. Christopherson for seven minutes.

**Mr. David Christopherson (Hamilton Centre, NDP):** I hate to break up this mutual admiration society going on here, but we have a bit of a study we have to conduct.

I want to thank you also, Minister, especially for accommodating us during our time. We had opened up to meet with you at any time that would fit your schedule, and you were good enough to meet during one of our regular meeting times. We do appreciate that and thank you very much for being here.

Do you believe there was a leak? I think that has kind of been asked about, but was there a leak?

**Hon. Jody Wilson-Raybould:** I recognize and think about the timeline. Our notice paper went up with respect to the introduction of our bill, and there were reflections around the legislation in the article that we're talking about. Whether or not that was a significant and substantive correct guess or not, all I know, and what I'm confident of, is that if in fact it was a leak, it was certainly not from the Department of Justice.

**Mr. David Christopherson:** That poses some interesting questions. You started out almost dissecting the information that was out there and it led me to think you were suggesting there wasn't a leak. Even now you're a little less than straight up about whether or not there was a leak. I'll give you another opportunity. Can you tell me straight up, do you believe there was a leak or not, ma'am?

**Hon. Jody Wilson-Raybould:** I like to consider myself as always being straight up in the answers that I provide.

There is obviously some information that the reporter gained access to. I can't and won't hypothesize about how she was able to do that. What I have done, and what I will continue to do, is to fundamentally respect the principles of our constitutional democracy and my responsibility to ensure that I abide by those principles, and recognize that this breach that has occurred and the reason for your study is a very serious matter.

I look forward to the results of your thoughtful discussions.

**Mr. David Christopherson:** Great. I'm not a lawyer, the furthest thing from it, but to me, "leak" and "breach" are close enough. If there's no leak, we shouldn't even be meeting. Somebody should be making the case that it's a wild goose chase. The fact that you're willing to say there was a breach means that we do have something here.

The last time we talked about this, for a very brief time, your chief government whip was in the room—not at the table, but in the room. I alluded to that. I asked whether the government had initiated an internal investigation from the get-go. I know you asked some questions, but was there what you would call an investigation? Did you turn to your deputy and say, "I want this investigated and I would like a report"?

**Hon. Jody Wilson-Raybould:** I appreciate the question. Upon being made aware of the article, and hearing what transpired later on in the House of Commons, as you can appreciate, I was pretty busy that day introducing the legislation and had many events surrounding it in terms of media avail and briefings for members and senators. Upon learning of the breach, leak, whatever we want to call it—

**Mr. David Christopherson:** We're getting there.

**Hon. Jody Wilson-Raybould:** —I did contact and asked my exempt staff if they knew anything about this. I was assured that they did not. I also contacted my deputy, who said the same.

There is no evidence of a breach coming from my department. By virtue of the lack of evidence, no investigation was done beyond what we did in terms of engaging with our staff.

•(1230)

**Mr. David Christopherson:** Is that sufficient, though? The reason there's an investigation is it suggests something a little wider and further. You talked to the people who were around you. I used to be a provincial minister, so I know the kind of people who are around you on a day-to-day basis. But that's not the same as formally starting an investigation and asking for a report on it. Is there a reason you didn't go to that level? All your descriptive words have been "tremendous concern" and recognize the breach/leak as something that matters. Is there a reason, ma'am, that you didn't ask for a formal investigation, recognized that this very day could happen?

**Hon. Jody Wilson-Raybould:** Absolutely. I have the utmost confidence and belief in my exempt staff, my deputy, and the public servants who work in the Department of Justice. They show the utmost of professionalism, and recognize the seriousness of ensuring that we maintain confidences and that confidential documents and security levels be adhered to. In this case, there was no evidence to necessitate an investigation, as I described in my remarks.

**Mr. David Christopherson:** All right. There are protocols for the release of bills, given the importance of making sure that Parliament hears it first, which is a right and a privilege of members of Parliament. The previous government, upon finding out there had been a leak, amended the protocol. I'm curious as to whether you're still following that same amended protocol from the previous government or whether you have a new one.

I went into cabinet after the government had been formed, so I wasn't there for the immediate hand-off of the previous government. I don't have any personal experience in this regard, so I'm just asking because I don't know. The protocol, were you using the last amended version that the previous government had as a policy—and that's not a criticism, it's just a question—or did your government come in and rewrite it for your own policy steps and guidelines for introducing legislation?

**Hon. Jody Wilson-Raybould:** Thank you for the question.

**The Chair:** Just briefly, Minister.

**Hon. Jody Wilson-Raybould:** As I stated in my remarks, we followed the drafter's guide to cabinet documents and we followed the policy on the security of cabinet confidences. Both are located on the Privy Council Office website and are certainly accessible to determine the dates on which those were brought in.

**The Chair:** Thank you.

Ms. Petitpas Taylor will be sharing with Ms. Vandenberg for a seven-minute round.

**Hon. Ginette Petitpas Taylor (Moncton—Riverview—Dieppe, Lib.):** Thank you.

Thank you so much, Minister, for joining us this morning. As you are aware, PROC has been asked to investigate this matter. Part of our job is to collect as much information and facts as possible, so we appreciate your taking the time to meet with us this afternoon.

As my first question, Minister, do you feel you took the security matter seriously when you became aware of this potential situation?

**Hon. Jody Wilson-Raybould:** Absolutely. When I became aware of this, as I stated, it concerned me greatly. It compelled me to almost immediately call my exempt staff, to engage with my deputy, to ask the question of whether we knew anything about it, to follow the procedures, and to confirm that my staff and departmental officials were not involved and followed all procedures.

**Hon. Ginette Petitpas Taylor:** Okay. Thank you.

You indicated that you immediately acted when you became aware. Can you elaborate and give more detail on what steps were taken with respect to that?

**Hon. Jody Wilson-Raybould:** Sure. I became aware of this discussion, the article, the breach of privilege that was talked about, in the House of Commons after I came back from a press conference around Bill C-14. I was in the House and heard the chief government whip speak. Like every member of this committee and all members in the House of Commons, I take privilege very seriously, so it was a concern to me, absolutely.

At that point, I engaged in discussions over BlackBerry, called my staff in my office, spoke with all members of my exempt staff who have the security clearance to view cabinet documents, and also spoke with my deputy minister, whom I advised of the situation. He of course had already read the article. We ensured, through our conversations with exempt staff and our departmental officials, that this was a serious concern, but we confirmed that we had followed all security measures as articulated in the policies that the Privy Council Office has.

•(1235)

**Hon. Ginette Petitpas Taylor:** When you talk about, quote-unquote, exempt staff, what process do they go through to become exempt?

**Hon. Jody Wilson-Raybould:** There's a hiring process certainly in all the ministers' offices. The hiring process is not necessarily the same within all ministers' offices, in terms of how many people won interviews, but there's an interview process.

When somebody is made an offer of a position, that person is subject to the rules that are in place with respect to the Privy Council Office. They're subject to quite extensive security clearances in order to achieve whatever level of security clearance they're deemed appropriate to have. They're obliged through that process to follow all of the measures that are in place around confidences in terms of documents, memorandums to cabinet, development of policy papers, and the like. There's a substantive security clearance that ministers' office staff or exempt staff have to go through.

**Hon. Ginette Petitpas Taylor:** Thank you.

Did you report a possible security breach to the security department?



**Hon. Jody Wilson-Raybould:** I did not report to the departmental security department for the reason that there was no evidence that the breach had occurred within my department or within my ministerial office.

**Hon. Ginette Petitpas Taylor:** Okay. Thank you.

**Ms. Anita Vandenberg (Ottawa West—Nepean, Lib.):** Thank you very much, Minister, for being here today and for taking this matter so seriously.

I'd like to go back to some of the things you said about the article itself.

First, there was inaccurate information in the article, and in fact you talked about inconsistencies. With all due respect to my colleague Mr. Reid, I think when you're talking about something as important as the eligibility criteria, it's not likely there was a transcription error, so what was in the bill and what was in the article were actually not the same.

Second, the article focused more on what was not in the bill as opposed to what was in the bill. Even then, I think I heard you say that it was very much around the general principles.

In terms of what you called a "correct guess", is this information that could easily have been inferred from things that were already public or things that had been shared during the consultation process, prior to the notice period and the tabling of the legislation? This was general enough information that it doesn't prove that anyone who wasn't supposed to actually had the text of the bill.

**Hon. Jody Wilson-Raybould:** Thank you for the question. My answer to that is that it's a possibility. Certainly, the article talks about exclusions from the bill. It speaks to mental suffering, mature minors, and advance consent. Those are controversial issues. They were certainly issues that were substantively discussed in the special joint committee report. I don't think it's beyond the realm of possibility that one would think that any piece of proposed legislation might make reference to those issues. That's my answer right now.

**Ms. Anita Vandenberg:** Your department has very strict protocols. You outlined some of those. There was never any breach that was reported to you by your department. Can you elaborate on that?

**Hon. Jody Wilson-Raybould:** Certainly.

**Ms. Anita Vandenberg:** Nobody in your department came to you and said, "I left it in a taxicab." There was never anything reported in terms of any potential security breach.

• (1240)

**Hon. Jody Wilson-Raybould:** There was never anything reported. If there had been something like a lost document or some sort of breach of security protocols, those would have been reported immediately to my deputy, and through my deputy, to me. I never received any report.

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

We'll now go to Mr. Richards for a five-minute round.

**Mr. Blake Richards (Banff—Airdrie, CPC):** Thanks, Mr. Chair.

You seem to somewhat dispute the potential regarding the one part of the bill that was leaked or potentially leaked, as the person indicated, with regard to mental suffering, and I think that's a matter for dispute. That's a matter of opinion, I think. Many people who are opposed to the bill would argue that maybe actually, in practice, that is something that is excluded from the bill. We won't dwell on that, because it seems to me as though you do indicate that you believe some of these other things certainly are excluded from the bill, and the person who has made these assertions was correct that these things are excluded.

I get a sense that the fact that there is a potential leak here is something that upsets you. I'm getting that sense from your testimony and from your answers today. Is that accurate?

**Hon. Jody Wilson-Raybould:** Of course. I think a breach of privilege should impact all members of Parliament as a serious concern, and I appreciate the efforts that you're all undertaking in this regard.

**Mr. Blake Richards:** Good, and I appreciate that. I do appreciate that you're taking this seriously and that you're trying to be as direct as you can with your responses.

Based on that, I would assume that if there was a leak—and to me it seems as though there has been one—that you would want to see that source discovered and you would want to see that issue addressed. Is that correct?

**Hon. Jody Wilson-Raybould:** I think everybody wants to uncover the information if, in fact, there was a leak.

**Mr. Blake Richards:** You would, obviously, desire that this committee do everything it can and make every effort it possibly can to discover the source of that leak. Is that correct?

**Hon. Jody Wilson-Raybould:** I think this committee is undertaking a study to do just that.

**Mr. Blake Richards:** You would agree it's an important goal.

**Hon. Jody Wilson-Raybould:** Yes, absolutely.

**Mr. Blake Richards:** I don't have time to go into the details of the investigation that was done in your office. I wish I did. You have mentioned a number of times you believe quite confidently that the source of the leak was not within your office or within your department.

You have mentioned there were other departments and agencies that had access to the contents of the bill. You mentioned specifically the Department of Health and the Prime Minister's Office as being two potential places that would have access to the bill.

It would seem fairly obvious to me that the next steps for us would be to ask people in the Prime Minister's Office, and probably the Minister of Health's office what has been done and whether there have been similar investigations done, as you weren't aware whether that was the case. We should determine whether there have been similar investigations done by the department and the minister's office at Health Canada and also the Prime Minister's Office. That would seem to be the next logical step for us to follow.

It would seem the most likely source would be the communications staff in the Prime Minister's Office, or maybe the communications staff in the Minister of Health's office. Could you give us some sense as to who those individuals might be so we would know who we should be calling? We have to have some sense as to how we would conduct an investigation into the Prime Minister's Office and their handling of the contents, and also with your colleague, the Minister of Health, and her office. Can you give us any sense as to who we might call?

**Hon. Jody Wilson-Raybould:** Maybe I could repeat some of what I said in that this piece of legislation wasn't drafted by the Department of Justice alone. My department, and I'll be very clear on this, worked closely and collaboratively with other departments, and my exempt staff worked closely with their counterparts.

As per PCO guidelines, drafts of memorandums to cabinet containing specific policy recommendations were shared with central agencies—

**Mr. Blake Richards:** I'm sorry to interrupt you, but I'm limited on time here.

**Hon. Jody Wilson-Raybould:** —and other departments and agencies to solicit feedback, and all of those individuals have secret or beyond secret clearance.

**Mr. Blake Richards:** That's understood, but I'm limited in time. We have to get some sense. You're indicating clearly that you believe it was not in your office that this occurred, and so it must have occurred either from the PMO or the Minister of Health's office. We need to have some sense as to who we would need to call.

Would you know how many staff? Who would have had access to these documents in the Prime Minister's Office for example?

• (1245)

**The Chair:** In 20 seconds.

**Hon. Jody Wilson-Raybould:** Given the references in terms of the departments that were involved in the development of this legislation, there's a substantial number of people who were involved. Given the magnitude and the transformative nature of this legislation, of course the Prime Minister's office saw the legislation, so there are many people that saw it.

**Mr. Blake Richards:** Thank you. It would seem that the next step would be to call officials from the Prime Minister's Office and the Department of Health.

Thank you very much.

**The Chair:** Thank you.

Mr. Lightbound, for a five-minute round.

**Mr. Joël Lightbound (Louis-Hébert, Lib.):** I first want to thank you, Madam Minister, for being here. I think all issues of privilege ought to be taken seriously. We certainly take that seriously here, and we appreciate the rigour you bring to this committee and your presence.

The first thing I want to ask you is regarding the procedures, especially as they pertain to draft legislation and the directives of the Privy Council Office, because you went quickly on them. I noted that you talked about the mark it has to have.

I'd like you to elaborate on those policies, especially as they concern draft legislation.

**Hon. Jody Wilson-Raybould:** There are different levels of security that are assigned to documents. Documents that go to cabinet, memorandums to cabinet, are subject to the confidence of the Queen's Privy Council.

In terms of the development of legislation, as I indicated in my remarks, people that are considered involved and that have security clearances would be employees that are responsible for the developing of the policy and the proposal, in this case to myself as the minister, the ministerial department, and department staff, and personnel that support me in terms of making particular policy choices, central agency employees who advance the policies and the proposals brought forward by departments of supporting ministers, and legal advisers providing advice on the policy on the proposals and the issues that are subject to cabinet discussion.

All of those documents that contribute toward that are marked as subject to the confidence of the Queen's Privy Council and are secret documents. In order to review and participate in those documents, you have to have a high level of security clearance.

**Mr. Joël Lightbound:** It's fair to say that based on your inquiries with your exempt staff and your deputy minister, all of these procedures were followed by your department.

**Hon. Jody Wilson-Raybould:** Yes, 100%.

**Mr. Joël Lightbound:** Based on that inquiry you've made, there is no breach in the chain of possession, so to speak.

It's clear that a material copy of the bill could not have ended up in the wrong hands, because those policies were followed and there was no evidence of a leak, let's say, a lost USB key or whatnot.

**Hon. Jody Wilson-Raybould:** That's correct.

There was no evidence of that, and individuals are obliged to come forward and disclose that if in fact that were to ever happen.

**Mr. Joël Lightbound:** Okay.

My other question is that the policy you've just described to us is applicable across all departments. All ministers or departments are subject to that PCO policy.

**Hon. Jody Wilson-Raybould:** Every department and staff and departmental officials are subject to those policies.

**Mr. Joël Lightbound:** My last question comes back to the article. I read the article, and I've read it a couple of times in the course of our study. It seems to me that anyone who would have paid attention to a lot of the comments that were made by the government regarding the protection of vulnerable people could have inferred that those exclusions would be somewhere in the bill, especially if you consider the experience of the Quebec National Assembly, in that those exclusions are in the Quebec bill as well on assistance in dying.

Would it not be possible that this could have been an educated guess as well, that protection of the vulnerable would necessarily include or could include those elements that we see in the article? I would like to have your take on that.

**Hon. Jody Wilson-Raybould:** It's a possibility that it was an educated guess.

There were substantive discussions that had transpired over the course of many months from the special joint committee to recommendations made by the provincial-territorial panel and the external federal panel on medical physician-assisted dying at the time.

The answer to the question is that it's possible.

• (1250)

**Mr. Joël Lightbound:** That concludes my questions.

**The Chair:** Okay.

We've finished early, so we'll go on for a five-minute round. Mr. Reid.

**Mr. Scott Reid:** Minister, with regard to your response to Mr. Lightbound's question a moment ago, am I to understand that you were saying that the information contained in *The Globe and Mail* article would have been known to members of one or more external panels that you had named?

There were two external panels that you made reference to just a moment ago.

**Hon. Jody Wilson-Raybould:** In my response to Mr. Lightbound's question on whether it is possible that somebody could have made an educated guess that there were these items that would have been considered in the legislation, I spoke about the special joint committee. The point I was making, perhaps very inarticulately, was that there have been some substantive conversations about physician-assisted dying, medical assistance in dying, and more controversial issues, whether the immature minor, advance directives, or persons suffering from mental illness, that were considered in many different reports, including the report of the special joint committee.

**Mr. Scott Reid:** Okay.

I must say, while this is not conclusive, the wording used in Ms. Stone's article suggests that it would have been a narrower circle of people. I'll just read what it says again:

Those three issues...will be alluded to in the legislation for further study, according to the source, who is not authorized to speak publicly about the bill.

Although, obviously Ms. Stone would have taken care to keep the identity of her source confidential, to me it does suggest somebody who's somewhere inside one of the departmental apparatus. I'm not sure what the plural is, apparati? At any rate, it suggests somebody within one of the departments of government as opposed to an external panel. That's just my sense.

I want to go back to this question. The kind of person who's likely to leak something, if it is a deliberate leak, and this does seem to me like a deliberate leak, is someone who's involved in communications. You must have information as to where these documents were circulated, the later drafts of the bill, the summary of the bill, because this could have come from the legislative summary.

Do you have information as to which people in the PMO would have seen that, or do we need to go to the PMO to ask the question

as to which people in that department would have had access to either the bill itself or to the summary draft of the bill?

**Hon. Jody Wilson-Raybould:** Leaving aside your lead-up to the question, as I said, with a substantive piece of legislation such as this one, not only the Department of Justice but other departments involved in the production of the legislation, central agencies, and certainly because of the magnitude of this piece of legislation, the Prime Minister's Office would certainly have been privy to this proposed legislation.

**Mr. Scott Reid:** Right.

**Hon. Jody Wilson-Raybould:** All of them would obviously have the appropriate levels of security to be able to review such documents.

**Mr. Scott Reid:** But it's not an infinite list. We're trying to narrow it down to get to the problem of the issue.

Would you be able to get back to us, perhaps in writing, with a list of all the individuals who were informed of it, or at the very least, the departments that were in the loop and those that were not with regard to either the law itself or the legislative summary?

**Hon. Jody Wilson-Raybould:** I appreciate the question. I'm not trying to prevent getting at the source of the details or being in any way obstructive to the question. As the Minister of Justice, I have 4,500 employees working in the department.

**Mr. Scott Reid:** But they didn't all see it, obviously.

**Hon. Jody Wilson-Raybould:** They didn't all see it, but I imagine that we can all appreciate a piece of proposed legislation that requires approval—

**Mr. Scott Reid:** There is a list of those to whom any confidential document is circulated. You have to recall those copies. At any stage, there would be a record of those to whom it was circulated, both in your department and in others.

• (1255)

**The Chair:** You have 20 seconds.

**Hon. Jody Wilson-Raybould:** I can speak to having confidence in my department. I know people have access and what level of security access they have. Certainly our department has departments within it that are responsible for particular aspects of the Department of Justice and the role that I play as minister, and I recognize that my individual exempt staff have responsibilities as well. I know who was involved in medical assistance in dying and have canvassed all the staff in following the appropriate security measures.

**The Chair:** Thank you, Minister.

Now we'll go to Ms. Sahota for a five-minute round. She'll be sharing with Mr. Graham.

**Ms. Ruby Sahota:** Thank you, Minister. I appreciate your being clear on the topic of members' privilege here today. Could I clarify some other things with you?

We're talking about whether there was a breach of a member's privilege and whether the article or what was contained in the article rises to that definition of a breach of a member's privilege. I'd like to get your opinion on whether you think there was a premature disclosure of Bill C-14.

**Hon. Jody Wilson-Raybould:** Nothing has come to my attention that there was premature disclosure of Bill C-14, and my department in no way, shape, or form would disclose such a sensitive piece of legislation.

**Ms. Ruby Sahota:** Thank you.

I'll be sharing my time with David.

**Mr. David de Burgh Graham:** Thank you. It's nice to be back.

In the last meeting when you were not here, we discussed the 41st Parliament a good deal, where a large number of government bills were discussed at great length by the ministers themselves and it was in the press. At no time did a breach of privilege ever even come to be discussed.

I'll give you a chance to react to things like the Fair Elections Act, having the quote in the paper, the ability to move the commissioner of Elections Canada where the investigators work from Elections Canada and set it up as a separate office. All kinds of very detailed descriptions were not considered a breach of privilege because the bill wasn't released.

Do you see any similarities with this and the previous practices? Do you see any comparisons?

**Hon. Jody Wilson-Raybould:** There may be comparisons. Reflecting on this particular circumstance with respect to this proposed piece of legislation, the conversation of physician- assisted dying, medical assistance in dying in the context of the proposed legislation, Bill C-14, has been a conversation that we've been having in an expansive way at least for the last seven months.

The special joint committee has been having that conversation and I as the minister who has been tasked to work on this legislation has been involved as much as I can in the development of the legislation, sharing information with Canadians about the thoughts that were being put into the legislation, ensuring that we do our part, hearing as many voices as we can to find balance in personal autonomy and the protection of the vulnerable.

These are words that I have used in advance of the tabling of the legislation and continue to use today, although now that the legislation has been tabled, I can go into detail about how we found

and sought to find that balance in Bill C-14. I have been speaking to that balance all along.

**Mr. David de Burgh Graham:** We're down to about a minute and a half left in this meeting.

**The Chair:** Yes, you won't have your full time. There's only a minute left.

**Mr. David de Burgh Graham:** Just to wrap this up, our study is very specific in referring to the premature disclosure of the bill. From what I can see, and from answers to my colleagues' questions, there was no premature disclosure of the bill, so where do you see this matter going? Where can we go further with this, if anywhere?

**Hon. Jody Wilson-Raybould:** I certainly wouldn't impart on this honourable committee what the next steps would be, but what I would like to do, given that the time is running out, is assure this committee that breaches of privilege are taken and should be taken incredibly seriously, and all individuals who had access to Bill C-14 and its developmental documents have the necessary security clearances. We have the substantial policies of the Privy Council Office that ensure we abide by the security provisions to ensure that confidential documents remain in the confidence of the Queen's Privy Council. I'm confident that those were followed across the board.

● (1300)

**The Chair:** Thank you, Minister. Thank you for appearing today.

**Hon. Jody Wilson-Raybould:** Thank you.

**Mr. David Christopherson:** Chair, on a point of order, we're dealing with a question of privilege, but is it not fair to say that, given some of the testimony from the minister, we may also be dealing with someone who has broken their oath? The minister alluded a number of times to people being under oath in terms of the level of secret or above secret. She mentioned it two or three times. Does that not suggest this isn't maybe just a question of a breach of members' rights, but someone has violated their secrecy oath?

**The Chair:** I think we can discuss that in the future.

Our time is up, but bring that up.

The meeting is adjourned.







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