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Chair

Mr. Gary Goodyear

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•(1105)

[English]

The Chair (Mr. Gary Goodyear (Cambridge, CPC)): Colleagues, let's begin the meeting this morning. First of all, I want to remind members that this meeting will be held in public.

We have invited the Commissioner of Canada Elections to be with us this morning, Mr. Bill Corbett. Mr. Corbett will give a brief presentation. Then we will open the round for questioning. The usual procedure in the past has been, just to remind members, that we will go to an eight-minute round at the beginning, then decrease to five-minute rounds and continue as long as time permits or for as long as the committee needs to hear from the witnesses.

Mr. Corbett, thank you very much for taking time out this morning, and welcome. I wonder if you could take a moment to introduce your colleague, and then the floor is yours.

Mr. William Corbett (Commissioner of Canada Elections, Elections Canada): Thank you.

With me is Audrey Nowack, who is senior legal counsel with the commissioner's office. She has spent much more time in the office and knows the legislation a lot better than I do.

I'd like to make a presentation in order to identify to you some issues that have changed or developed in the time that I've been there.

[Translation]

This is the first time I have appeared before this committee as Commissioner of Elections Canada. I was appointed Commissioner on September 18. I want to thank you for this opportunity to speak to you about the activities of my office and to answer your questions.

First, I'll talk about the Commissioner's role, the observation processes and enforcement of the Canada Elections Act already in place and of those newly passed.

I will begin by discussing the history of the Commissioner's role.

Before 1974, no federal officer was responsible for enforcing the Canada Elections Act. That year, the position of Commissioner of Election Expenses was therefore created. The Commissioner's mandate was to oversee enforcement of the new financial provisions of the Canada Elections Act, which had been added to the act at the time.

In 1977, the responsibilities of the Commissioner, renamed the Commissioner of Federal Elections, were expanded to cover all provisions of the act, a mandate similar to today's.

[English]

In 1993, a national network of investigators retained on contract and trained by my office was set up to carry out the investigations on behalf of the commissioner. Previously these had been done by the RCMP.

There is still a memorandum of understanding in place between the Commissioner of Elections Canada and the Commissioner of the RCMP to provide assistance to the RCMP when needed, assistance, for example, of computer experts, information technologists, forensic accountants. There may be, from time to time, a joint investigation by the RCMP and the commissioner's office.

A chief investigator is located in my office, who is assisted by seven assistant chief investigators. These people coordinate the investigations carried out in the field by 28 investigators across the country, located in the major cities primarily.

To bring fairness and consistency to the process, the rules, the policies, the procedures related to investigations are set out in an investigator's manual, which is available on the Elections Canada website. The manual is currently being updated to reflect changes in legislation enacted by Bill C-2 and other amendments to law.

As commissioner, I have a number of legal advisers at headquarters to assist in the management of the investigations, and as you may know, prosecutions are now to be handled by the new Federal Prosecution Service, headed by the Director of Public Prosecutions. Until December 12, I was responsible for prosecutions under the Canada Elections Act as well. I am now responsible for making referrals from my office to the Director of Public Prosecutions. The office is quite small.

Powers and responsibilities of the commissioner. Section 509 of the act is the main section that creates the duty, the mandate, to ensure the act is complied with and enforced. To accomplish these duties, the commissioner is authorized to take any measures necessary in the public interest, including launching an inquiry, seeking an injunction, entering a compliance agreement, recommending a prosecution.

Complaints are received from a variety of sources. They may come from candidates or their representatives, officials of political parties, concerned members of the public; however, the largest single source of cases by far is the referrals generated by Elections Canada itself. For instance, in the 2004 election, or arising therefrom, 75% of all our casework were referrals from Elections Canada.

•(1110)

The Chair: Please continue.

Mr. William Corbett: I'm using two terms here: one "complaints"; and the other "referrals". For complaints, I'm talking about those that are not from Elections Canada, that casework that comes from other sources. For referrals, I'm using that term to describe cases that come from within.

Concerning the process for compliance and enforcement, as soon as my office receives a complaint or a referral, it is assigned to one of my legal counsel to complete a preliminary assessment. The assessment determines whether or not the conduct that's the subject of the complaint or referral falls within the specific offence provision within the act and what, if any, investigation is required.

As commissioner, I'm authorized under section 513 to start an investigation if it's considered in the public interest to do so. I don't act on mere speculation or assumptions. I look for some objective and reliable indications that a specific breach of the law may have occurred. In that context, we often seek clarification of a complaint, particularly from a member of the public, and further details of the complaint—tombstone data, dates, places, documents, who else might have been a witness to something, basic stuff from which we can make a determination of whether an investigation should take place and to launch an investigation.

After reviewing the information provided, counsel prepares a brief report analyzing the complaint and setting out a course of proposed action. If an investigation is recommended, the report will also set out a plan for that investigation developed with the chief investigator. Many referrals do not require further investigation at all. Many referrals are divergent without investigation or simply closed because they don't merit investigation. At any given time, we have approximately 40 cases under investigation.

I review the report of counsel and decide what action is to be taken and provide some general directions to the investigators. In effect, I approve the plan before it's carried out.

When the investigation is complete, counsel will prepare a second report, which analyzes the results of the investigation to determine whether there's reasonable cause to believe an offence under the act has been committed, and may recommend a disposition of the case. I do receive interim reports from time to time, primarily because I'm nosy and I like to know what's going on.

It's my responsibility to determine whether we should recommend a prosecution, propose a compliance agreement, consider a caution letter or some other communication, or take no action at all. During an election period, an injunction may be considered to stop something or to have something done, set something straight quickly. We've never had to apply for an injunction, but just having the power has an interesting effect.

In every case, at the end of the process we write to a complainant and explain the outcome of the complaint. This isn't necessarily so with the referrals internally from Elections Canada, but for every other complainant, they hear what happened.

Concerning the enforcement tools provided by the act, there are two principal tools that are described carefully in the act; those are compliance agreements and prosecutions. The act, however, recognizes that other measures may be taken.

Compliance agreements are essentially a voluntary agreement between me and the person or organization that is shown to have contravened the act. These were added by Parliament to the legislation in 2000. These have been increasingly used to obtain compliance with the act. They have the advantage of obtaining compliance without resort to the courts, which, as you know, is a costly and time-consuming process. To ensure transparency, a summary of these agreements is published in the *Canada Gazette* and is found on the Elections Canada website.

In these cases, there's clearly a violation of the act admitted by the responsible person, but it is not thought necessary to prosecute. This provides some greater flexibility in the enforcement of the act, and it supplements, but does not replace, prosecutions.

•(1115)

There are instances in which the public interest warrants prosecution whether the person involved wants a compliance agreement or not. Before a prosecution is recommended to the Director of Public Prosecutions—and as I pointed out, this postdates December 12—the commissioner must be satisfied that there's sufficient evidence to prove an offence beyond a reasonable doubt and a reasonable prospect of conviction at trial. If that is the case, then the second consideration is whether a prosecution is in the public interest, taking account of a number of public interest considerations, such as suitability of alternative modes of enforcement, the degree of seriousness of the alleged offence, and aggravating and mitigating circumstances in the case.

These regulatory offences are in effect like another criminal sanction that flows from a prosecution under the act, so the analysis is just as demanding as if you were taking a criminal prosecution forward and includes the respecting of protections and rights afforded by the Canadian Charter of Rights and Freedoms.

There is a great deal of informal enforcement and compliance, and I say "informal" because the tools we use are not specifically addressed in the act. There are numerous referrals from Elections Canada that involve modest, inadvertent, technical apparent violations of the act. Failing to file a report on time is an example, and those are numerous. We receive a large number of referrals from Elections Canada that involve modest, inadvertent, technical apparent violations of the act. You might wonder why they send them to us. It is because they see it as my responsibility to decide no, not theirs, and that's a responsibility in the legislation.

So there are some complaints of minor violations that don't even warrant a compliance agreement, and certainly not a recommendation for prosecution. In many of these cases a caution to the offending participant is the appropriate response and is likely all that is necessary to obtain compliance in the future. For these cases, I developed something called a commissioner's caution letter. This letter sets out the facts as indicated from the information available to my office. It sets out the prohibition in the legislation. It sets out the offence in the legislation, and the penalty provisions in the legislation. Having brought the offending conduct to the person's attention, the letter then invites the person to contact counsel if the facts are wrong—if we have the facts wrong, get back to us. But if not, the letter requests that the conduct not be repeated.

This is something I developed in September when I first took the job, because it seemed to me we needed another tool to deal with a variety of minor matters that were still violations of the act. In some cases there were so many of them that they needed to be addressed.

Those receiving the caution letter are asked to acknowledge receipt by returning a signed copy of the letter. Since September, 86 caution letters have been sent out for minor violations of the act. For example, we received over 100 referrals-for-nomination contest reports filed late. Some of them were a week late; some of them were six months late. We did a triage and took the more serious ones. But with that number of late reports, obviously there was a problem in the system. So we sent out about 47 caution letters for roughly 150 referrals advising people of the responsibility under the legislation and that it had not been complied with.

The response to these caution letters has been very positive indeed. In addition to people's sending back the acknowledgement letter, I have received lengthy letters from people explaining why they violated the law, how they violated the law, that they wouldn't do it again, apologizing for it. I had one in the Maritimes where a radio station had broadcast in the black period. The response was from the broadcasting organization, indicating they would change their policy. They got it wrong at one station, but they would change their policy and make that known to all the stations within their broadcasting network.

• (1120)

So the response was quite positive. A number of people indicated that they liked the caution instead of something else—most would. A number of these letters came back on party letterhead from official agents or otherwise. Anyway, I was quite pleased that it received such a positive response.

Another tool we may use is this. During an election, informal compliance can be achieved simply by contacting party officials, who will informally rectify conduct that we find may be in violation of the act. This is done simply through a phone call. In other words, the parties will self-regulate. We use that phenomenon or that propensity to set things right. If something that we think is in violation of the act is happening in a particular constituency, we'll contact the party and ask them to fix it. And they do.

In terms of press releases, since taking office I've authorized two press releases that summarized the results of two investigations. The first one dealt with an investigation into allegations of wrongdoing in the vote in Desnethé—Missinippi—Churchill River, Saskatchewan, that huge riding in northern Saskatchewan. The second dealt with alleged voting irregularities in Edmonton Centre. We had received a number of complaints with regard to both of these.

We had done an extensive investigation, which determined that there was no wrongdoing and no significant irregularities in the voting in either electoral district in the 2006 election. However, there had been considerable media coverage at the time of the election, which left the impression, in both of these cases, that there was wrongdoing and that the result of the vote may not have been reliable. In the public interest, I felt this impression needed to be addressed and the public record set straight. A public statement was the only effective way I had of doing this. As for the future use of

press releases, it will be a case-by-case matter. It's not something I necessarily hope to do regularly. But in these two cases, I felt strongly that the public was left with the impression that there was something wrong.

Public Prosecution Service of Canada. This is the name of the new prosecution service in the federal government that is responsible for all federal prosecutions, including Canada Elections Act prosecutions. With the enactment of Bill C-2, the prosecution function has been transferred to the Director of Public Prosecutions.

The decision to prosecute and the conduct of the prosecution are now the responsibilities of the DPP. If the decision is made to prosecute, the DPP will instruct me to have the charges laid. That's the way the system works. I make a referral to the DPP after an investigation is made. The decision-making role in relation to investigations remains the same. It's with my office.

Once an investigation has been completed, the principles I have described will be applied in order to determine whether a referral and recommendation to the DPP should be made.

I have met with the Public Prosecution Service and have been assured that our referrals will be given prompt assessment by that office. My concern was in regard to yet more delay in the structure, and I'm doing my best to see that doesn't happen.

My general observation during the course of my work as commissioner is that Canadians, by and large, want to act in accordance with their statutory responsibilities. There's tremendous support for the law here among Canadians in general. Once informed that there's a violation of obligations, many immediately react positively and are quite prepared to ensure conformity with the law. In addition, political parties are often instrumental in ensuring that their own members comply with the law, and they are generally an effective ally in obtaining compliance with the act.

• (1125)

It's important to recall that the commitment of all stakeholders to abide by the rules ensures the harmonious unfolding of an electoral event and the public confidence in the electoral process. My own approach to achieving the goal of compliance with the act is to use mechanisms that will achieve compliance, without the prosecution of charges, wherever possible. The Public Prosecution Service supports this approach, and the courts do as well. Consequently, the prosecution of charges should be reserved for the more serious violations of the act.

Every time I've decided to initiate a prosecution—when I had that responsibility—I asked myself some questions: Is it in the public interest to prosecute? Has there been a wilful violation of the act? Is there an absence of remorse? Is there a refusal to comply? Every time, I ask myself, do we need to prosecute this case?

As you know, I must act independently in the decision-making and maintain the confidentiality of matters under investigation by my office. This reflects my obligation of fairness to anyone dealing with the office and the privacy interests of individuals. So I'm somewhat constrained in responding to certain kinds of questions—matters that are under investigation, for example—because this would have an impact on the ability of my office to carry out its responsibilities. I'm also somewhat reluctant to offer legal advice on hypothetical questions and, for that matter, policy advice, which this committee is much better suited to than I am.

The Chair: Thank you, Mr. Corbett. Again, I welcome you here and appreciate that you're here, Commissioner.

Colleagues, this is just a reminder. The meeting is being held in public, and we are ready for our first round of eight minutes.

Mr. Owen, you are first.

Hon. Stephen Owen (Vancouver Quadra, Lib.): My questions relate to your description of the decision-making process following an investigation and the relationship between you and the Director of Public Prosecutions. I think at one point you described your standard for investigation as being reasonable grounds to believe that an offence had been committed, and of course that's the test a police officer would apply when determining whether to swear out information before a justice of the peace.

I may have misunderstood, but I thought I then heard you say that you applied a test in consideration of referring it to the Director of Public Prosecutions, as to first, whether there was a reasonable likelihood of successful conviction, and second, whether it was in the public interest. I wasn't sure whether that was the test you were applying or the test you were describing that the Director of Public Prosecutions would then apply at the second stage.

Just to be clear, in your most recent comments on the public interest, which I think you set out fairly clearly and importantly, I want to ensure that I understood. In the application of that arm of the two-stage test—reasonable likelihood of conviction and in the public interest—the public interest consideration only comes forward after you've made, or the director has made, the decision that there is a reasonable likelihood of conviction, and it would not be appropriate to apply a public interest test to, for instance, prosecute if the decision hadn't first been made that there was a reasonable likelihood of conviction.

• (1130)

Mr. William Corbett: The first decision is whether there's sufficient evidence to support the prosecution. That's a technical decision, if you will. The second is whether it's in the public interest to prosecute. I apply both, and that's exactly what I expect the DPP will do, as well.

The legislation says that I make a referral to the Director of Public Prosecutions. I've met with that office now and have asked them what they wanted done by way of referral. What do they want it to look like? They want a referral and a recommendation, and they want me to cover off why, for example, other alternatives to prosecution are not appropriate. They want a fulsome opinion when I send one to them. But in the public interest, I may decide not to send it to them, even though there may be sufficient evidence to support a

charge. That's what I was getting at in my presentation, and they know that.

I'm the gatekeeper, if you will, to the DPP's consideration, but they're content that I be that, at least for the time being. There is no Director of Public Prosecutions, I should say; there is only an acting one at this time. So once a director is appointed, I'll have a clearer view as to how they want to work out this relationship.

Hon. Stephen Owen: Thank you.

I want to make sure I understand the standard you apply before referral.

The Elections Canada website printout, under "Prosecutions", says, "If the Commissioner believes on reasonable grounds that an offence under the Act has been committed...". You may refer to it.

Reasonable grounds that an offence has been committed is a different standard than reasonable likelihood of conviction. One looks at evidence as it sits in front of you, and the second of course is evidence as it's contested in a trial. I'm wondering which one you apply.

Mr. William Corbett: Reasonable grounds, as the Supreme Court has called it, is credibly based probability. In other words, it's more probable than not, from your information, that the offence took place and you've looked at whether that evidence is credible. That's the standard.

Hon. Stephen Owen: Without considering, though, any contrary evidence; that is, standing on its own, this evidence could support a conviction.

Mr. William Corbett: If you had contrary evidence, you might very well consider that, but often you don't.

I don't know if I mentioned it, but before concluding an investigation we will go to the person who is the subject of the complaint and ask them if they wish to give an explanation. Often enough, they do. So not only will I have the evidence for the offence, but I may have the explanation for why it took place. That's very helpful with the public interest consideration.

Hon. Stephen Owen: Thank you.

The Chair: You have three minutes left. If anyone else has a question, I would allow three more minutes.

An hon. member: Let's keep going.

The Chair: Keep going? Is everybody okay with that?

Ms. Redman, please.

Hon. Karen Redman (Kitchener Centre, Lib.): Thank you for your presentation.

The only question I have—and you may have covered it off slightly in your presentation—is what part, if any, of this is made public?

Mr. William Corbett: The investigator's manual makes a lot of it public. As I say, it needs to be updated with the legislative developments under Bill C-2. Once we have it updated, more of it will be made public. I have a publicly available document on communications with the public and with the complainant. The two press releases are on the website, so there's information there.

I'm trying to think of what isn't available. As far as particular cases go, we maintain confidentiality of the complaint and the investigation until the point we advise the complainant what our disposition is going to be. But that's not publicly available either. The two exceptions were the press releases I put out.

The work is to maintain confidentiality. The principles are all described in publicly available documentation.

Hon. Karen Redman: If I were to make a complaint, all the correspondence between your office and me, as a complainant, would be confidential?

• (1135)

Mr. William Corbett: Yes.

Hon. Karen Redman: And at no time would they be disclosed?

Mr. William Corbett: If a charge were laid, it would come out in a prosecution. Otherwise, the preliminary assessment may end your complaint, in which case you would be informed. An investigation may take place and nothing more. You would be informed. A compliance agreement may have been entered into. That would be public, because it's on the website. A caution letter would not be public, but the complainant would be notified.

I hope I have that covered.

Hon. Karen Redman: Thank you.

The Chair: Thank you.

We'll move to Mr. Reid, please.

Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC): Thank you, Mr. Chair.

Thank you, Commissioner, for being here today.

I want to ask if you would be willing to send us a copy of one of the caution letters you send out—obviously not regarding any specific case—to give the members of the committee a sense of what these things look like. The clerk would be happy to submit them to all of us. That would be helpful.

Mr. William Corbett: You would like a laundered version of a caution letter?

Mr. Scott Reid: That would be lovely, yes.

Mr. William Corbett: I think we can.

The Chair: Generic might be a better word.

Mr. Scott Reid: I wanted to ask this as well. You mentioned you had sent out 86 caution letters, or had considered, at any rate, 86. It would be helpful to us if, on an ongoing basis but perhaps starting now, you could periodically keep us up to date with how many caution letters you're sending out vis-à-vis which sections of the act. That would be very helpful to us in determining, from a legislator's point of view, which parts of the act are difficult for people to follow in good faith.

The very fact that you're sending out a caution letter indicates that you believe these were not bad-faith violations of the act, and it would allow us to look and see if perhaps we're making unreasonable demands on volunteers, particularly the agents, who normally work without remuneration.

So if you could do that, I would certainly be very grateful, and the clerk would be happy to submit that to all members of the committee.

Mr. William Corbett: I can tell you now that, of the 86, 47 involved the nomination contest reports being filed late, very late. Another batch involved transfers to a candidate before the candidate was confirmed by the RO—another dozen or so of those.

There seems to be a misunderstanding as to when money can be transferred from an association, or when contributions can be made to the campaign for a candidate. It isn't simply when the candidate is selected by the party, it's when the candidate is confirmed, because the definition of candidate is a confirmed candidate by the returning officer. There's a batch of those as well. Those are roughly three that I can identify to you now.

We've used it for a handful of double votes, where the person has been cooperative with the investigation, remorseful, contrite, sometimes perhaps very forgetful. They voted at the advance poll and on election day and didn't remember.

Mr. Scott Reid: Often this is what can happen. Everybody on this committee knows that, for reasons no one can quite explain, Scott Reid, Scott Jeffrey Reid, and Jeffrey Reid—all of whom are me—get separate cards at my address. I suppose if I were forgetful in the right kind of way, I could vote at the returning office, the advance poll, and the regular poll. Admittedly I'm a high-profile person in my riding and someone would probably notice, but if I weren't, they might not.

Mr. William Corbett: If you weren't sophisticated, you might think, having received two voter information cards, that you could vote twice.

Mr. Scott Reid: That's right, it's conceivable.

I wanted to bring up a separate issue. This relates to the meetings that the Chief Electoral Officer has with what is referred to as the all-party consultative committee. I'm sure you're familiar with this committee. Perhaps you're not.

Mr. William Corbett: I've heard of it, that's all.

Mr. Scott Reid: It deals with difficulties in interpreting the act. My understanding is that in the past the commissioner has tended not to be present, but it strikes me that, given that it's largely about trying to determine what are the problematic areas of the act, it might be helpful if either you or a representative of your office were able to be present at some of these, or at least to make sure you're kept apprised. I would think that actually being present and perhaps offering some opinions might be helpful, given that all parties are invited and are present, including the very small parties.

• (1140)

Mr. William Corbett: I will raise this with the CEO and see if I can get an invitation.

Mr. Scott Reid: Thank you.

The last thing I wanted to raise is the subject of your opinions. You're the man who makes the decision whether to engage in prosecutions, which raises the issue of the information sheets Elections Canada puts out. I think that on the website there are currently 28 of these, or thereabouts, but I stand to be corrected. At their head they have a disclaimer, and back in another day the disclaimer used to say something to the effect that as long as one made a genuine effort to follow the interpretation that you have given on the sheets, one wouldn't be prosecuted by the commissioner of elections.

That has since been removed, and there's now a disclaimer that makes it very difficult to tell of what value the interpretation provided in the information sheet is. It says:

The views expressed in information sheets are not law and are not intended to replace the official text of the Act. How the Act applies to any particular case will depend on the individual circumstances of that case. Elections Canada reserves the right to reconsider any interpretations expressed in information sheets, either generally or in light of the actual circumstances of any case, and in accordance with continuing legislative and judicial developments.

That is a wonderful way of Elections Canada ensuring they're covered. But from my point of view, these things are close to worthless. This wouldn't be the case if, in your position as commissioner, you could look them over and then either indicate—ideally on the website, but if not, in some other form that's publicly available—that you agree with the interpretation and, therefore, that someone who made a best effort to comply would not be prosecuted by you; or say no, that you disagree and that Elections Canada ought to change the interpretations it was giving vis-à-vis whatever the issue happened to be.

Mr. William Corbett: This poses some difficulty.

The CEO and I have discussed the need for our legal positions to be one and the same, so that Elections Canada speaks with one legal voice. But you know as well as I do that when you get five lawyers together, you'll have some difficulties. Whatever the disclaimer may be on an information sheet, if Elections Canada puts out the information sheet and an individual follows it clearly, this would certainly be a factor to be considered, and it would make any prosecution extremely difficult. That's as much as I can tell you.

They can disclaim all they like. What do you think a judge is going to say when we take something like this forward—"What are you doing here?"

Mr. Scott Reid: I appreciate that.

Thank you very much.

Mr. William Corbett: Not that I'm giving you an opinion or anything.

Some hon. members: Oh, oh!

Mr. Scott Reid: I understand.

The Chair: There is a little bit of time left, but I think you can appreciate that we can't do too much with 20 seconds.

We'll move on to Monsieur Guimond, please.

[*Translation*]

Mr. Michel Guimond (Montmorency—Charlevoix—Haute-Côte-Nord, BQ): Thank you, Mr. Chair.

I should begin by congratulating you, belatedly, on your appointment to this position, Mr. Corbett. We know the other William Corbett, but you two should not be confused. We'd have to know which is the real one! I also want to thank my fellow committee members for accepting my suggestion that we ask you to come and testify before us. I take this opportunity to boast: my colleagues are familiar with my proverbial humility. It is unusual for the Commissioner of Elections to testify before the Committee on Procedure and House Affairs.

I'm going to ask my questions quickly in order to give you the time to answer them and so as not to put myself to sleep in asking you them.

Mr. Corbett, your office has a credibility problem. Perhaps not for us members, but in the minds of the main election organizers in the ridings of our respective parties. Let me explain.

We on the outside sometimes get the impression we make a number of complaints that result in nothing. On an election campaign, you become paranoid. We always think that our opponents are doing something inappropriate, that we're the only ones who know the truth and do good, and that our opponents are doing wrong and doing us wrong. We get the impression that we file complaints and that that results in absolutely nothing.

To denounce or debunk this myth, I'm going to ask you something.

Can you provide, for the benefit of committee members, a table of all the complaints that were filed during the 2004 and 2006 elections, if you have those figures? I'd like that table to contain the number of complaints filed and their status: rejected, withdrawn or under investigation.

That in a way would make it possible to determine the utility of your position. In order to comply with confidentiality rules applicable to complaints, don't put any names or information that would make it possible to identify the persons concerned. I don't want to know that such and such a lady in the riding of my friend Jay Hill, at 226 Scott Street, Prince George, filed a complaint against the Conservative organization in her riding. I'm not interested in that. But I want to know what the complaint was and the section of the law in question. I agree with what Scott Reid said about the section of the act referred to. As he said, if there are any acts that pose a problem or sections of an act that give rise to complaints, perhaps that's because of a clarity problem.

• (1145)

[English]

The Chair: *Merci.*

Mr. Corbett.

Mr. William Corbett: Other than for the workload, yes, we can give you some information on complaints. Whether it will be as fulsome as you want I'm not sure, but I can give you a best efforts undertaking.

[Translation]

Mr. Michel Guimond: For the 2004 election as well?

Mr. William Corbett: Yes.

Mr. Michel Guimond: All right, you're going to submit a table to me. The table will probably be this thick.

[English]

Mr. William Corbett: Much smaller.

[Translation]

Mr. Michel Guimond: All right. You mentioned that you have 28 investigators. I always listen to the floor audio channel. That way, I improve my knowledge of English, for the benefit of the House of Commons. It seems to me I heard you talking about 28 investigators. You have 28 investigators across Canada?

Mr. William Corbett: Yes.

Mr. Michel Guimond: Do you think you have enough staff to carry out your mandate?

[English]

Mr. William Corbett: Two phenomena have caused me concern in this. If we have elections every two years, we're in trouble because it doubles the workload. The effects of Bill C-24, which requires more and more reporting of financial matters—I think associations have to report certain particulars now that they didn't have to report before—give Elections Canada a much greater grasp of the financial aspects of how campaigns are run. Elections Canada is getting much better at identifying breaches of the rules, if you will.

So the workload is driven by the increasing ability of Elections Canada to monitor and identify non-compliance, and elections every two years. I would say there's roughly two and a half years' work after a particular election. So if we have an election in 2004, 2006, and 2007, the workload will become quite problematic.

[Translation]

Mr. Michel Guimond: Perfect. I understand that you have a partisan function, and that you aren't urging us to vote in favour of the budget so as not to defeat the government, even if it isn't good. You don't want elections.

That was a joke!

I have another question, Mr. Chair. You're going to be pleased.

Have you studied the impact of the Federal Accountability Act on your office?

• (1150)

[English]

Mr. William Corbett: Yes.

[Translation]

Mr. Michel Guimond: Under that act, Bill C-2, is it correct that, as Commissioner of Elections, you now receive complaints and study them, but that you no longer have the power to prosecute? Is that in fact the case?

[English]

Mr. William Corbett: The investigation role remains the same. I'm sorry, I got “investigations”, perhaps you meant prosecutions. The prosecution role is now the DPP's function.

The Chair: *Merci*, Mr. Guimond.

Madam Davies.

Ms. Libby Davies (Vancouver East, NDP): Thank you very much, and thank you, Mr. Corbett, for coming today.

I don't think there's any question that the whole set-up and rules for Elections Canada are incredibly complicated. We belong to political parties, and you rely on your party a lot to provide you information, but even so, I find that at the end of the day you're pretty well alone. You have to figure out if you are doing the right thing or not.

So I certainly agree with you that in the majority of cases, I'm sure, where things have gone wrong it's not because of any deliberate action; it's just because it's so darned complicated. There are so many details, it scares the hell out of me. You always feel as if you're doing something wrong, and you probably haven't done anything wrong. Anyway, if that was the intended effect, it's certainly working.

I'm more interested in the informal complaint compliance process than what happens when you get to a formal investigation and maybe a prosecution, because when that happens I think another process takes over and you probably get a lawyer or something. But when it's still informal, I wonder if you have a protocol. And I'm thinking of a similar system. In most workplaces there are harassment policies, and usually there's an agreed-upon harassment policy in terms of what happens when a complaint is made. You try to resolve it informally before it goes to any formal investigation, but nevertheless there's a very clear protocol.

So, for example, when you say you send out these cautionary letters, do the people getting them know they're cautionary? It reminds me of Revenue Canada; you get this stuff and you don't know. We all deal with casework, and is this the beginning of their line where they're being easy or is it at the end of the line? For the person receiving it, it's incredibly difficult to know.

And even the little interchange here between you and Mr. Reid—around this table there may be some understanding of what these notices are on the Elections Canada site. We can wink-wink, we know what it really means, but the average person out there wouldn't have a clue.

So I am interested in what kind of protocol or process you have that provides an informed process for people, so people know where they are, where they stand. I think that's a huge issue for people, that you have the knowledge of where you are in that process and what your rights are, particularly if there are two parties involved.

Ms. Redman raised the question of confidentiality. If two parties are involved or two candidates, even if it's in the same party—maybe it's opposing parties—what happens then in terms of disclosure in this informal context? If you could respond to that, it would be helpful.

Mr. William Corbett: As I mentioned, we're updating our investigator's manual, and I will put a chapter in the manual on caution letters, and a generic draft of one so that people can see what they are.

Most of the caution letters deal with referrals from Elections Canada, and they don't require a lot of investigation, because they have the paperwork there that shows that somebody filed three months late: there's the document; there's the date on it. So we don't need to do an investigation.

Ms. Libby Davies: Would someone know it's a caution, or would they see it as an ultimatum?

Mr. William Corbett: Well, I did my very best not to have it read as if Moses were sending it, if you will. It is titled, "Commissioner's Caution" at the top. As I say, it sets out what we think the facts are, sets out the obligations section in the legislation, the offence section, and the penalty section. That alone is spooky for someone to read.

Then we advise that if we have the facts wrong, they should get in touch with us, and we provide the phone number; and that if we don't have the facts wrong, they should please not do it again. That's the end of the matter; that's what it says—that's it.

In the responses I've had, some people have thought they were going to be prosecuted the next day, in spite of the language. Most didn't; most saw it for what it was. Particularly, people within the party organizations, for that matter, saw it for what it was. You may have heard of these from people you know, now that a number of them have gone out.

I'm trying to cut through the bureaucratic underbrush by using these letters rather than some other means. If you're talking about the rules being complicated, they certainly are.

• (1155)

Ms. Libby Davies: If you get beyond the cautionary letter and are actually involved, particularly if it's more than one party—and I don't mean political party, but individuals—do you have some sort of protocol about how you handle it, how you advise people what information is disclosed? If one candidate is alleging something against another candidate—in a nomination, for example, where I know it has happened, or even in a leadership area—is there a protocol for what is disclosed before you get to a formal investigation?

Mr. William Corbett: If you're talking about what information we give out regarding complaints, yes, there is a document. I have a document here, which I can provide in English and French, and it's available: here's how we communicate; here's how we don't communicate. If you wish, I can provide that to the chairman.

The Chair: You still have time, Madam Wasylycia-Leis. You're good? Thank you.

Then, colleagues, we'll begin the next round. This round will drop to five minutes—the last round was eight minutes—so you can time your questions and comments.

We do not have anybody from the Liberal Party on my sheet. Can I ask if anybody on that side has a question? You are going to waive? That's fine, of course.

Mr. Hill, you're next on my list, please.

Hon. Jay Hill (Prince George—Peace River, CPC): Thank you for appearing today, Mr. Corbett. I appreciate that. I have about four questions that I've jotted down here. Maybe you could just make note of them. I'll run through them very quickly and hopefully leave you half of my five minutes, at least, to respond, if that's all right.

The first one has to do with what's included in determining what's in the public interest. If I understood you correctly, you said there were a number of criteria, including the following: do we really need to prosecute; is there reasonable likelihood of success if you suggest the laying of a charge or put it over at least for further investigation as to prosecution; and is it in the public interest?

As part of whether it is in the public interest, do you include any consideration of deterrence? It would seem to me that if the offending person is contrite or remorseful, the terms you used, that's fine for that particular individual, but what about others who might have committed a similar offence? Is there any consideration of deterring them from their activities in the future, if it has not become known but is simply a cautionary letter or something that's sent to that particular individual?

The second thing is that this would have an impact, I would think, on the statistics. This gets into the issue that Mr. Guimond was raising, I think, in the sense of his table or list of the number of offences that are investigated. Statistics can be skewed, and we have a debate right now about Bill C-31, as to whether we really need to address the whole issue of voter fraud right now.

People point to the statistics and say there haven't been very many investigations; there haven't been very many charges laid; there haven't been very many people prosecuted and convicted. Therefore, from that we extrapolate that there is no problem, and yet we continually hear as elected members that there are problems. So is there any consideration that the public interest might also lie in the fact that statistics can be used by people to say, well, the present system is working quite well, thank you very much, so there's no need for any further reform?

My third issue deals with the two instances that you said you investigated and you found no hard evidence—I think is that's the term you used. That was in northern Saskatchewan and Edmonton Centre. Could you give the committee some idea of the amount of time that was invested in those two investigations, the cost that was involved? I guess what I'm trying to find out is just exactly how much was involved in investigating those complaints before you made the determination that you were not going to proceed any further.

My last question, as an appendage to that, is that you didn't mention Trinity—Spadina specifically during your remarks today, yet I think if we were to look at the minutes of our previous meetings, when the CEO was here, he did make a commitment to this committee to have that particular riding looked into, investigated. Could you give us any indication of whether that's still ongoing or where you're at with that particular investigation?

With those four questions, I don't know how much time I've used up. Thank you, Mr. Chair.

•(1200)

The Chair: Colleagues, just to intervene, I'm not sure we have that many questions coming. I'm going to extend it to an eight-minute round so that we do have time for questions. We'll have time for another round if we need to.

You have five minutes.

Mr. William Corbett: Thank you.

Yes, deterrence is an aspect of the public interest, both specific deterrence of the individual and general deterrence of others who might be so inclined to do the same thing. These are matters to be considered as well.

I have to point out, however, that there is a remarkable ethic at work in Canada in Elections Act matters, and that is lawfulness. There isn't, it seems to me, a great deal of need to generally deter people. There isn't a plague of double votes wilfully undertaken. My own inclination was to look at the individual: can we deal with the individual without taking this matter to court? This may change if my investigations indicate that we do have a particular offence that needs to be dealt with more seriously. Keep in mind that the courts so far are giving out conditional discharges and small fines for matters that we bring to court now, and I don't know how much deterrence there is in that. In any event, you're right, it is part of the public interest.

Regarding statistics on voter fraud, I referred to the two cases that I did simply because they're finished, they're done with, and I wrote them up. With respect to the one in northern Saskatchewan, we sent investigators from Ottawa to do the investigation on the Ahtahkook Reserve, to interview people. We got good compliance and assistance from band officials in particular. Some people refused to talk to us. We have no magic in that. We have no more authority than anyone else to get cooperation. It was reasonably expensive, but we sent people from Ottawa to do it because we didn't have anyone locally and we needed to get on with that.

There was a lot more work involved in the one in Edmonton Centre, because for individuals who our screening process indicated might have voted in the wrong electoral district, we had to go door to door and speak to them and find out why they voted here and why they hadn't voted there. We came up with a systemic problem, as you know, in the voters list for that area, because in Alberta on your income tax return you can put your business address or your accountant's address, and your driver's licence may also have your business address. So there was difficulty with the voters list, and that is addressed in the press release by Elections Canada as to how they hope to deal with that. That one was considerably more expensive

because it required, as I said, door-to-door collection of information and data. I can't give you the dollar figures or the hours or what not.

On voter fraud, my conclusion wasn't that we didn't have any hard evidence. My conclusion was that there wasn't voter fraud. There was no organized voter fraud, that's for sure. There wasn't some organization moving voters into one district who shouldn't be voting there. There were individual cases of people voting in the wrong place, if you will. We found no evidence of double votes, which is important. People weren't voting in one place and voting somewhere else, voting twice—none of that. It wasn't just an absence of evidence, in my opinion; it was an indication that there wasn't voter fraud.

The voter fraud we do find is individual cases of double voting, wilful and otherwise, but not organized voter fraud. Those two investigations are examples of it's not being there. The Spadina one is still ongoing, as you know, and I can't comment on that. It hasn't been resolved yet.

•(1205)

Hon. Jay Hill: I didn't know it was ongoing, but thank you for telling us.

Mr. William Corbett: I'm not saying I'm investigating it, but the CEO's inquiry is still ongoing. I don't want to talk about investigations anyway, but I talked about the two cases I did because they are done. Is there voter fraud? Yes, there is. It's individual, though. It's people who are not qualified to vote voting, and some people voting twice, or trying to vote twice.

How much of a problem is it? I don't see a major problem, frankly, but then I haven't been around that long.

The Chair: Thank you, Commissioner, for that round. We've finished that round.

Madame Picard, and then Ms. Davies, and then Mr. Lukiwski.

[*Translation*]

Ms. Pauline Picard (Drummond, BQ): Thank you, Mr. Chair.

Good morning, Mr. Corbett.

In the wake of what Mr. Guimond said earlier about the credibility of the Commissioner of Canada Elections, I want to go back to a case that I have previously heard mentioned. I'm not the only person who has to experience these kinds of things in a riding. In my riding, an influential individual of one party, election after election, commits two offences that you named earlier: he illegally attempts to influence the way electors vote, and he illegally delays and obstructs the electoral process. On every occasion, complaints are filed with the support of the returning officer, with the support of the candidates of the opposing parties. Voters draft their own letters, saying that an illegal attempt was made to influence their vote. And every time, a letter from the Office of the Commissioner of Canada Elections is sent to us telling us that we didn't have conclusive evidence.

I'd like to know what conclusive evidence we have to produce for someone to send that individual a letter warning him that he is committing offences or is not respecting electors' right to vote without being influenced or intimidated.

[English]

Mr. William Corbett: If the question is what is evidence, the evidence is documents and witnesses who are prepared to give first-hand accounts of illegal conduct. That's the evidence. If the evidence was not found, I presume the investigation couldn't support the complaint with admissible evidence in a court proceeding.

[Translation]

Ms. Pauline Picard: The returning officer herself complained to the Chief Electoral Officer, who is her boss, candidates complained by means of a letter, and electors had signed that letter. And yet no investigator of the Commissioner of Elections Canada came to verify the matter on site. The returning officer had requested that this individual be warned. These incidents were not observed in the last election only. I've gone through five elections, and that individual was always there playing the same game. You have the evidence. What other evidence can we provide you with? I know this isn't just happening in my riding. There are individuals in other ridings who obstruct the electoral process or intimidate certain returning officers.

[English]

Mr. William Corbett: I'm sorry, I don't know the case you're referring to. I presume it was before I took office, but if I did know, and if you wrote me a letter, I'd fish it out and have a look. That's all I can undertake to do.

• (1210)

[Translation]

Ms. Pauline Picard: I also want to remind you that the Chief Electoral Officer, whom I previously told about this type of offence, told me and said, here before the committee, that he had often sent complaints to your office and that nothing had happened. Perhaps you weren't there at that time, but he stopped sending them because nothing happened. I hope that things are changing with regard to complaints under your administration.

[English]

Mr. William Corbett: I have identified the changes I've made already. I hope they add to the ability to obtain compliance and enforcement with the act.

The Chair: That's it, Madame Picard?

Perhaps the chair could ask for some clarification.

Putting aside this individual case, as I was listening to the question, I was wondering, when you receive a complaint from an individual that they may have been influenced or pressured into voting one particular way, is the primary contact not the witness that you're looking for? You need a secondary witness to back up that complaint, as otherwise it's deemed to be not a form of evidence?

Mr. William Corbett: If the complaint comes from a candidate or person involved in the election, then that's a hearsay statement. We need to go back to the person who was actually influenced and get the firsthand evidence, if you will. If the individual himself or herself was influenced or pressured, then that statement in itself might be sufficient. If there were several incidents of it, that's getting better. If people are prepared to give a fulsome statement of direct evidence, then you have a better case from that.

But I'm sorry, I don't know the particulars of this case.

The Chair: No, I understand. I totally appreciate that. It seems it's pretty difficult to gather evidence from these cases.

We'll move on, colleagues.

Ms. Davies, we're still at eight-minute rounds.

Ms. Libby Davies: I have just a couple of brief questions, following up on what's been spoken to by other members.

First, it seems to me that we always have to be aware of how the system itself works so that we actually make sure we minimize the possibility of fraud. One thing that has come up is the idea of just putting voters cards in envelopes instead of dumping a whole stack of cards at a building.

In your role, do you issue an annual report? Do you make recommendations? I don't know if you make your recommendations back to the CEO or whether you make them to this committee or wherever, but that would be one question, about something as simple as having envelopes to put the cards in.

Second, are there time limits in terms of when you receive a complaint and you start to follow it up? We've had a couple of instances brought up here. Do you have to have it resolved by a particular time so that it is not left hanging out there in terms of what's going on?

Mr. William Corbett: Thank you.

With regard to your first matter, I think the CEO looks after the recommendations from various entities for changes to the legislation. That's not my responsibility. Have I made recommendations to him? We've discussed a few, but I haven't firmly done so.

As to time limits, the limitation period on an infraction is now five years under the act. However, I would certainly want to investigate and resolve cases in a much more timely way than that. The courts are not the least bit interested in ancient history when you get there.

What I'm trying to do is identify cases that need considerable investigation. I want to investigate early the matters that look like they need significant investigation and might be considered for a prosecution down the road, and to focus my resources on those. The resources are limited, and I want to get important cases pursued with vigour.

So we do a triage, if you will, of matters to pursue. We can handle about 40 at a time.

The Chair: Thank you very much.

Ms. Redman, please.

Hon. Karen Redman: Thank you, Mr. Chair.

Mr. Corbett, I guess one of the problems we all deal with is the fact that a lot of the complaints or evidence are anecdotal. I understand your challenge in terms of getting to the source and having people give you, as you say, fulsome statements. I guess what Madame Picard is talking about is something that's habitual or ongoing.

When an individual member—I know from our caucus, certainly—has sent a letter formally asking for an investigation of, or citing what they feel are, infractions or abuses, which are perhaps anecdotal, during the election process, and they receive a letter back from your office saying, “We don't feel we're going to go forward with this, it warrants a report but not an investigation”, is there any recourse? Or is that the end of the matter, barring any additional information that would be brought forward?

• (1215)

Mr. William Corbett: Let me understand the question. A complaint is made, and the letter in reply says.... It must set out the reasons why it's being rejected. Our policy requires that the reasons be set out in the letter.

Now, if one of the reasons is that we don't have enough evidentiary foundation for this, and you have more information or you can get more information, then you may wish to write back and tell us that you have something stronger to support this, or ask us to bring it to the attention of the commissioner to ensure that this has been properly considered. These are normal responses you might make.

I mean, we're evidence-driven. If we can make a case, we'll make it. If we can't make a case, then we are precluded from addressing the problem.

Hon. Karen Redman: So what I'm hearing in your answer is that if I'm unhappy with a letter I've gotten under your signature, I can then say I would like this to go to the...?

Mr. William Corbett: You can take it up the ladder, but I'd like more information when it comes up, please.

The Chair: Thank you very much.

Mr. Lukiwski, please.

Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC): Thank you, Mr. Chair.

Thank you, Mr. Corbett, for being here.

I just want to go back a little bit. On the basis of what information is made public once an investigation has been concluded, you mentioned two fairly high-profile cases, one in Desnethé—Missinippi—Churchill River and one in Edmonton Centre, that had a significant amount of public profile and attention paid to them, to the point where you issued news releases afterwards.

My first question is to understand this. What did the news releases say? Did they generally say there was no evidence to suggest that voter fraud occurred, or did you say definitively, as a result of your investigation, that no fraud or illegal activity took place?

Mr. William Corbett: I'll read from the Edmonton Centre press release: “Based on the results of this investigation, the Commissioner considers the reported public concern—that large numbers of electors voted in the wrong electoral district (Edmonton Centre) with the intention of affecting the result of the vote in that district—to be unfounded.”

Mr. Tom Lukiwski: In the case of northern Saskatchewan, then, as a result of your investigation—and I'm reasonably familiar with that case, of course, being a Saskatchewan member of Parliament—

in the news release on that occasion, did you say, as a result of your investigation, that all of the allegations were unfounded?

Mr. William Corbett: That press release states: “Based on the results of the investigation, the Commissioner has concluded that there was no evidence of wrongdoing that affected the outcome of the vote...”.

Mr. Tom Lukiwski: The term there, I guess, is “no evidence”, which leads me to ask exactly what is made public. There are some confidentiality concerns. I understand that and I appreciate that. By the same token, because of the nature of investigations such as that, because they have received a fair amount of public attention, I suppose one could argue that there should be some public disclosure as to the results of your investigation and some of the details of the investigation, for two reasons.

I suppose that both parties—both the complainant and the individual who was charged—feel somewhat aggrieved. The complainant would say they believe there was voter fraud or that some allegations, at least, that they have made should be substantiated because of this and that. The individual in this case who was charged with perhaps manipulating the voting results would also feel that their reputation has been sullied because there have been some very serious charges laid upon them.

In this profession, your public reputation is fairly important. If there are members of the public out there who are thinking one way or the other that this election was stolen in a fraudulent manner, that colours or prejudices them against the one candidate or the other. I think it would be helpful, without breaking any real confidences as to who made the complaint, who you spoke with, and things like that, some level of public information was disclosed as to why you ruled in the manner in which you ruled.

Does that make any sense to you?

• (1220)

Mr. William Corbett: Our practice is to inform the complainant of the details of the investigation and the results. In both of these cases, the complainants got a lengthy letter advising them that there wasn't anything there. In these cases, there was a press release. In most cases, there isn't.

If a person knows they are the subject of a complaint and nothing seems to happen with it, they may write and ask, “What happened with the complaint made against me?” I've had several of those. Our policy is that, if a person asks, we will give them a brief indication, which usually is, “We looked into the matter and found nothing there, so we concluded the matter.” That's usually our response to that.

Mr. Tom Lukiwski: And that's the level of detail, that you've looked into the matter and found nothing? Or would you go—

Mr. William Corbett: No, that's the conclusion of the matter. We don't give the investigation brief to the person who might have been the subject of the matter. If we find nothing there and conclude it, that's it, and that should be it.

Mr. Tom Lukiwski: For the complainant, someone who is making a—

Mr. William Corbett: The complainant gets a much more fulsome description of what we have. If you look at these press releases, you'll see quite a bit of detail on these two cases. As I said, I felt there was that public concern that needed this sort of treatment. Essentially, though, this is what the complainants got back themselves, and perhaps more.

Mr. Tom Lukiwski: As a last question on that, would there be any restrictions if the complainant was dissatisfied with the results of the investigation and went public with the confidential information that you had given to him? Would there be any retribution?

Mr. William Corbett: Certainly not.

Mr. Tom Lukiwski: Thank you.

The Chair: Mr. Hill, there's still time on this round.

Hon. Jay Hill: My first one, Mr. Corbett, is just following up on an earlier statement involving specifically Edmonton Centre. You said you had found some instances of individual matters, but not any organized intent. Certainly there was no evidence of an organized attempt to skew the election results by having people who didn't reside in that particular riding actually casting a ballot in that riding, but you did say there were individual instances. How many individual instances were there, where people lived outside of Edmonton Centre but maybe had a business address in Edmonton Centre and voted in Edmonton Centre when they shouldn't have?

Mr. William Corbett: According to this press release, which I wrote:

...21 electors of the 93 were from outside Edmonton Centre but had voted there.

—in other words, we tried to identify people who appeared to have lived outside Edmonton Centre and voted within—

Almost all had received a voter information card listing a business address in Edmonton Centre. Further analysis indicated that the addresses of these 21 electors had been updated in the National Register of Electors based on information that they had provided to the Canada Revenue Agency or the Alberta Registrar of Motor Vehicle Services. Therefore, none of these electors wilfully or knowingly registered to vote in the wrong electoral district, and none were found to have voted twice.

Hon. Jay Hill: Okay, there were 21. I'm just trying to figure out how extensive it was. You said it was a very expensive investigation, a time-consuming investigation, that you went through. Did your office go through the entire list of every person who actually cast a ballot to ensure that they actually did live there?

Mr. William Corbett: I don't recall the investigation report in that kind of detail. The focus of the investigation was to try to identify outsiders voting within. They screened Elections Canada available documentation for that purpose, and that allowed them to then make an identification of what looked like people from outside the district voting inside.

Keep in mind that there were a number of people as well who voted at the wrong polling station in Edmonton Centre, but that didn't affect the vote.

• (1225)

Hon. Jay Hill: I'm just referring to the ones who perhaps shouldn't have voted in that riding. I'm just wondering if you have any information on whether your office went through whatever the entire vote was, whether it was 60,000 people who cast ballots or 100,000, although I don't know what the numbers are in Edmonton Centre. Or did you go at random and check 500 names, phone those

people, and find out whether they actually were living at the address they were registered to live at, in order to be able to say you randomly checked and that all these 500 actually live there? Did you extrapolate from that and then say that 21 was the total number who voted in the wrong riding?

Mr. William Corbett: My recollection is that it wasn't random. There was an effort made, in looking at the lists, to identify people who appeared to vote at a business address or those who looked like they voted at a business address, because it was the expectation that these were the people from outside. In other words, they lived somewhere else, but they were voting at a business address.

Hon. Jay Hill: They were making a mistake.

Do I have time for one more question?

The Chair: You don't, but I'm going to allow it, as we have time and I don't see anybody else wanting to ask a question.

Hon. Jay Hill: I have just one follow-up on the statement that you made in explaining the investigation you conducted in northern Saskatchewan.

You said that you sent people from here to that reserve, that the band fully complied with your investigation, and it was quite helpful—at least that is what I got from your comments. But you also said that you have no authority to have people talk to you, not just specifically in that case but in any investigation. You have no power of subpoena or anything like that to get people to actually sit down and discuss with you what they may or may not have done.

Mr. William Corbett: That's correct.

Hon. Jay Hill: Do you see that as a problem in the act that should be corrected, so that you actually have some authority to ensure that when you're conducting an investigation, there's some onus on people to actually sit down and have a conversation with you or your investigators?

Mr. William Corbett: That's a very difficult question. In the ordinary criminal realm, police officers can't command somebody to give them a statement. They either give them a statement willingly or they don't. For a murder investigation, I don't have to give a statement; I'm a witness.

It would be difficult to justify it in this area. It's part of our investigation culture. Most people cooperate. I've had lots of people who don't. I shouldn't say lots, but I've had reports back saying, "This person's not prepared to talk to us."

In the one in northern Saskatchewan, there were a number of people who weren't prepared to talk to us; some aboriginal people don't want to talk to investigators. But the band office was cooperative.

I'd like to have the authority, mind you, but I don't think you're going to give it to me.

Hon. Jay Hill: Thank you.

The Chair: Thank you, colleagues. I appreciate everybody's diligence in being prepared for this round of questioning.

Commissioner, we certainly appreciate your being here and the time that you and your assistant took to come forward and to have reasonable answers.

There have been some undertakings. Our clerk will remind you of those things, and we certainly hope you get them back to us as soon as you possibly can.

That ends the round of questioning for this piece of business. The witnesses are dismissed with our thanks, again.

Colleagues, we will remain in public and go to the next item on our list. You should have briefing notes that have been prepared and distributed on the issue of cars idling on Parliament Hill. That will be our next item of business. You should also have a draft letter to the Speaker on this matter. I simply would like the committee to offer me some comments on that issue right now. It shouldn't take very long.

We will suspend just to allow the witnesses to gather their papers and remove themselves from the table and for colleagues to look through their paperwork.

- _____ (Pause) _____
-
- (1230)

The Chair: Colleagues, let's come back into the meeting. I remind you that we're still in public.

Before you are the background notes on the idling of cars as well as a letter dated February 8, addressed to the Speaker of the House and chair of the Board of Internal Economy. I'd like a bit of discussion on this issue, and then ultimately I'd like to get permission to send this letter or something resembling this letter.

Mr. Owen, please.

Hon. Stephen Owen: Thank you.

I think the letter properly reflects the concern we raised. I'm fine with that. I just want to put on the record that there has been an improvement in the last three or four years, both in having drivers more mindful of not idling their cars when it's not absolutely necessary for temperature reasons and from the ministerial point of view, both in the previous government and this government, with the ever-increasing number of hybrid cars being used by ministers.

The only addition I would add to the letter is just that in addition to talking about idling ministerial vehicles, we should be cautious about idling ministers.

The Chair: I have all kinds of things to say, but I won't.

Monsieur Guimond, please.

[*Translation*]

Mr. Michel Guimond: Yes, I'm satisfied by the letter. My opinion is worth what it's worth, but, in my view, the municipal by-laws of the City of Ottawa and the City of Gatineau do not apply within the perimeter of the Hill. If you call the City of Ottawa police to ask them to intervene on the Hill or in your office, they will refuse to do so under parliamentary privilege. You can refer to that in the letter, and that's probably what Mr. Walsh will do.

[*English*]

The Chair: It's a reference. Indeed, the bylaws of the surrounding municipalities and other bylaws are simply in there as a matter of reference.

Are there any other comments on the letter?

Ms. Davies, please.

Ms. Libby Davies: Even if those bylaws don't apply from a legal point of view, we would want to meet the spirit of them. So we're fine with the letter.

The Chair: Thank you.

Mr. Hill.

Hon. Jay Hill: I would just point out that the Prime Minister has talked to his cabinet ministers and suggested that they are mindful of this.

I agree with Mr. Owen that there have been improvements over the last while. The vehicle I have is a Toyota hybrid. My driver tells me that when it's idling it's on electricity and the engine doesn't even kick in. It has an electric heater. Technology has reached a point where vast improvements have taken place. I don't know what percentage of the ministers have hybrid vehicles—I haven't conducted a survey or anything—but I think there have been improvements.

This motion that has been brought forward by the NDP is timely. All of us in our daily lives, whether we're ministers of the Crown or citizens, should be reminded from time to time to do what we can to protect the environment. Certainly the Prime Minister has indicated it's his desire that we do as much as we can. Even in this old letter we referenced from a former Speaker it says, "I am asking that you approach your chauffeur to eliminate all unnecessary idling of vehicles."

We had a brief discussion about this because, as I pointed out, it's not only ministers; it's other people. Both staff and members, who aren't ministers and don't have cars and drivers, in this type of inclement weather need to warm up their vehicles before they throw them into gear and try to drive home when it's thirty below or something. All of us need to be reminded.

So we can send this letter, and if it results in greater awareness and direction from the Speaker or the BOIE, I think everybody universally is supportive of that.

On the comments from my colleague Mr. Owen, the other thing that has changed with the present government is that our cabinet is quite a bit smaller, so there are fewer cars and drivers on Parliament Hill.

• (1235)

The Chair: I understand from the committee that I have permission to send this letter out as it reads.

(Motion agreed to)

The Chair: I would like to take the opportunity to note that Toyota is in my riding and I am very proud of them. For the record, I am working on getting the Toyota Prius hybrid vehicle built there too.

As we discussed earlier, the subcommittee will meet here next Tuesday, same time, same place, to deal with the conflict of interest and code of ethics. The meeting of the entire committee will be next Thursday.

Is there any further business? Thank you very much, colleagues. The meeting is adjourned.

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