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Chair

The Honourable John McKay

Standing Committee on Public Safety and National Security

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● (1540)

[English]

The Chair (Hon. John McKay (Scarborough—Guildwood, Lib.)): I call the meeting to order.

I see quorum. It is well past 3:30 p.m., and I see that the minister is in his place. The minister is obviously pretty serious, because he has taken off his jacket. I think we're ready to proceed.

As colleagues will know, we did have an understanding as of last week as to how this session on Bill C-98 would proceed. That agreement has changed. In exchange, there won't be any further debate in the House.

The way I intend to proceed is to give the minister his time, and perhaps when he can be brief, he will be brief. We'll go through one round of questions and see whether there's still an appetite for further questions. From there, we'll proceed to the witnesses and then to clause-by-clause consideration. I'm assuming this is agreeable to all members.

That said, I'll ask the minister to present.

Thank you.

Hon. Ralph Goodale (Minister of Public Safety and Emergency Preparedness): Thank you, Mr. Chairman and members of the committee.

In the spirit of brevity and efficiency, I think I will forgo the opportunity to put a 10-minute statement on the record and just speak informally for a couple of minutes about Bill C-98. Evan Travers and Jacques Talbot from Public Safety Canada are with me and can help to go into the intricacies of the legislation and then respond to any questions you may have. They may also be able to assist if any issues arise when you're hearing from other witnesses, in terms of further information about the meaning or the purpose of the legislation.

Colleagues will know that Bill C-98 is intended to fill the last major gap in the architecture that exists for overseeing, reviewing and monitoring the activities of some of our major public safety and national security agencies. This is a gap that has existed for the better part of 18 years.

The problem arose in the aftermath of 9/11, when there was a significant readjustment around the world in how security agencies would operate. In the Canadian context at that time, the Canada Customs and Revenue Agency was divided, with the customs part

joining the public safety department and ultimately evolving into CBSA, the Canada Border Services Agency. That left CRA, the Canada Revenue Agency, on its own.

In the reconfiguration of responsibilities following 9/11, many interest groups, stakeholders and public policy observers noted that CBSA, as it emerged, did not have a specific review body assigned to it to perform the watchdog function that SIRC was providing with respect to CSIS or the commissioner's office was providing with respect to the Communications Security Establishment.

The Senate came forward with a proposal, if members will remember, to fix that problem. Senator Willie Moore introduced Bill S-205, which was an inspector general kind of model for filling the gap with respect to oversight of CBSA. While Senator Moore was coming forward with his proposal, we were moving on the House side with NSICOP, the National Security and Intelligence Committee of Parliamentarians, by virtue of Bill C-22, and the new National Security and Intelligence Review Agency which is the subject of Bill C-59.

We tried to accommodate Senator Moore's concept in the new context of NSICOP and NSIRA, but it was just too complicated to sort that out that we decided it would not be possible to salvage Senator Moore's proposal and convert it into a workable model. What we arrived at instead is Bill C-98.

● (1545)

Under NSICOP and NSIRA, the national security functions of CBSA are already covered. What's left is the non-security part of the activities of CBSA. When, for example, a person comes to the border, has an awkward or difficult or unpleasant experience, whom do they go to with a complaint? They can complain to CBSA itself, and CBSA investigates all of that and replies, but the expert opinion is that in addition to what CBSA may do as a matter of internal good policy, there needs to be an independent review mechanism for the non-security dimensions of CBSA's work. The security side is covered by NSICOP, which is the committee of parliamentarians, and NSIRA, the new security agency under Bill C-59, but the other functions of CBSA are not covered, so how do you create a review body to cover that?

We examined two alternatives. One was to create a brand new stand-alone creature with those responsibilities; otherwise, was there an agency already within the Government of Canada, a review body, that had the capacity to perform that function? We settled on CRCC, the Civilian Review and Complaints Commission, which performs that exact function for the RCMP.

What is proposed in the legislation is a revamping of the CRCC to expand its jurisdiction to cover the RCMP and CBSA and to increase its capacity and its resources to be able to do that job. The legislation would make sure that there is a chair and a vice-chair of the new agency, which would be called the public complaints and review commission. It would deal with both the RCMP and the CBSA, but it would have a chair and a vice-chair. They would assume responsibilities, one for the RCMP and one for CBSA, to make sure that both agencies were getting top-flight attention—that we weren't robbing Peter to pay Paul and that everybody would be receiving the appropriate attention in the new structure. Our analysis showed that we could move faster and more expeditiously and more efficiently if we reconfigured CRCC instead of building a new agency from the ground up.

That is the legislation you have before you. The commission will be able to receive public complaints. It will be able to initiate investigations if it deems that course to be appropriate. The minister would be able to ask the agency to investigate or examine something if the minister felt an inquiry was necessary. Bill C-98 is the legislative framework that will put that all together.

That's the purpose of the bill, and I am very grateful for the willingness of the committee at this stage in our parliamentary life to look at this question in a very efficient manner. Thank you.

The Chair: Thank you, Minister.

With that, we'll begin the first round of questions of seven minutes each, starting with Ms. Dabrusin.

I just offer a point of caution. I know all members are always relevant at all times about the subject matter that is before the committee, and I just point that out. Thank you.

Ms. Dabrusin, you have seven minutes.

• (1550)

Ms. Julie Dabrusin (Toronto—Danforth, Lib.): Thank you.

I was very happy to see this bill because, Minister, as you know, pretty much every time you have been before this committee, I have asked you about CBSA oversight and when it would be forthcoming, so when I saw this bill had been tabled, it was a happy day for me.

You talked a little about the history of the bill. You talked about Senator Wilfred Moore's bill and how you dealt with the different oversights in Bill C-59 and NSICOP.

Why did we have to wait so long to see this bill come forward?

Hon. Ralph Goodale: I think, Ms. Dabrusin, it's simply a product of the large flow of public safety business and activity that we have had to deal with. I added it up a couple of days ago. We have asked this Parliament to address at least 13 major pieces of legislation, which has kept this committee, as well as your counterparts in the Senate, particularly busy.

As you will know from my previous answers, I have wanted to get on with this legislation. It's part of the matrix that is absolutely required to complete the picture. It's here now. It's a pretty simple and straightforward piece of legislation. I don't think it involves any legal intricacies that make it too complex.

If we had had a slot on the public policy agenda earlier, we would have used it, but when I look at the list of what we've had to bring forward—13 major pieces of legislation—it is one that I hope is going to get to the finish line, but along the way, it was giving way to things like Bill C-66, Bill C-71, Bill C-83, Bill C-59 and Bill C-93. There's a lot to do.

Ms. Julie Dabrusin: Yes, thank you.

It's my understanding that when budget 2019 was tabled, there was a section within the budget that referred specifically to the funding for this oversight. Am I correct on that?

Hon. Ralph Goodale: The funding is provided for. It will be coming through the estimates in due course. We're picking up the base funding that's available to the CRCC, and then, as the responsibilities for CBSA get added and the CRCC transforms into—I have to get the acronyms right—the PCRC, the public complaints and review commission, the necessary money will be added to add the required staff and operational capacity.

Ms. Julie Dabrusin: You touched upon it briefly when you were talking about the different mechanisms and the decision for it to extend within the RCMP review system. Perhaps you can help me to understand it a bit better. Why not a separate review committee for the CBSA specifically? Why build it within the RCMP system and then expand it, as opposed to having a separate oversight?

Hon. Ralph Goodale: It's simply because the expertise required on both sides is quite similar. It's not identical, granted, but it is quite similar. There is a foundation piece already in place with the CRCC. There are expertise and capacity that already exist, and the analysis that was done by officials and by Treasury Board and others led to the conclusion that we could move faster and we could move more cost effectively if we built on the existing structure and expanded it, rather than start a whole new agency from scratch.

Ms. Julie Dabrusin: One of the issues that's come up is that I've had questions from constituents about privacy issues crossing the border, for example, border guards being able to access information on telephones and the like. How would this oversight be able to deal with that privacy issue?

• (1555)

Hon. Ralph Goodale: If an individual thought they had been mistreated in some way at the border, or if their privacy rights had been violated, or if a border officer conducted themselves in a manner that the traveller found to be intrusive or offensive, they would have now, or as soon as the legislation is passed, the ability to file an independent complaint with the new agency. The agency would investigate and offer their conclusions as to whether the procedure at the border had been appropriate or not.

Ms. Julie Dabrusin: I have a quick question, as I only have about a minute and a half left.

In the context of someone whose phone was being looked at and the basis for it being looked at was a national security concern, or what was proposed as a national security concern, would that go through the PCRC or would that go through...? How would that be managed between the different oversights?

Hon. Ralph Goodale: The agency is going to be set up in such a way that wherever the person, the traveller, goes with their complaint...they may complain directly to the CBSA, not knowing there is a separate agency, or they may complain to the separate agency, or they may take it to NSIRA, the national security agency. If it's a grey area, the three possibilities—CBSA itself, the public complaints and review commission or NSIRA—will make sure that it lands in the right agency that has jurisdiction to hear it. There may be some jurisprudence that has to develop, informal jurisprudence, at the administrative level about what constitutes a national security complaint or question versus simple objectionable behaviour.

That will take time, but we will make sure that no complaint ends up in the wrong place. Wherever you go with your complaint, the agencies will ensure that it lands on the right desk and gets heard by the right authority.

Ms. Julie Dabrusin: I'm out of time.

The Chair: Thank you, Ms. Dabrusin.

Mr. Paul-Hus, for seven minutes.

[Translation]

Mr. Pierre Paul-Hus (Charlesbourg—Haute-Saint-Charles, CPC): Thank you, Mr. Chair.

Minister Goodale, we're talking about organizations that are the subject of complaints. There's currently a complaint regarding the funding provided by Canada Summer Jobs to the Islamic Society of North America. It has been acknowledged and documented that the organization provided funding for terrorism purposes.

Has your department or any agency that operates under your department been informed of this issue or involved in the case?

[English]

Hon. Ralph Goodale: Are you referring to the one that was referred to in question period today?

Mr. Pierre Paul-Hus: Yes.

Hon. Ralph Goodale: That is an issue that the employment department is examining. The funding involved was through the jobs fund and, as I understood the answer in the House today, the minister is asking her officials to investigate to ensure that whatever the decision-making process was with respect to that funding, it was fully and properly conducted. The matter is in fact being investigated.

[Translation]

Mr. Pierre Paul-Hus: Thank you.

[English]

The Chair: Thank you. I had urged members to stay with what we're on, which is Bill C-98. I'm not quite sure how a jobs funding application has much to do with Bill C-98, so I'd encourage the honourable member to direct his questions to Bill C-98 issues, please.

[Translation]

Mr. Pierre Paul-Hus: I was putting into practice the basis of the bill, which is the fact that Canadians are filing complaints. It's the same principle.

Let's go back to the commission, Minister Goodale. Is the commission currently experiencing any delays in the handling of complaints? Does it already have an excessive workload? Will adding more powers, duties and functions with regard to the Canada Border Services Agency create even more issues, or is everything fine?

[English]

Hon. Ralph Goodale: Certainly, the expanded agency will have more work to do. At the moment, the CRCC looks exclusively at issues related to the RCMP. Under the new configuration, the review agency will examine both the RCMP and the CBSA. Presently—

• (1600)

Mr. Pierre Paul-Hus: Actually, sir, do you know if there are some delays in the treatment for the RCMP—

Hon. Ralph Goodale: The CRCC I believe will be available to you later this afternoon—

Mr. Pierre Paul-Hus: Okay.

Hon. Ralph Goodale: —and they will be able to explain their workload, but on your basic point, Monsieur Paul-Hus, clearly the new agency is going to have more work to do. Therefore, it will need more resources, but we will be more cost-effective in applying those resources if we build on the platform the CRCC already has rather than building a brand new stand-alone agency for CBSA.

[Translation]

Mr. Pierre Paul-Hus: Okay.

If a person is removed by the Canada Border Services Agency for any reason, could they file a complaint regarding their forced removal in order to delay their removal?

[English]

Hon. Ralph Goodale: That's a question that may fall a bit in the grey area between a complaint about the behaviour of an officer, such as “was I treated roughly or rudely”, compared to “was I put out of the country for good and valid reasons”. If you have a dispute about the reason for which you are being removed from the country, there are legal appeal mechanisms available to you to contest the rationale for it.

[Translation]

Mr. Pierre Paul-Hus: Have we looked at whether people could use the complaint process to avoid being removed while the commission conducts an investigation?

[English]

Hon. Ralph Goodale: No. The decision on removal or not, depending on which section of the act you're dealing with, is a decision made by either the Minister of Immigration or the Minister of Public Safety. It's not an administrative decision.

[Translation]

Mr. Pierre Paul-Hus: Who worked on Bill C-98? Was it just Public Safety Canada? Did the RCMP and the Canada Border Services Agency also participate?

[English]

Hon. Ralph Goodale: I'll ask Mr. Travers, who assisted with the policy preparation and the drafting, to comment on that.

Mr. Evan Travers (Acting Director General, Law Enforcement and Border Strategies Directorate, Department of Public Safety and Emergency Preparedness): Thank you, Minister.

Public Safety consulted, within the strictures of cabinet confidence obviously, with the CBSA and with the RCMP in the development of the draft legislation.

[Translation]

Mr. Pierre Paul-Hus: Okay.

Is there a reason why the union wasn't consulted?

[English]

Mr. Evan Travers: The consultation with respect to the union was handled through the CBSA. My understanding is that the CBSA engaged with the union after the tabling of the bill.

[Translation]

Mr. Pierre Paul-Hus: Yet the union seems to be saying that it wasn't consulted at all on this issue.

[English]

Hon. Ralph Goodale: The policy decision, Mr. Paul-Hus, was clearly made by the government based on all of the public representations that had been received that this was a gap that needed to be filled.

In terms of the structure or the method of filling the gap, we settled on that in the discussions between the public safety department, the CBSA and the RCMP. Once that policy decision was made and the legislation was in the public domain, the CBSA, as I understand it, talked further with their union.

The Chair: You're pretty well out of time, Mr. Paul-Hus. You have 10 seconds.

Mr. Dubé, you have seven minutes.

[Translation]

Mr. Matthew Dubé (Beloeil—Chambly, NDP): Thank you, Mr. Chair.

[English]

Minister, thank you for being here.

I want to go back to the question Ms. Dabrusin was asking in terms of the time that this took. The fact is, there was a Senate report prior to the last election in 2015, legislation by Senator Segal in the previous Parliament and a recommendation from this committee in 2017.

Also, for anyone who wants to take a minute to google it, you can find articles from at least the last three years with you promising this legislation—it's coming, it's coming. Also, most of the bills you enumerated in responding to my colleague, if not all, were tabled in 2016 or 2017.

I'm wondering about this mechanism. You called it simple and straightforward, faster and cost-effective and said it builds on existing infrastructure. I'm having a hard time with this, especially in knowing that the legislation is only going to come into effect in 2020, if I'm understanding correctly, with regard to the ability of Canadians to make complaints.

I'm still not quite understanding why, with all those pieces on the table and at the very least two or three years in the lead-up.... To me, it doesn't seem to wash that you sort of dropped your arms and said, "Oh well, the senator's proposal won't work in Bill C-59." That seemed to be what you were implying in response to the question.

I want to ask again why it took so long when there continue to be incidents with work relations for those who work at CBSA—allegations of harassment and things of that nature—and obviously, of course, the issues that some Canadians face in the way they are treated at the border.

• (1605)

Hon. Ralph Goodale: Well, as I said, Monsieur Dubé, we have had an enormous volume of work to get through, as has this committee, as has Parliament, generally. The work program has advanced as rapidly as we could make it. It takes time and effort to put it all together. I'm glad we're at this stage, and I hope the parliamentary machinery will work well enough this week that we can get it across the finish line.

It has been a very significant agenda, when you consider there has been Bill C-7, Bill C-21, Bill C-22, Bill C-23, Bill C-37, Bill C-46, Bill C-66, Bill C-71, Bill C-59, Bill C-97, Bill C-83, Bill C-93 and Bill C-98. It's a big agenda and we have to get it all through the same relatively small parliamentary funnel.

Mr. Matthew Dubé: I think maybe three of those bills were tabled after 2017 or early 2018. I mean, for the C-20s and the single digits, we're talking days after your government was sworn in. I think there needs to be some accountability, because you've been on the record strongly saying that this needed to be done, and so I don't want to leave it being said that.... For example, with Bill C-59, why not make the change then?

I just want to understand, because my concern, Minister, is that I want to make sure there's no, for example, resistance internally to this issue. I can't understand, if this is a simple and straightforward mechanism in Bill C-98, why it took years to come to the conclusion that this was the way to go.

Hon. Ralph Goodale: There is no internal resistance at all. In fact, the organization, CBSA, recognizes that this is a gap in the architecture and that it needs to be filled.

Part of it was filled by Bill C-22 with the committee of parliamentarians, as far as national security is concerned. Part of it was filled by Bill C-59 and the creation of the new NSIRA, again with respect to national security.

This legislation fills in the last piece.

[Translation]

Mr. Matthew Dubé: I want to follow up on the questions asked by my colleague, Mr. Paul-Hus. I'm troubled by the fact that the union wasn't consulted in this case. One role of this mechanism is to protect workers in the event of allegations. The media sometimes reports on harassment allegations and things of that nature.

Mr. Travers, you can probably answer my question. You explained that the agency carried out the consultation. However, the workers are the ones who may be directly affected by the results of the complaints. Sometimes, they may be the ones who file complaints. Given the nature of the bill, why didn't you take the time to consult the union, which represents the workers?

[English]

Hon. Ralph Goodale: Monsieur Dubé, the issue was thoroughly debated within the government department and within CBSA. It's up to CBSA to have that interface with their employees. They conducted those conversations at what they considered to be the appropriate time.

The point is that the legislation is now ready to go. You'll have the opportunity to examine it in detail to ensure, through the democratic process in Parliament, that it's properly addressing the needs of the workers.

• (1610)

Mr. Matthew Dubé: Well, you'll forgive me, Minister. We support the bill and will be happy to see it get adopted, but that's just the issue. We don't have the time, because it took so long that now we have to do this quickly. I'm okay to do that, but I think we do have to qualify those comments.

Did you receive any kind of report from CBSA about the specifics of what the union had to say, or was it kind of like—not to be simplistic about it—just saying that you spoke to them and it's fine, and then moving on?

Hon. Ralph Goodale: There were no negative issues reported to me from any part of the consultation.

[Translation]

Mr. Matthew Dubé: Thank you.

I have one last question for you.

I gather that the mechanism will be implemented in 2020. People who wish to file a complaint can do so from that point on. Are any further clarifications needed or can we expect that, if the bill is passed, people will be able to file complaints under the proposed mechanism starting next year?

[English]

Hon. Ralph Goodale: That would be the goal, Mr. Dubé. We're obviously working on the development of an expanded agency. We may run into administrative issues that we hadn't anticipated, but the objective is to get this in place as quickly as possible. The mechanism we're choosing will let us move more quickly than we could if we were creating an agency from the ground up.

Mr. Matthew Dubé: But, Minister—I have just 20 seconds left—

The Chair: Actually, you don't.

Mr. Matthew Dubé: —if we get the bill through Parliament, will it be done, if it's adopted?

Hon. Ralph Goodale: That is exactly what I want to achieve, yes.

The Chair: Thank you, Mr. Dubé.

Monsieur Picard, go ahead for seven minutes.

[Translation]

Mr. Michel Picard (Montarville, Lib.): Thank you, Mr. Chair.

Minister Goodale, as you know, I started my career as a customs officer. The threshold for tolerance or interpretation when it comes to people entering Canada varies depending on whether the people are visitors or residents returning to Canada.

My colleague Mr. Dubé talked about protecting employees. Of course, you need an external perspective to determine the merits of a complaint filed by someone who believes that their rights have been violated. It seems that the bill contains measures that enable the commission to accept or reject a complaint based on its content.

[English]

Hon. Ralph Goodale: Yes, Monsieur Picard.

Do you see a problem with that?

Mr. Evan Travers: I don't. I may have missed something in the translation.

Mr. Michel Picard: People coming back into Canada, residents and visitors, don't have the same threshold for how they'd like to be treated, considering the nature of their complaints. The committee can analyze the grounds of those complaints and whether they make sense or not. With regard to protecting the officers, as Mr. Dubé said, this bill also looks at something to protect officers and employees from frivolous complaints.

Hon. Ralph Goodale: The whole objective, Monsieur Picard, is to have fairness both ways. When someone is travelling, they deserve to expect an efficient professional experience at the border. The public servants who are administering border services should also expect to be able to function in a safe and respectful work environment. It works both ways.

I suspect that once a certain file of complaints has been received and heard, we'll be developing a pool of experience and expertise that will improve the border experience both ways.

Mr. Michel Picard: Chances are that the committee will come to a conclusion that might not be accepted by the agency itself. Who has the final decision on the conclusion provided by the committee should it go against the interpretation of the agency?

Hon. Ralph Goodale: I'll ask either Mr. Travers or Mr. Talbot to comment on the ultimate authority, but in response to your last question, Mr. Picard, I'd refer to proposed subsection 32(2) in the act, which deals with how you handle trivial, frivolous or vexatious complaints or complaints made in bad faith, which is, I think, what you are concerned about.

Mr. Talbot or Mr. Travers, can you comment on the ultimate decision-making authority if there's an argument between the review body and the agency?

•(1615)

Mr. Evan Travers: The first body to investigate any complaint would be the CBSA, in most cases. They would be able to look at that, make findings and then give those findings back to the complainant. There are provisions throughout that require the subject employee to be notified and kept informed of the progress of the investigation. If after receiving that report from the CBSA the complainant is not satisfied with the contents of the report, they could refer it to the commission. The commission would take its own look at the complaint. The commission could either agree with the CBSA's conclusions or conduct its own investigation or ask the CBSA to conduct a further investigation of the complaint. Once the commission looked at the complaint, it would send that file back to the CBSA, and the CBSA could add comments to it.

There is a process by which differences of opinions and views can come out, but the commission's report will be the commission's report, at the end of the day. They will come to that with a full understanding and appreciation of the facts, and they will be able to go and get the facts they need to get that. In terms of the results of that, it is a final decision from the commission. It is not reviewable by a federal court or by another body, because the recommendations that come out of it aren't binding on the CBSA.

Mr. Michel Picard: Are you saying that if an individual is not satisfied with the end result, after the commission has reviewed the issue he doesn't have any more legal recourse to sue anyone?

Hon. Ralph Goodale: The discipline here, Monsieur Picard, is the process of having a formal investigation. If the review body comes to a very clear conclusion that the individual's rights have been infringed upon—they have been treated badly; there's something wrong in the way they were handled, and that's the very clear conclusion from the review body—and the agency fails to address that in a meaningful way, then the agency, I think, will have a very big policy and administrative problem on its hands. The issue will have been exposed publicly by an independent authority that will say you were either right or wrong. There will be a very strong obligation on the part of the agency to respond to that.

Mr. Michel Picard: Thank you.

The Chair: We've reached the end of our seven-minute round. Is there still an appetite to ask questions until 4:30 p.m.?

Okay. Then we'll run until 4:30 p.m. and that will be it.

Go ahead, Mr. Motz. You have five minutes.

Mr. Glen Motz (Medicine Hat—Cardston—Warner, CPC): Thank you, Chair.

Minister, I've heard the term "oversight body" used here a couple of times today. I think that's a misnomer. As you have said before, we need to make sure it's a review body, a civilian complaints review commission, and not oversight of the CBSA. I want to make sure everybody understands that.

•(1620)

Hon. Ralph Goodale: That's correct.

Mr. Glen Motz: Okay. Thank you.

To go back to the earlier comments from Ms. Dabrusin, Pierre Paul-Hus and Mr. Dubé about the timing, I'm led to believe, sir, that

the previous government and officials in the public safety division, if you will, were already drafting some bill similar to this about this issue to get oversight...sorry, to get civilian review for CBSA.

Hon. Ralph Goodale: It's easy to fall off the wagon.

Mr. Glen Motz: It took us until the last few hours of this session to get this here, but it was sort of being worked on before. This could have been in place years ago, and it wasn't. I support it, and I believe it's something we need, but again, I just echo the concerns that have been raised already. I just want to put on record that I'm concerned that it took this long.

My question is on the mechanism. Everything boils down to the mechanism, to how this is going to work. We know that the current RCMP complaints commission has six members, and I believe this legislation is going to maybe reduce that number to five. As Mr. Travers explained with regard to Mr. Picard's question, the CBSA will do the initial investigation of a complaint that comes to it from a civilian about the handling of whatever it might be. If that individual, the member of the public, is not satisfied with the disposition of that complaint, he or she can go to the complaints review commission and have that investigation reviewed again, if you will.

I don't understand the mechanism with regard to how the complaint commission does that. Does it do a paper review? If there's a complaint that the investigation wasn't done thoroughly, does it have its own investigative body that can interview witnesses and get more detail? How will that actually play out in the operations of this?

Hon. Ralph Goodale: Again, I'll ask Mr. Travers to comment on the mechanical details.

The portion of the new commission that will be dealing with CBSA would function in a very similar way to how the existing commission does with respect to the RCMP.

Mr. Glen Motz: Are there two different commissions?

Hon. Ralph Goodale: No, but there will be two streams of activity within the same commission.

Mr. Glen Motz: So, it's the same people hearing the same complaints. People on the RCMP side will hear RCMP matters, and the same people will also hear CBSA matters. Is that correct?

Hon. Ralph Goodale: Let me just double-check that point.

The plan, Mr. Motz, is that the reviewers on the CBSA side would deal with CBSA issues and that the reviewers on the RCMP side would deal with RCMP issues. It would be up to the chair and the vice-chair to determine the allocation of the personnel to hear any particular case, but I would think—

Mr. Glen Motz: They'd be two separate bodies inside of one commission.

Hon. Ralph Goodale: Essentially, yes. There would be an RCMP stream and a CBSA stream.

Mr. Glen Motz: From an expertise perspective—

Hon. Ralph Goodale: Exactly, because the issues are similar, but they're not identical.

Mr. Glen Motz: Yes.

Would there be an investigative ability inside that commission if the complainant isn't satisfied with the investigation with regard to the complaint?

Hon. Ralph Goodale: The investigative function would be the same for the CBSA work as it would be for the RCMP work. They have the capacity to make inquiries, to receive information, and to pursue any complaint that's presented to them to make sure that they have the facts in front of them—

Mr. Glen Motz: Okay, so, it's separate from the—

Hon. Ralph Goodale: —so that they can make a decision.

Mr. Glen Motz: It's separate from the CBSA. The CBSA has done the investigation. This commission could do another one on top of this, a separate one.

Hon. Ralph Goodale: If they're not satisfied with what they've been presented, yes.

Mr. Glen Motz: Then the commission itself has the ability to do it, or would it farm that out to another investigative body?

The Chair: This is going to have to be the last answer for you, Mr. Motz.

Hon. Ralph Goodale: The chair and vice-chair of the commission would determine what resources, either internal or external, they require. They'll have a budget. Obviously, they want to get to the bottom of whatever a complaint is. They want to be able to satisfy either the employee who's complaining or the member of the public who's complaining, that the complaint has been treated fairly and competently and that the truth has been found.

• (1625)

The Chair: Thank you, Mr. Motz.

Mr. Graham, you have the final five minutes.

Mr. David de Burgh Graham (Laurentides—Labelle, Lib.): Thank you.

In the event of a conflict of authority between the PCRC and the NSIRA, or even NSICOP, who prevails?

Hon. Ralph Goodale: It would be up to the agencies to sort out their respective jurisdictions. I suspect it will be pretty clear in most cases as to whether it's a national security issue or not.

The agencies in the past have had jurisdictional questions where they've had to work on things together. They've been able to resolve disputes in a way that is satisfactory, so I don't anticipate there's going to be a jurisdictional fight here.

Mr. David de Burgh Graham: When the RCMP is operating in a contract position, for example, as provincial police, or here on the Hill in PPS, is the PCRC's power and oversight the same as an RCMP native operation?

Hon. Ralph Goodale: If they're functioning as a provincial police force—

Mr. David de Burgh Graham: Yes.

Hon. Ralph Goodale: —the first line of complaint would be the provincial review agency. There is one in every province.

Mr. David de Burgh Graham: What about for the PPS side? The RCMP is contracted to provide a service, so—

Hon. Ralph Goodale: They're contracted to provide an officer. You'll have to consult the Speaker on that one, because that's the jurisdiction of the two Speakers.

Mr. David de Burgh Graham: That's fair.

In overseas operations, when the RCMP is doing training missions, for example, or the CBSA is doing pre-clearing, which is another one of the bills that you brought forward, is the PCRC empowered to investigate overseas in the same way as they are domestically?

Hon. Ralph Goodale: The powers of the review body in relation to the RCMP will not change. Whatever exists now, continues. CBSA is then added to it.

Mr. David de Burgh Graham: They would be able to go down to the U.S., for example, and find out what happened if there were a major complaint.

Hon. Ralph Goodale: Go ahead, Evan.

Mr. Evan Travers: They would certainly be able to access any of the information, whether those CBSA activities took place in Canada or abroad. If that would require them to go abroad, I don't know, or if they'd be able to interview people in Canada, but they'd be entitled to have access to CBSA information just as they would if the event had happened in Canada.

Mr. David de Burgh Graham: I have one final question.

Does the PCRC have any power to make a binding recommendation in any circumstance?

Hon. Ralph Goodale: No.

Mr. David de Burgh Graham: Thank you.

The Chair: That brings our questioning to an end.

I want to thank members and the minister for their co-operation in moving this through expeditiously.

Hon. Ralph Goodale: Mr. Chairman, just let me say thank you to you and members of the committee for indicating your willingness to handle this matter very expeditiously in the time that's available to us.

The Chair: Thank you.

With that, we will suspend and resume as soon as the witnesses are ready.

• (1625)

(Pause)

• (1630)

The Chair: For the purpose of expediting this bill, I will say that we have a quorum and we are re-empanelled as of now.

Joining us by remote whatever, we have Mr. Sauvé, from the National Police Federation, and also Michelaine Lahaie, Lesley McCoy and Tim Cogan.

I'm going to give the opportunity to Mr. Sauvé to speak first, because one never knows with this technology whether it will survive.

Generally we have 10 minutes per presentation. Ideally, if it could be less than 10 minutes, we could get to members' questions more quickly.

With that, may I call on Mr. Sauvé to introduce himself and make his presentation.

Mr. Brian Sauvé (Co-Chair, National Police Federation): Thank you, Mr. Chair. I hope the technology is working and that you can hear me.

The Chair: That is a nice piece of art behind you there.

Mr. Brian Sauvé: Thank you.

My name is Brian Sauvé. I'm a regular member. I'm also a sergeant in the RCMP. I've been on leave without pay to found and start the National Police Federation. Presently, I'm one of the interim co-chairs.

For those who have been following from the sidelines, we made an application to certify the first bargaining agent for members of the RCMP in April 2017. We have been going through every hoop and hurdle imaginable thrown at us since April 2017. A certification vote was held with all 18,000-plus members of the bargaining unit last November and December. We are still awaiting a decision from the Federal Public Sector Labour Relations and Employment Board on that vote with a constitutional challenge.

That being said, with respect to Bill C-98, we wanted to have input to provide the RCMP members' perspective on the CRCC and part VII of the RCMP Act as it deals with public complaints. I'm open to questions on that.

At the time, I saw Bill C-98 as an act to amend the RCMP Act. There are a number of concerns that our membership has expressed with respect to the 2014 amendments to the RCMP Act, otherwise known as Bill C-42, that would be nice to be broadcast or provided questions on.

For example, in Bill C-98, there is an amendment to section 45.37 of the RCMP Act imposing time frames in consultation with the force, and the newly worded public review and complaints commission, as to how long an investigation should take, what should be the result and the consultation between the force and the investigating body.

It would really be nice, from our perspective, from an RCMP member's perspective, to expand that to deal with other areas of the RCMP Act. One of the areas that would be lovely to have some form of consultation on timelines would be the internal disciplinary processes or even grievances or appeals of commissioner's decisions on suspensions and such.

Our experience has been that whether it's a complaint under part VII or an administrative process under part IV or a grievance under part III of the RCMP Act, the RCMP itself is not equipped to deal with these issues in a timely manner. The issues tend to lag on for six months, a year, a year and a half to two years, which leaves the accused or the subject member of either a public complaint or a code of conduct or a grievance in limbo in an administrative process that takes forever.

Should your committee have questions on that, I'd be more than happy to answer, and we'll go from there.

That would be my presentation. I'm sure you're not going to study all of the submissions I would have on Bill C-42 and how it has

impacted the membership of the RCMP, and the sweeping powers of commissioners and commanding officers.

I would love to get into that in more detail some day, but I don't think this legislation is the venue for that. However, timelines in section 45.37 would be something that we would definitely appreciate your looking into.

• (1635)

The Chair: Thank you, Mr. Sauvé.

The lights are flashing, and I'm obliged to suspend unless I have the unanimous consent of colleagues to carry on. My proposal would be, since we're in the building, that we carry on for 15 to 20 minutes. I believe it is a half-hour bell. Is 20 minutes reasonable?

Some hon. members: Agreed.

The Chair: With that, we will probably get through the presentation of the next witnesses and at least start the questions.

The minister mentioned to me that he has a flowchart of the process which he's more than willing to make available to anyone who wishes. Regrettably, it's only in English. It will be in French and English in 24 hours, but for those who are interested in the flowchart, it is available.

I call upon Micheline Lahaie, chairperson of the Civilian Review and Complaints Commission for the RCMP.

Ms. Micheline Lahaie (Chairperson, Civilian Review and Complaints Commission for the Royal Canadian Mounted Police): Good afternoon, Mr. Chair. My name is Micheline Lahaie and I'm accompanied today by Tim Cogan, who is my senior director of corporate services, as well as Lesley McCoy, who is my general counsel.

Given the short notice that we were provided for this particular hearing, we do not have any prepared comments, but I am indeed prepared to answer any questions the committee members may have.

The Chair: Thank you.

Ms. Sahota, go ahead for seven minutes.

• (1640)

Ms. Ruby Sahota (Brampton North, Lib.): My first couple of questions will be for the commission.

In the time you've been serving, on average, how many complaints have you been getting from civilians? What range of issues are those complaints on? How long does the process generally take, whether for an initial review or, if you actually get into an investigation, for that? There are four questions in there.

Ms. Micheline Lahaie: In terms of the number of complaints that we receive, we receive between 2,500 and 3,000 complaints per year about RCMP members. We are then normally asked to review somewhere in the neighbourhood of 250 to 300 of those complaints ourselves. As described by the minister during the last session, the complaints generally go to the RCMP for investigation first. If the individual lodging the complaint is not happy with the RCMP's disposition of the complaint, it will then come to us and we will conduct our review. On average, we're reviewing 250 to 300, and my call centre receives between 2,500 and 3,000 complaints per year.

In terms of timeline, it really depends. We do have service standards at the commission. Once we've received a complaint, our service standard is that within four business days we send that complaint to the RCMP for them to carry on with their investigation. Once the RCMP has completed their portion of the investigation or they've sent out their report, if the individual who made the complaint would like to have that complaint reviewed, they have 60 days to come back to us and ask for it to be reviewed.

Then, once we've received an indication from the individual that they would like the complaint reviewed, our service standard is 120 business days following that. However, that timeline starts as soon as we receive all the relevant material from the RCMP. We go to the RCMP and we ask for any information with respect to the investigation that they conducted, and we may ask for any other information that comes that may be related to that specific complaint.

The Chair: Mr. Sauvé, I want to advise you, because you're new to this process, that if you wish to intervene on any question, just give some indication to me, and I'll make sure you can intervene.

Go ahead.

Ms. Ruby Sahota: Sorry, I lost my train of thought with that.

You ended by saying there was a 60-day review.

Ms. Micheline Lahaie: The individual who has requested a review has to indicate that they want the complaint reviewed after 60 days. From the time the RCMP has sent out their letter of disposition, the individual has 60 days to tell us they want it reviewed.

Ms. Ruby Sahota: How long does it generally take for the RCMP to do their review after you've sent the complaint?

Ms. Micheline Lahaie: At present, there are no service standards with respect to that piece. Sometimes it can take as little as a few months to as much as two years, depending upon from where the complaint has been lodged and depending upon the complexity of the complaint.

Ms. Ruby Sahota: I know there must be a range of issues, but can you identify three or four main issues that do occur?

Ms. Micheline Lahaie: The main issues that we see are about improper attitude. We will see some that deal with improper use of resources, not responding to duty correctly, or what's deemed by the complainant to be improper use of force.

Ms. Ruby Sahota: I believe Mr. Graham had a couple questions.

Mr. David de Burgh Graham: I have just a couple of short ones for Sergeant Sauvé if I may.

You're talking about the trouble you're having essentially unionizing the RCMP membership, if I understand correctly.

Mr. Brian Sauvé: Well, I wouldn't say... I mean, it was a challenge. We live in a diverse and very geographically spread-out country, so it was a challenge in the first year getting all of the members on board. The challenge now is in pushing the FPSLREB process in order to get through the application for certification. The membership have shown their support. It's just, shall I say, the "pushing molasses uphill in January" governmental process that is providing us with a bit of a delay.

•(1645)

Mr. David de Burgh Graham: At least in January—

The Chair: Mr. Graham, I warned Mr. Paul-Hus about the relevance to Bill C-98.

Mr. David de Burgh Graham: I'm about to bring it in, yes.

The Chair: Okay. I'm hoping you'll bring it in.

Mr. David de Burgh Graham: I'll bring it back in. I have one more question before I get to that, but I will tie in with that.

The Chair: Okay.

Mr. David de Burgh Graham: The reason I go down this road is that, as you're aware, there are three unionized services on Parliament Hill that report to the RCMP. I'm wondering if you've talked to SSEA and PSAC about their challenges. They've had many of them. I'm also wondering if Bill C-98 will give you any additional tools in dealing with this and if that's why you've come today.

Mr. Brian Sauvé: No, the reason I expressed my interest with the clerk when he called this morning—I appreciate the short timelines that this committee is dealing with—is that any opportunity to have the membership of the RCMP's voice heard with respect to amending the RCMP Act is an opportunity for us to speak on their behalf. If we didn't, it would be an opportunity lost.

In terms of consulting with those who represent the PPS or the membership on the Hill, you know, Bill C-7 kind of precluded any organization that was asking to represent the membership of the RCMP—it's a grey area in Bill C-7—from having any associational activity outside the law enforcement community. We've been very careful in the NPF about how we associate and who we hitch our banner to. Most of that has been within the Canadian police association community—the Ontario Provincial Police Association, la Fraternité des policiers et policières à Québec, and that sort of thing. We haven't really linked up with a PSAC or a CUPE or a UCCO, for example.

Mr. David de Burgh Graham: Does the committee that we're talking about today give you more tools for the union to deal with, or is it a non-issue for you? When the certification has been received, will the union use this committee to deal with the RCMP? Is it a tool that would be in your arsenal as well?

The Chair: Very briefly, please.

Mr. Brian Sauvé: I'm not sure I understand the question correctly.

Mr. David de Burgh Graham: In negotiating with the RCMP, does the creation of the committee as we're now seeing it improve your ability to negotiate? Does it give you extra tools, or is it a non-issue for you and it's strictly for the public, in your view?

Mr. Brian Sauvé: With the CRCC as it is—I'll use the terminology "CRCC" because that's what it still is today—I don't see Bill C-98 impacting the membership of the RCMP or changing how we deal with or investigate public complaints.

As you heard from the chair of the CRCC, Ms. Lahaie, on the timelines with respect to the investigation of public complaints, the bottleneck that we see and that I hear about is the RCMP's ability to investigate in a timely manner. That extends—

The Chair: I'm sorry, Mr. Sauv , but we'll have to leave it there. We've run past time.

Mr. Brian Sauv : That's fine.

The Chair: Mr. Motz, you have seven minutes.

Mr. Glen Motz: Thank you.

You indicated, ma'am, that you have 2,500 to 3,000 complaints that the RCMP investigates on their members a year. The commission reviews about 250 to 300 of those. Has there been any thought given, based on what the CBSA is currently doing, because they already have complaints that they deal with internally, to how many more will be added to the commission's workload?

Ms. Michelaine Lahaie: We've been consulting extensively with CBSA on this issue. My understanding is that they receive approximately 3,000 complaints a year. We're expecting the numbers to be very similar. Having said that, there will of course be a public education process that will happen around the launch of the PCRC. Once that happens, there is a possibility that the number of complaints will go up. Right now our planned number is about 3,000 per year.

Mr. Glen Motz: As I understand Bill C-98, you had six members of the commission coming in.

Ms. Michelaine Lahaie: We had five members of the commission under the old RCMP Act, so this will be five again.

• (1650)

Mr. Glen Motz: You have five RCMP, and will you have five new members for the CBSA?

Ms. Michelaine Lahaie: No, sir, that's incorrect. We'll just have five members. The commission will have—

Mr. Glen Motz: Five full...?

Ms. Michelaine Lahaie: —five members. That's right.

Mr. Glen Motz: Okay. How do you then... One of the issues of the RCMP membership now, which certainly will be a concern for CBSA, is dealing with these issues in a timely manner. Yes, we need to be responsive to the complaints from the public, but we also have to be understanding of what some of these complaints do to the membership. Frivolous and vexatious complaints need to be addressed in a timely way, as well as just the disposition, even if they're founded complaints.

How do you propose to accelerate the timeline that you've already talked about in terms of a few months on some of the smaller cases to several years for some of the more complex ones?

Ms. Michelaine Lahaie: One of the things this bill is going to help with is the fact that there will now be service standards. There will be service standards for the RCMP as well as service standards for CBSA in terms of their responding, which will assist the commission greatly, whereas right now, the RCMP, in the current RCMP Act, do not have a specific service standard in terms of when they have to reply back to us. We will be negotiating service standards with them and with the CBSA when the new act comes into force.

Mr. Glen Motz: Does that service standard apply, then, if a member of the public doesn't complain to you? Here's what I'm getting at. You have a service standard that is going to be built in. If

you are asked by a member of the public to intervene or to review a file that's already been investigated—either by CBSA in this case, in Bill C-98, or the RCMP, because they're both going to be similar—the RCMP and the CBSA, for that matter, will both have a service standard to meet.

What happens previous to that? Do they have service standards now? If a member of the public complains to CBSA or the RCMP now, is there a service standard such that they have to respond to a member of the public in a timely way?

Ms. Michelaine Lahaie: I can't speak to what CBSA is doing right now, because we're looking at what we're doing in the future. In terms of the RCMP, they do have a policy document that's in place, but there's no requirement for them to articulate that service standard externally. Right now, there really isn't a service standard externally in place for that.

Mr. Glen Motz: Mr. Sauv , would you care to comment on that?

Mr. Brian Sauv : As I mentioned at the beginning, I think service standards are a fantastic idea. One of the comments I would make is that the implementation of service standards for the investigational side would be a huge win for the membership. As you mentioned, having something hanging over your head for a year to two or three years and not knowing the resolution is the bottleneck right now.

Mr. Glen Motz: All right. Thank you.

I saw you sitting in the gallery when I asked the minister this question. You have five members as a commission. Do you have investigative resources that you have access to that provide you with the ability to reinvestigate if a complaint is found to be insufficient? Does that exist for both the RCMP side of your commission and the CBSA side of your commission? Who is the investigative body that you contract or go to for that?

Ms. Michelaine Lahaie: The answer to your question is yes. We do have the ability to investigate. I have a team of seven investigators who currently work for me right now. I suspect that with the increase in funding, as well as the new mandate, we will be increasing the number of investigators we have. In some cases, if we require and need very specialized expertise, then we contract out for that specialized expertise. For example—

Mr. Glen Motz: Who would you contract out to? Is it to other police services?

Ms. Michelaine Lahaie: I'm sorry?

Mr. Glen Motz: Is it other police services?

Ms. Michelaine Lahaie: No. It's not other police services. We go to civilian contracts and look at using those types of services.

Mr. Glen Motz: On the investigators you have now, where are they from?

Ms. Michelaine Lahaie: They're a mix. I have some who are from other police services. I have some who have come from family and social services, so it really is—

Mr. Glen Motz: Are they on secondment? Are they seconded positions?

Ms. Michelaine Lahaie: No. They're public servants who work directly for me.

Mr. Glen Motz: They've had previous experience in those agencies.

Ms. Micheline Lahaie: Exactly.

Mr. Glen Motz: All right.

This has been a long time in the making. You heard us talk about that with the minister. Is there anything as you see the bill.... I mean, as the commission, you're responsible. You're going to be tasked with making sure that now CBSA falls under the requirements of this commission as well for civilian complaints review.

In order to look after the public in a timely way or in any way to be efficient there, and to also be responsive to the RCMP and CBSA members who might be the subject of a complaint, is there anything that we should be considering in this bill but is void in this legislation now or anything that could strengthen it to be more effective on both sides?

• (1655)

The Chair: Answer very briefly, please.

Ms. Micheline Lahaie: The legislation as you have it before you is very similar to what we see in the Royal Canadian Mounted Police Act right now. There are probably a few minor housekeeping issues, but as we read it right now, as the commission, there are no showstoppers.

Mr. Glen Motz: With regard to the housekeeping issues, if you could get them to us....

Ms. Micheline Lahaie: Sure.

Mr. Glen Motz: It's just that we have to go through this today or Wednesday.

The Chair: With that, we're going to have to suspend and go off to vote.

I'm hoping that our witnesses can stay while we go exercise our democratic franchise.

• (1655) _____ (Pause) _____

• (1720)

The Chair: We are back and we have quorum.

I think it's Mr. Dubé who has seven minutes.

Subject to what colleagues might say, my suggestion would be that we go for 20 minutes. Does that sound reasonable? Then we'll move to clause-by-clause consideration after that.

Some hon. members: Agreed.

The Chair: Okay.

Mr. Dubé, go ahead for seven minutes, please.

[Translation]

Mr. Matthew Dubé: Thank you, Mr. Chair.

Mr. Sauvé, I hope that you'll forgive me, but I have few questions that I think you can answer.

First, I want to take this opportunity to congratulate you for everything that you're doing. I know that things haven't been easy in recent years, but I think that it's a step in the right direction. It was

something that needed to be done a long time ago. The people who have been following the debate know that this is about establishing fair representation for the men and women in uniform in the RCMP. Keep up the good work.

My questions pertain to some aspects of the commission's current operations and how the bill can change or affect this.

The proposed subclause 18(2) on page 8 of the bill states as follows:

(2) In order to conduct a review on its own initiative, the Commission

(a) must be satisfied that sufficient resources exist ...

(b) must have taken reasonable steps to verify that no other review or inquiry has been undertaken ...

I'll address the reasonable steps described in paragraph (b). Let's start with paragraph (a), which concerns resources.

Take the case of an incident reported by the media. As a result, the complaint becomes a matter of public interest. If you don't have an adequate budget, you must make the handling of complaints a priority, even if the situation is high profile. Unless the president or the minister requests an investigation, you'll be limited by your budget capacity. That's basically what it means.

Is that correct?

Ms. Micheline Lahaie: Yes, Mr. Dubé, that's correct. We're certainly limited by our budgetary and human resources.

I should also point out that this part concerns what we call reviews, but reviews of specific activities. We're talking about cases involving a systemic issue that we decide to investigate. We're talking about these cases, rather than the normal complaints that we receive from the general public.

Mr. Matthew Dubé: That's fine.

In terms of paragraph (b), not only in the context of the proposed subclause 18(2), but in general, Mr. Graham spoke earlier about the risk of stepping on the other agency's toes. That's interesting. As part of our study of Bill C-59, we met with representatives of your commission. Forgive me, I don't remember whether the information came from you or other representatives, but we were told that there was no issue with regard to the RCMP, since the functions weren't national security functions. However, during the presentations and debate on Bill C-59, some people pointed out that, in the case of the Canada Border Services Agency, the issue still concerned national security, given that we're talking about border integrity.

Are you concerned that, in terms of the agency, it may be more difficult to determine what falls under the different oversight mechanisms for national security issues? For example, in the case of the committee created by Bill C-59 or the National Security and Intelligence Committee of Parliamentarians, there's a clearer and more obvious distinction with respect to the RCMP.

Ms. Micheline Lahaie: I think that it may sometimes be difficult to make the distinction. However, I can tell you that we currently have a very good relationship with the Security Intelligence Review Committee and with what will become the National Security and Intelligence Review Agency. We often talk to these people. I think that we would be able to determine which agency should handle the complaint.

Mr. Matthew Dubé: As long as good relationships are maintained, this shouldn't cause any issues in terms of the work.

Ms. Micheline Lahaie: Indeed.

Mr. Matthew Dubé: Good.

My next question concerns American customs officials. I think that it's important, because ordinary mortals, if you'll allow me to use that expression, don't always have a clear idea of who's responsible. Since the passage of Bill C-23, there has been increased use of pre-clearance, particularly during land crossings and at airports

Do you anticipate any complaints regarding how American officials treat Canadian citizens? Have you established a mechanism to deal with this? Will you pass on complaints to another agency? Will you raise public awareness? Will your approach include several components?

• (1725)

Ms. Micheline Lahaie: The approach will include several components. We'll undoubtedly receive complaints regarding American officials.

At this time, we sometimes receive complaints regarding officers other than Royal Canadian Mounted Police officers. With respect to the RCMP, we have a no wrong door policy. Under this policy, if we receive a complaint regarding a Toronto police officer, for example, we can send it to the provincial agency for processing. We share the information.

We'll certainly start building relationships with the Americans so that we can pass on these types of complaints to them.

Mr. Matthew Dubé: I apologize for hurrying, but my time is running out.

During pre-clearance, the Americans operate on Canadian soil. Do you play any type of role if an incident that leads to a complaint takes place on Canadian soil, for example at a Canadian airport?

Ms. Micheline Lahaie: I don't think so, but this issue should be addressed.

Mr. Matthew Dubé: That's fine.

I have one last question.

On page 25, the proposed subclause 51(1) refers to the response of the president of the agency. Is this mechanism similar to the current mechanism of the Civilian Review and Complaints Commission for the RCMP, whereby a written response is provided and, if no further action is taken, the reasons are also provided in writing? Forgive me for not knowing the Royal Canadian Mounted Police Act by heart. Perhaps I should know it. Is it the same as the mechanism that currently exists in this legislation?

Ms. Micheline Lahaie: Yes, we're currently using the same mechanism.

Mr. Matthew Dubé: Okay, thank you.

[*English*]

The Chair: Thank you, Mr. Dubé.

I understand there are no questions from the government side. Are there any further questions from the opposition side?

Mr. Eglinski, go ahead for five minutes.

Mr. Jim Eglinski (Yellowhead, CPC): Thank you.

I'd like to thank you for coming out today and for presenting. I'm very pleased to be able to support Bill C-98, but I do have a couple of a misconceptions, which I've had for a number of years, regarding the similar situation you had with the RCMP.

Under "Powers of Commission in Relation to Complaints", with regard to the powers in proposed section 44, you were talking about service standards for the RCMP and certain guidelines. You can compel a person to come before you and administer an oath, etc. If a member of the border security were involved in a criminal case, say for an alleged assault or something like that or for excessive force, would you require them to do that before the criminal trial, or would it be set over until after the criminal trial so that they could defend their actions? Would the evidence they gave your organization under oath be able to be used against them in a criminal trial?

Ms. Micheline Lahaie: I'll address the second part of your question first. Any information provided to us under oath by an individual we've compelled to come to speak to us cannot be used against them. Anything they're admitting personally cannot be used in any of our reports, so that information cannot be used against them.

The first part of your question is about a situation we deal with fairly often, that in which the courts are engaged in something about which we've received a public complaint. Generally, we tend to put those public complaints in abeyance while we wait to see what the courts are going to say, because oftentimes the courts will provide some form of direction or there'll be something in a decision.

Mr. Jim Eglinski: That's the question I had. There is a kind of abeyance there because there is a conflict.

I have a second part for you, and I'd like you to answer fairly quickly if you could, because I do have another question.

I was there when you guys first started with the RCMP public complaints commission. There was a bit of resentment on the part of members of the RCMP with regard to trust, and I think there was a little resentment the other way; both of us kind of didn't trust each other. But as time went by—not a very long time—a trust was built up from us having worked very closely together. I would think you'd find the same thing moving into this new era. Are you going to set up a bit of an education program for the members of the Canada Border Services Agency so they understand really what you're about? There is going to be that little bit of suspicion on their side, so I wonder if you have a plan for educating them.

• (1730)

Ms. Micheline Lahaie: Right now we are working on a plan to educate them. That is part of our intention, to educate them as well as the Canadian public on the process.

Mr. Jim Eglinski: The gentleman who is on the screen.... I'm sorry; I forget your name, Sergeant.

Mr. Brian Sauvé: Brian Sauvé.

Mr. Jim Eglinski: Brian, you talk about service standards within the RCMP and completion of investigations. Do you believe that the service standards should go both ways?

I'm going back to 15 years ago when I was in charge of Fort St. John detachment. I can recall an incident where I had a member stationed there for four years who I never met. He was on a standby investigation. I never knew what it was about. I wasn't told what it was about, but he lived in my area. He never came to work. I wonder if you feel that there should be a service standard both ways.

Mr. Brian Sauv : I'm not sure what you mean by a service standard both ways. Whether it's a public complaint, an internal investigation or a criminal investigation, those being investigated have a right to a procedurally fair and expedited investigation, period. That's the way I look at it.

The laws of natural justice should apply. Whether it's the CBSA being investigated or the RCMP being investigated, the member being investigated has a right to a timely completion of that investigation. He or she also has the right to silence. That's a common law: the right to silence. So, if that impedes the investigators, well, find another avenue.

Mr. Jim Eglinski: Thank you.

I think I've run out of time.

The Chair: Yes, you have.

Mr. Manly, do you wish to ask any questions?

Mr. Paul Manly (Nanaimo—Ladysmith, GP): No.

The Chair: Are there any other questions on this side? No.

With that, I will thank our witnesses.

I appreciate your patience while we went off to vote.

With that, we'll suspend and come back for the clause-by-clause study.

•(1730) _____ (Pause) _____

•(1735)

The Chair: I see that our witnesses are at the table and members are here.

We are now moving to clause-by-clause.

(Clauses 1 and 2 agreed to)

(On clause 3)

The Chair: We have PV-1.

Mr. Manly.

Mr. Paul Manly: This amendment would specify that neither current nor former officers nor employees of the Canada Border Services Agency may sit on the public complaints and review commission. This amendment does not appear in Bill C-98, but in the parent act, the RCMP Act. The ineligibility paragraph under subsection 45.29(2) of that act would exclude current or former members from service on the PCRC, and under that act, "member" has a specific definition that means an employee of the RCMP. Presumably, current and former agents of the CBSA should be

excluded from sitting on the PCRC as well. This amendment would make that crystal clear.

The Chair: Mr. Motz.

Mr. Glen Motz: Thank you, Mr. Chair.

I have a couple of questions. One is for the officials that are here about this particular amendment, and one is for Mr. Picard, actually.

The Chair: He won't be able to serve.

Mr. Glen Motz: No, but seriously.... I appreciate what the RCMP Act says, but I've always been curious to know if there's some distance between service and a commission like this. Even as a public servant now, to work as an investigator on this end, how that would preclude someone from being impartial, someone who has some understanding of the business to be able to be of value to service to the public in this commission.... I'm at a loss to understand why that would be something we would want to even consider.

Could the officials help me understand whether this is something that is consistent with legislation or is the intent of Bill C-98?

Mr. Evan Travers: The intent of this bill is not to impose a restriction on who could become a member of the commission by virtue of having formerly been employed by the CBSA. The amendment offered by Mr. Manly would impose on former CBSA members the same restriction that currently applies to former RCMP members. We have not put that forward as part of the bill.

Mr. Glen Motz: Mr. Picard, you started out in the service this way, and you've had some distance since then. Do you see this as being something that would cause disruption or cause the public to be concerned about the fairness, the non-bias of a commission if it employed someone who used to work with CBSA in years past?

Mr. Michel Picard: In all cases, I don't think experience should diminish someone's capacity to act. I would vote against that.

The Chair: Mr. Dub .

Mr. Matthew Dub : I'm just wondering, through you Chair, if Mr. Travers can explain the inconsistency between the fact that the RCMP are forbidden but former CBSA members are allowed in this legislation.

Mr. Evan Travers: We worked mostly on the CBSA-related elements. With respect to those elements, the decision was made not to impose a similar requirement for former employees of the CBSA. They are different kinds of workforces. The CBSA tends to engage summer students and the like, who may spend only a few months with the agency. In order to allow the Governor in Council, the body that would make appointments to the commission, discretion in picking the best candidates, we did not include that restriction in this part of the bill.

• (1740)

Mr. Matthew Dubé: Chair, if I may, it seems like a pretty glaring inconsistency. You're going to have an organization that's now going to handle complaints for two different public safety entities. On the one hand, certain individuals—I take your point about the types of experiences—will be allowed. That's a very specific example, but it basically means that someone who served 30 years as a border officer and who is, with all due respect to the great work that they do, in a bit of a conflict of interest....

I assume that is why the RCMP Act was drafted the way it was. It was to avoid the old adage of police investigating police. I know that it's called “public” now, but I'm just wondering if the civilian nature of it is a bit lost by this pretty important inconsistency that will now exist throughout what is supposed to be one organization. Could you perhaps offer us what the thinking was behind that?

Mr. Evan Travers: I don't want to speak to the intent of the RCMP Act or the provisions that are there. I was not involved in their drafting or their development.

With respect to the bill that is before you, we've provided our advice to cabinet through our minister, and this is the bill the government has come forward with. If there are concerns or questions, it may be that the minister would be better placed to speak to the policy intent behind that distinction.

The Chair: Mr. Graham.

Mr. David de Burgh Graham: I have a very quick question.

I'm not going to support this amendment, but I just wanted to ask a question on the RCMP ban. Who is currently banned? Is it RCMP members in the meaning of the act, or any employee of the RCMP?

Mr. Evan Travers: I'll turn to Mr. Talbot on that.

Mr. Jacques Talbot (Counsel, Legal Services, Department of Public Safety and Emergency Preparedness, Department of Justice): Here, the persons who are subject to the current provision are the members of the RCMP, the members of the force.

Mr. David de Burgh Graham: Uniformed officers?

Mr. Jacques Talbot: Yes.

Mr. David de Burgh Graham: So this amendment would apply to all CBSA employees, as you said, summer students.

That answers my question, thank you.

The Chair: Matthew.

Mr. Matthew Dubé: Thank you, Chair.

I'll support Mr. Manly's amendment because I think it refers to a pretty important inconsistency.

Two big issues come to mind. One, which I think we heard in the testimony previously and through Mr. Eglinski's questions in particular, is the importance of building trust. I just feel that the inequity that this would create in this newly named commission would be problematic for building that trust.

Two, again, we're using such a specific example of a summer student working three months at the agency, when the reality is that the loophole would allow someone who is in a much more conflicted position to be there. Unfortunately, I don't have wording to entertain

an amendment to the amendment, to make that exemption appear, but again, just for the record, I think it's a pretty stark inconsistency, and so I'll support Mr. Manly's amendment.

The Chair: Mr. Eglinski.

Mr. Jim Eglinski: First of all, I couldn't support this amendment.

However, Mr. Talbot, I'd like you to clarify what you said a moment ago.

When you referred to RCMP officers, were you referring to past and present?

Mr. Jacques Talbot: I'm referring to the current regime.

Mr. Jim Eglinski: Pardon?

[*Translation*]

Mr. Jacques Talbot: I'm talking about the current regime.

[*English*]

Mr. Jim Eglinski: I still didn't quite get that.

Mr. Jacques Talbot: Oh, I'm referring also to the past members, the people who were subject to the former regime. As you know, a few years ago, we introduced a new piece of legislation that changed the statute for employees of the RCMP, particularly for—

• (1745)

Mr. Jim Eglinski: Okay. It just wasn't quite clear there. Thank you.

The Chair: Are there any other questions on the amendment?

(Amendment negated [*See Minutes of Proceedings*])

(Clause 3 agreed to)

(Clauses 4 to 14 inclusive agreed to)

(On clause 15)

The Chair: We have amendment PV-2. It is deemed to be in front of us. Notwithstanding, there's no one here to speak to it unless someone wants to speak to it. Does anyone want to speak to it, in favour or against amendment PV-2?

Mr. Glen Motz: I have a question for the officials. I'm just curious to know whether this would work and if it's even necessary, given what we heard in the previous hour, that this complaints commission does not deal with matters of deportation. Is this amendment PV-2 even necessary in this legislation?

Mr. Evan Travers: Amendment PV-2, as I understand it, relates to consultation and co-operation.

Mr. Glen Motz: That could mean that I'm deported to another country, and I'm going to then employ the services of some agency in another country to fight my deportation.

Mr. Evan Travers: If I understand your question correctly, the bill is not meant to interfere with the removal or extradition process. Complaints can be continued and can be brought from outside of Canada. Any person who felt they had a complaint could bring that forward, whether they were in Canada or not.

Mr. Glen Motz: Okay. Thank you.

The Chair: Is there any other commentary?

(Amendment negated [*See Minutes of Proceedings*])

The Chair: Amendment PV-3 is before us. Does anyone want to ask questions of the officials or speak to PV-3?

Mr. T.J. Harvey (Tobique—Mactaquac, Lib.): If he's not here, just skip it.

The Chair: No, I can't skip it. It's properly before the committee so we have to deal with it.

Mr. T.J. Harvey: It's not if he's not here to move it.

The Chair: It's deemed moved.

(Amendment negated [*See Minutes of Proceedings*])

(Clause 15 agreed to)

(Clauses 16 to 35 inclusive agreed to)

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill carry?

Some hon. members: Agreed.

The Chair: Shall the chair report the bill to the House?

Some hon. members: Agreed.

The Chair: With that, thank you, officials.

Thank you, committee members.

The meeting is adjourned.

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