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**Chair**

**Ms. Marie-Claude Morin**



## Standing Committee on the Status of Women

Tuesday, October 16, 2012

•(0845)

[Translation]

**The Chair (Ms. Marie-Claude Morin (Saint-Hyacinthe—Bagot, NDP)):** Good morning. Welcome to this 44<sup>th</sup> meeting of the Standing Committee on the Status of Women. Today is October 16.

Today we are beginning our study...

**Ms. Niki Ashton (Churchill, NDP):** I...

**The Chair:** Ms. Ashton, if you don't mind, I will start by introducing our witnesses.

**Ms. Niki Ashton:** Of course. I apologize.

**The Chair:** Today we are beginning our study of sexual harassment in federally-regulated workplaces.

Today, we have representatives from Treasury Board Secretariat. We thank them for accepting our invitation. We have Mr. Ross MacLeod, Assistant Deputy Minister, Governance Planning and Policy Sector, and Ms. Martine Glandon, Manager, Values and Ethics.

Welcome.

Ms. Ashton asked for the floor, and I will get back to you in a moment.

**Ms. Niki Ashton:** Thank you very much.

We are all awaiting the beginning of our study, but actually I would also like to start the meeting by moving a motion to better clarify the central point of this study dealing with sexual harassment, as well as the role that Status of Women Canada has to play in this study.

Of course, we did our research to make sure the motion was in order.

[English]

Therefore, I'd like to present a motion.

Whereas the Standing Committee for the Status of Women has committed to taking on a study of sexual harassment in the federal workplace,

Whereas it is the mandate of the committee to guide Status of Women Canada,

Whereas it is the legal mandate of Status of Women Canada "to coordinate policy with respect to the status of women and administer related programs",

Be it resolved that given the severity of allegations of sexual harassment within the Royal Canadian Mounted Police (RCMP) that the Standing Committee on the Status of Women call upon Status of Women Canada to take the lead in coordinating policy with respect to sexual harassment within all federal departments, including the RCMP.

The reason we're putting this motion forward—and as I mentioned, we did research to ensure this motion was permissible—is that we want to make sure the work we're doing here day in and day out is useful, that we're not only studying something for the sake of studying it but that we're also giving some guidance to Status of Women Canada as to the serious issue of sexual harassment, not only in the RCMP but across the federal public service.

We know that today we have the Treasury Board in front of us. This isn't a case of taking over the work of Treasury Board, but is a case of recognizing that Status of Women Canada has a role to play.

It's also very important to clarify and recognize that Status of Women Canada states in its own mandate that it has the capacity to coordinate policy with respect to status of women and administer related programs. It can work with other departments, and that's an issue that has raised some question in the past. I think it is critical that we look to the mandate and take that mandate as the scope of the department, and therefore the kind of role we can play.

As members of the opposition, we would like to see that we're all coming here to give some guidance and that the testimony of witnesses, such as those here today but also others who will be joining us over the next several weeks, can be used to contribute to shaping policy. That's undoubtedly what women who are facing sexual harassment want to see. They don't want to see more studies; they want to see action coming from those studies. We as committee members have a duty to make sure that the work we're doing here, using parliamentary resources, actually amounts to something, that we're taking the feedback of the witnesses we're inviting here seriously and taking it to the next level and directing some kind of action and directing Status of Women Canada to follow its mandate, which is to work with other departments.

I'm very excited to examine the new policy put forward by Treasury Board, but I also realize that one of the policies that has been put forward by the government most recently is Bill C-42, with respect to the RCMP. I've had the chance to be part of the public safety committee in the last couple of weeks, and it's quite clear that work remains to be done when it comes to defining a sexual harassment policy. What better department to do that than Status of Women Canada? What better department to take on a leading role for women in the public service and in the federal workplace than Status of Women Canada?

Again, we're not simply focusing on the RCMP, though we recognize that some of the most serious allegations have come from the RCMP. We note that leadership is required there, as well as in the broader federal civil service. We certainly hope that members around this table will support this motion, will support the need for our committee to give guidance, and will support the mandate of Status of Women Canada to work with others to provide leadership and take the leading role, a role that we can all be proud of in shaping policy when it comes to something as serious as sexual harassment in federal departments, including the RCMP.

Madam Chair, this is meant to provide a scope, a noble goal that we can work toward in this committee: to put the testimonies and the research that we receive to best use and to truly provide leadership for women and for all people who work in the federal civil service and federal departments, including the RCMP.

With that, I would like to put forward the motion. I'd be happy to hear any further discussion and reflection on the importance of defining exactly what we're doing here.

● (0850)

[Translation]

**The Chair:** Ms. Truppe, you have the floor.

[English]

**Mrs. Susan Truppe (London North Centre, CPC):** Madam Chair, I move that we go in camera now.

[Translation]

**The Chair:** Ms. Truppe moves that the meeting continue in camera.

(Motion agreed to)

[Proceedings continue in camera]

● (0850)

(Pause)

● (0905)

**The Chair:** As it seems everyone is ready, we will resume our public meeting.

Our apologies. These things happen from time to time.

I would like to welcome representatives from the Treasury Board Secretariat, Mr. Ross MacLeod, Assistant Deputy Minister, Governance Planning and Policy Sector, and Martine Glandon, Manager, Values and Ethics.

Madam clerk was mentioning earlier that if we find we do not have enough time with Treasury Board, we still have some dates available in the context of our study. If the committee agrees, we could then do a follow-up if needed.

Without further ado, you may proceed. You have 10 minutes. There will then be a question period which may be a bit shorter than usual. We will however make good use of it.

[English]

**Mr. Ross MacLeod (Assistant Deputy Minister, Governance Planning and Policy Sector, Treasury Board Secretariat):** Thank you very much, Madam Chair. We're very pleased to be here today to help the committee with this important study.

Harassment in the workplace is unacceptable and will not be tolerated, regardless of its source. We know that it's important for the federal public service to maintain a productive, healthy, and respectful workplace where positive working relationships and practices are promoted. Indeed, the core values and ethics of the public sector explicitly include treating each other with respect and fairness.

Unfortunately, we know that harassment does still occur, and we have taken steps to prevent and respond to these situations by developing a policy on harassment prevention and resolution, a directive on the harassment complaint process, and several guides for departments, as well as by delivering awareness information sessions and training programs. We also offer formal and informal mechanisms to raise issues related to harassment.

Success in the practice of these values will foster a safe and healthy workplace, free from harassment. When allowed to persist, harassment has adverse effects on the mental health and engagement of employees and on the quality of their work.

In a complex and demanding work environment that brings together diverse people, and in which collaboration is essential to success, misunderstandings and interpersonal conflicts are inevitable. The organizational culture influences how colleagues interact with one another and must therefore promote awareness of practices such as good communication and effective interpersonal skills. The ongoing effort to demonstrate respect is everyone's personal responsibility.

[Translation]

The Canadian Human Rights Act provides that every person in the workplace has a right to freedom from harassment based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability and conviction for which a pardon has been granted. These are referred to as prohibited grounds of discrimination. In addition, the act deems sexual harassment to be harassment on a prohibited ground.

The Canadian government has been a leader on policies dealing with harassment in the workplace, being the first employer to introduce a formal policy in 1982. Since 1982, the policy has been revised three times. On October 1, 2012, a renewed policy and a new directive were introduced. The new policy instruments give deputy heads the flexibility to tailor harassment prevention and resolution mechanisms and practices to their operational needs. The new policy instruments emphasize the need for organizations to restore the workplace following an allegation of harassment. They encourage greater use of informal resolution processes and put greater emphasis on the need for organizations to undertake preventive activities and achieve results in a manner that is both respectful to employees and supportive of a more collaborative approach between deputy heads, employees and bargaining agents on harassment prevention and resolution.

The renewed policy and directive continue to reflect the responsibility of deputy heads for establishing and maintaining a respectful and harassment-free workplace, for promptly resolving related complaints, and for monitoring complaints within their organizations.

Harassment prevention is tied to one of the public sector values, respect for people. The new *Values and Ethics Code for the Public Sector*, which is a condition of employment, was introduced in April 2012, and it provides an opportunity for managers to reinforce the value of respectful relationships. And this is all the more important in times of downsizing. The Treasury Board Secretariat, through the development of its communication tools and dialogues with organizations, encourages a systemic approach which educates and incents respectful behaviour for all employees, in addition to providing awareness training on harassment.

The new *Values and Ethics Code for the Public Sector* presents an opportunity for promotion of respect and development of related skills, mainly empathic listening, difficult conversations, emotional intelligence, and so forth, for all employees and especially managers.

● (0910)

[English]

The Treasury Board policy applies to the core public administration. The policy on harassment prevention and resolution includes sexual harassment as part of its definition of harassment.

Federal public servants have several mechanisms for making an allegation of sexual harassment. Formal mechanisms include filing a complaint of harassment in accordance with the policy on harassment prevention and resolution, filing a grievance, or filing a complaint with the Canadian Human Rights Commission. Informal mechanisms include discussions with an informal conflict resolution practitioner or with an employee assistance program counsellor.

Through the Treasury Board Secretariat website, several guides and tools are available to public servants, i.e., managers, employees, and persons responsible for the harassment complaint process in the field of harassment. Several courses are available through the joint learning program and through the Canada School of Public Service.

In addition to the Treasury Board policy on harassment prevention and resolution, some departments have developed their own internal policies and tools and are offering awareness sessions and training programs on harassment, so they're actually going further than the requirements of the policy.

I'll talk briefly about harassment statistics. In the 2011 public service employee survey, data regarding harassment indicate that public servants continue to signal a high incidence of perceived harassment, in that 29% of the 201,430 respondents believe that they have experienced harassment of some kind in a federal workplace within the last two years. The actual number of formally filed cases compared with the total number of federal government employees is relatively small. The survey results do not differentiate between sexual harassment and harassment of a personal nature.

The Treasury Board of Canada Secretariat collected limited statistics on harassment of all kinds through the management accountability exercise in 2009-10. The 40 largest departments and

agencies that participated reported a total of 314 harassment complaints and/or grievances between November 2009 and October 2010. Of the 314 cases, 77 were determined to be founded by the delegated managers of these organizations. The numbers provided through the MAF included harassment grievances and harassment complaints, which follow two different processes. Again, the results do not differentiate between sexual harassment and harassment of a general nature.

Thank you for your attention. We will now be pleased to take your questions.

● (0915)

[Translation]

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

We will now move to a question and answer session, starting on the government side.

Ms. Truppe, you have seven minutes.

[English]

**Mrs. Susan Truppe:** Thank you for being here, and I'm sorry for the interruption earlier. We really wanted to have a full hour with you, so we may have to call you back if we have more questions.

We feel it's very important that all public servants be free to face the challenges of a day's work without harassment or fear of being mistreated by co-workers, managers, or superiors.

One of the questions I have is in regard to the training of a manager. Who determines what training a manager receives for dealing with sexual harassment complaints? I'm sure there are specific guidelines, but how are they trained?

**Mr. Ross MacLeod:** The duty to prevent harassment rests with deputy ministers or deputy heads of departments, so at a departmental level they would determine who actually gets trained, and how.

**Mrs. Susan Truppe:** In a specific department there are new employees coming. Is there one specific person who is looking after making sure that they're informed, or how they're informed, of the policy?

**Mr. Ross MacLeod:** Typically, there is a senior official in a department who is responsible for harassment complaints. They frequently, but not always, have the role of a kind of champion in informing people in their department. Other players, such as the heads of HR, may have that responsibility as well. Typically, they would do that through departmental communications, as they would with other HR personnel issues.

**Mrs. Susan Truppe:** Are there specific guidelines with respect to the timeliness of responses to allegations? For example, if somebody reports an allegation of sexual harassment, what's the procedure? How long does something like an investigation take?

**Mr. Ross MacLeod:** I'm going to ask my colleague, Madam Glandon, to comment on that. There is a five-step process that's been outlined in the directive. In the previous policy, complaint resolution took a very long time. One of the things we want to do with the new policy is provide a more timely process. When these complaints are unresolved, they become a serious workplace problem for everyone, particularly the person who has been harassed.

[Translation]

Martine, did you want to add something?

[English]

**Ms. Martine Glandon (Manager, Values and Ethics, Treasury Board Secretariat):** The new directive says normally within 12 months for all the steps. There are five steps that are proposed. We're saying within 12 months generally, but we know that sometimes it takes longer and sometimes it does not take as long.

**Mrs. Susan Truppe:** What is the process for ensuring that accountability is taking place? Someone makes a report on sexual harassment, and then it may or may not be looked into. Is there a sort of a watchdog for the managers who are responsible for that? How do we ensure that everything is looked at and investigated? Is there a procedure? Is something logged?

**Mr. Ross MacLeod:** It's the deputy minister's responsibility to ensure that those systems are in place. One challenge with a policy like this, a policy that cuts across the whole federal government, is the diversity of organizations that are there. The new policies have allowed for some flexibility in designing systems that fit the operational needs of different organizations.

As Martine mentioned, we have an advised timeframe that should be followed. At the same time, there is the five-step process in the new directive. It is up to deputy ministers to ensure that they comply and to ensure that they are managing the information flow that goes with that.

At a higher level, Treasury Board Secretariat has the responsibility to monitor departmental performance on a number of fronts, and that's one of our responsibilities as outlined in the policy.

**Mrs. Susan Truppe:** Okay.

Are employees involved in the development of the policy? What's the biggest difference between the new policy of October 2012 and the previous one? Are employees involved in the process at all?

• (0920)

**Mr. Ross MacLeod:** I'll take the process point first, if that's agreeable to the committee.

We went through a very long multi-month process with bargaining agents who were the legal representatives of the employees. We spent several months working with them and consulting on the policy. This was a consultation exercise, not a negotiation, but we did take full and fair account of the comments provided to us by the bargaining agents.

Can you remind me of the other half of your question?

**Mrs. Susan Truppe:** I'm trying to remember where I was. It was in regard to whether they were involved in the policy, which you answered.

**Mr. Ross MacLeod:** Yes, that's correct.

**Mrs. Susan Truppe:** When a new employee starts—and you had indicated what the process is for them to know that a policy is in place—how do they know what is acceptable and not acceptable? Is it a sheet of paper they're given? Is it something that's orally explained to them so that they know what they should complain about or not complain about if there is an issue?

**Mr. Ross MacLeod:** That is outlined in the policy. Different departments will handle that in different ways, depending on their operational environment. There is no shortage of information available to employees, though, in terms of guides and the policy and so on.

For instance, when Treasury Board approved this new policy, emails and communications were sent out to deputy heads and heads of human resources. These were sent throughout departments and organizations around the federal government. I think no one should be able to claim that they didn't know this. Those materials are amply available.

I'll just add that the School of Public Service offers multiple courses on prevention of harassment, so there's no shortage of tools available for people if they want to use them.

**Mrs. Susan Truppe:** Am I still okay?

**The Chair:** You have 30 seconds left.

**Mrs. Susan Truppe:** You said that they offer courses. Are these online courses, or is this a seminar-type course that makes them aware of what is going on?

**Mr. Ross MacLeod:** The school offers a number of different courses.

Martine, can you offer an explanation for this?

**Ms. Martine Glandon:** The courses offered by the Canada School of Public Service are mostly classroom sets, but departments may have some online courses as well. It varies from department to department.

**Mrs. Susan Truppe:** It's up to the department. Okay, great, thank you.

[Translation]

**The Chair:** Thank you.

We now turn to the official opposition.

Ms. Ashton, you have seven minutes.

[English]

**Ms. Niki Ashton:** Thank you very much, and thank you very much for your patience this morning. I'm sure you understand that it's important that we know where we're going when we're here, and it's an ongoing effort to do so.

Mr. MacLeod, you brought up an interesting point on the 29% of people speaking of perceived harassment in the workplace. Do you know how much of that is sexual harassment?

**Mr. Ross MacLeod:** The question wasn't based on type of harassment. As you are aware, there are several kinds of harassment. It wasn't broken out by that. We had a limited number of questions we were able to ask in the survey and we left it at just one harassment question.

However, before they answered the question, employees were presented with the definition of harassment in the policy, so they read it and clearly understood what they were responding to.

**Ms. Niki Ashton:** Do you think it would be useful to have a question on sexual harassment?

**Mr. Ross MacLeod:** We were quite disappointed with the results of the survey this year with respect to that aspect. This has been a persistent result in previous public service surveys as well. We are designing the 2014 survey now, and it's certainly a question we'll be looking at.

Overall the results of the survey were very good. However, there were a couple of areas—this one in particular—that were disturbing, and we do want to have a look at that in a little more depth, because it's in contrast to what we know about reported cases. When more than a quarter of the public service is identifying that they feel they have been harassed, there's a disconnect there, and we need to get to the root of it.

**Ms. Niki Ashton:** I'm certainly glad to hear there is an intention to bring that in for 2014, especially because it's such a serious and often very difficult kind of harassment to come forward with.

Through this survey, or maybe from the work that you do, is there any indication as to why people refrain from...? Three hundred and fourteen complaints is certainly not representative of anywhere near 29%. Do you have any idea why people don't come forward with such allegations?

**Mr. Ross MacLeod:** We're not totally sure. However, we had another question in the survey about employees feeling free to initiate complaint processes and formal processes, and 40% of our employees said they were reluctant to do so. We think there's a connection between the two.

Again, that's something we need to drill down on a little more the next time around, because I'm worried that if the processes are there to help people and they're not using them, then it's hard to get at it.

Of course, what we want to do—and it's the objective of the policy—is prevention. It's better when it doesn't happen at all. However, when it does, people should feel free to use the processes that are there.

• (0925)

**Ms. Niki Ashton:** We're aware, of course, of the policy that came out recently—just a few days ago, I guess. We've done some work to look at understanding the differences between the 2001 policy and the 2012 policy. One of the points that is different is that the 2001 policy mandates compliance, and I think the quote is that “departments/organizations must meet the requirements of this policy”.

The 2012 policy doesn't contain such a statement. It does state that the Treasury Board will monitor results, but it is certainly a point of

concern that the emphasis on the word “must” and the overt emphasis on compliance are not there.

How is this policy better, especially when that kind of directive isn't there?

**Mr. Ross MacLeod:** There are a number of advantages in the new policy. One is that the old policy was a bit rigid in terms of how it could be applied in different organizational contexts. You can imagine that a small policy department would have a different operational environment than would a large operational one, for example. We provided some flexibility there so that people could target the issue a little more effectively.

In terms of compliance, which is part of the other question that I neglected to answer earlier, the Treasury Board framework on compliance applies to all departments with respect to Treasury Board policies, and there are a number of measures we can take against departments if they don't comply.

The change of wording that you refer to is actually part of a broader Treasury Board Secretariat approach to policy renewal in general. Deputy heads are very aware of their responsibilities under the various policies, and the compliance framework applies to all of them. We have a number of sanctions we can use against departments if they're not complying with the policies of the board in general, including this one.

**Ms. Niki Ashton:** Could you give us an example?

You spoke about the need to be more flexible in terms of operational needs, so how does that work? Would it be possible to give us an example, whether it's for a workplace here in Ottawa or for a smaller workplace associated with a federal department outside of the national capital? What do you mean by “being flexible” in terms of operational needs?

**Mr. Ross MacLeod:** If you consider a white-collar environment like a policy department, you would expect the understanding of these issues to be a bit more sophisticated among the employees and managers, and you would expect a different kind of comportment there. In an organization where you're dealing with frequent conflict—at a border, in a penal institution—you could see different situations arising in which people could be harassed.

I'll point out too that harassment doesn't always come from a supervisor. It can come from a client. It can come from a colleague. It can come from someone who works for you as well. You can imagine that with the various types of work environments the federal government has, different circumstances can arise, and so they do.

I think the important thing there is that now deputies have an opportunity to get into the specific situations that they're managing and actually do something about them. Unfortunately, the previous policy didn't really allow that. It wasn't flexible enough for them to do that.

**Ms. Niki Ashton:** How much time do I have left?

[Translation]

**The Chair:** You have 45 seconds left.

[English]

**Ms. Niki Ashton:** You bring up an interesting point in terms of different workplaces. With respect to the RCMP, for example, the commissioner himself has talked about culture that needs to change. Given the fact that it is a high-pressure workplace that is different from others, would you agree that in some of these workplaces, addressing that overall culture rather than a specific incidence of sexual harassment is needed, and perhaps Treasury Board could play a role?

**Mr. Ross MacLeod:** From our perspective, culture is the key. We think that culture underlies respect for people. Lack of respect underlies harassment. If you change the culture and create a respectful work environment, then we'll see change. That's very much the theme we're pursuing in dealing with departments on this issue.

**Ms. Niki Ashton:** Great. Thank you.

[Translation]

**The Chair:** Thank you.

Now back to the Conservative side.

Ms. O'Neill Gordon, you have seven minutes.

[English]

**Mrs. Tilly O'Neill Gordon (Miramichi, CPC):** Thank you, Madam Chair.

I want to welcome the witnesses. I too feel bad that we were cut short, but I certainly enjoyed your presentation at the beginning. I know you have a lot to offer in telling us about the policy and process of harassment in the workplace. It is a very central and important conversation and topic in our study.

It was great to hear you note that our Canadian government has been a leader on policies dealing with harassment in the workplace. It is something that we as parliamentarians and all Canadians need to be educated on. We need to know that we are going in the right direction.

You also mentioned disciplinary measures. We had asked this question before: does the Treasury Board keep statistics of harassment complaints? I know it's an important issue. How do you go about keeping the statistics and such?

● (0930)

**Mr. Ross MacLeod:** It's actually very difficult to keep these statistics because of the state of our HR systems at the moment. We had kept detailed statistics in the past. However, due to paperwork burden reduction in the past, this statistics collection had been eliminated.

We did, in the context of the 2009-10 MAF, ask departments to report on how that was done. Also, as I mentioned, in the 2011 survey we did ask employees directly.

What was interesting about the survey results was that we got back unfiltered material from the employees. You know, 29% sounds very high to me, if you look at the data. It's an important indication that something's wrong, in any case. In the end, if you're looking for a respectful work environment, employees do have to understand

that they should be free of harassment, so that indication, to us, is a worry.

**Mrs. Tilly O'Neill Gordon:** That is so true. In the workplace it is very important that you be free of that, because you're going to do better work. You're going to complete what you have to do and be more beneficial to the company or to the department.

You mentioned earlier that employees are involved in developing policies. Could you elaborate on that, please?

**Mr. Ross MacLeod:** Yes, I'd be happy to.

In developing the new policy and directive, we consulted with a committee of bargaining agents. The bargaining agents are unions or legal representatives of employees. We worked through them in a committee for several months to create a prevention of harassment policy that would be suitable. Again, it wasn't a negotiated policy; it was one we consulted on, but we did give a full and fair airing of their views and took account of them.

**Mrs. Tilly O'Neill Gordon:** Then the unions have input in that as well.

**Mr. Ross MacLeod:** Yes.

**Mrs. Tilly O'Neill Gordon:** We talked about disciplinary measures. Who determines the disciplinary measures when they are warranted?

**Mr. Ross MacLeod:** That would be departmental management, and the most senior departmental management, of course, are the deputy heads, so they would do it. I should mention also that discipline can take a number of forms, right up to and including dismissal.

**Mrs. Tilly O'Neill Gordon:** This has changed, depending on what route a complaint takes. It would depend on the complaint, I imagine, as to what change it takes.

**Mr. Ross MacLeod:** Yes. In the government we use a term called graduated discipline, which means that the disciplinary action has to be suitable to the actual nature of the issue itself. Again, it can go from a reprimand to a demotion to dismissal in the end, if the incident is serious enough.

**Mrs. Tilly O'Neill Gordon:** It depends on how serious it is.

That's all I have. Terry, you have a question.

**Mr. Terence Young (Oakville, CPC):** You said 29% of the federal employees who responded feel they've been harassed, in 11 categories of harassment. You list them on the other side. That includes race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability, and conviction for which a pardon has been granted.

You had 314 complaints in all those categories, but you don't know if any of them were sexual harassment. Is that correct?

**Mr. Ross MacLeod:** That's correct.

**Mr. Terence Young:** I think your track record is probably much better than you think it is, because you really don't know if there are any complaints for sexual harassment.

**Mr. Ross MacLeod:** It's what the data have given us so far. It depends on how you collect it, of course. I hesitate to comment on how we're doing, because in any case one issue is too many.



**Mr. Terence Young:** Of course. What I'm saying is this. There's not enough information here to know, and of the 77 founded complaints, you don't know how many were sexual harassment.

**Mr. Ross MacLeod:** No.

**Mr. Terence Young:** I'd like to drill down to what these words in the values and ethics code actually mean and what happens on the front line. It says that an employee can bring the matter "in confidence and without fear of reprisal" to the attention of immediate supervising.

Let's say a female clerk is being harassed by her immediate supervisor. She wouldn't take it to him. She would take it to a senior officer or the Public Sector Integrity Commissioner. You're saying you take 12 months, on average, to resolve this. Do you make the effort to move that employee to another job in the meantime? That's an awfully long time to be working in a tough situation.

● (0935)

**Mr. Ross MacLeod:** It is a requirement of the policy that deputy heads maintain a healthy workplace, and frequently it is the case that you remove an individual from danger.

**Mr. Terence Young:** That's part of the policy, then.

**Mr. Ross MacLeod:** That's what you should do.

**Mr. Terence Young:** Is that step one?

**Mr. Ross MacLeod:** I'll ask Martine to speak to the details. The idea is to protect the individual first and then sort out the details of the issue through a normal process. The important thing is to protect the individual who is being harassed immediately.

**Ms. Martine Glandon:** Maybe I should add that there are different processes as well. The process you're talking about is more on the disclosure of wrongdoing, so that's another process. The process for harassment is something else.

One of the first steps the manager or the delegated manager would do is to look at the needs of both parties to see if there is a need to remove one of the two.

**Mr. Terence Young:** Is that similar to beginning a mediation, or does the manager go to each employee separately?

**Ms. Martine Glandon:** It depends on what happens. If they decide to go down the formal conflict resolution road, they can do that as well. It depends on the seriousness of the situation and the incident, really.

[Translation]

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

Ms. Sgro, you have the floor for seven minutes.

[English]

**Hon. Judy Sgro (York West, Lib.):** Thank you very much, Madam Chair.

To the witnesses, thank you so much for coming and helping us. The reason we're doing this study, as you know, is a result of the complaints and issues raised with many of the women in the RCMP. That's the reason we're actually looking at this. I appreciate the fact that you've reviewed your mandate and your policy and are making changes.

Further to that, these numbers that we're talking about give us great concern. You've done that survey of over 200,000 people, gathered in different categories, and one-third of them speak of harassment. The very issue of sexual harassment is the one that we're very focused on.

One of the suggestions is this. Would it be possible for you to go back and do a survey and be more specific? It is important for us to know. It's a difficult issue for people to complain about. It's difficult for many of the women in the RCMP to go forward and lodge a complaint. They're dealing with their superiors, and that doesn't change in any of our departments here. You said a small number actually came forward and lodged these complaints, granted, but I would suspect they were very concerned about their jobs. People do not come forward lightly.

Have you given consideration to possibly quite soon going forward and trying to do another survey on this whole issue, without it being too complex, to try to narrow it down during the same time we're trying to do this study?

**Mr. Ross MacLeod:** I think the timeframe on that will actually be difficult. Surveying the public service is a large undertaking. We are currently on a three-year cycle to do that survey.

However, I would also add that relative to the first part of your question, this policy and the values and ethics code provide for an alternative route for complainants, so that you don't always have to deal with your direct supervisor in dealing with it. Frequently it can come from a supervisor, but not always. In every case with this, with the Public Servants Disclosure Protection Act, there is an alternate route for people to go to, so they can do it safely. What remains is the puzzle that we've had with those employees who feel they can't initiate a process, which is still, in our view, too high.

We're scheduling a survey for 2014, which is unfortunately a couple of years from now. With respect to budgets and the ability to organize ourselves for a survey, we think that's the earliest we'll be able to do it. However, as I indicated on an earlier question, this is an area that we will be looking into for possible additional questions.

**Hon. Judy Sgro:** Bullying and intimidation is a big issue in a variety of departments. I've heard from some of these people, not only in the RCMP, who are not going to risk their jobs by coming forward. You're saying you're setting up a timeline of 12 months. Unless the case was very severe, that would seem too long to have this hanging, whether it's the deputy minister or whoever or that employee. Why did you allow so much time to deal with this issue, and why do you not set tighter timelines? Often these things can be dealt with in a much shorter time. If someone has 12 months, I'm sure it's going to be shuffled from one desk to another. In the meantime, you have two individuals, maybe more, who have this hanging over their heads.

● (0940)

**Mr. Ross MacLeod:** We encourage speedy resolution. Sometimes the issues are very complex around harassment, and for due process they need time to be resolved.

A speedy resolution on some of these things is informal conflict resolution, whereby it can be dealt with quickly in the event that it's based on a misunderstanding rather than intended harassment. There are a number of methods to get there faster. We felt we needed to leave enough time for due process in more serious cases. When someone has been accused of harassment, they have the right to a due and fair process.

**Hon. Judy Sgro:** The whole goal here is fairness for everyone, but the employees have a particular issue, and it's much more difficult for them.

What about the managers who aren't covered under your basic policies?

**Mr. Ross MacLeod:** All managers in the core public administration are covered by this policy.

**Hon. Judy Sgro:** Are deputy ministers?

**Mr. Ross MacLeod:** Deputy ministers are, yes.

**Hon. Judy Sgro:** They would be covered under the same policy that you're putting forward now.

**Mr. Ross MacLeod:** Yes.

**Hon. Judy Sgro:** What was the impetus for actually sitting down and reviewing the policy?

**Mr. Ross MacLeod:** We are undertaking a large review of the Treasury Board policy suite. It's been under way for about five years now. The idea is to modernize the policies and ensure they are in keeping with deputy head responsibilities.

In 2009 the government decided to rework the responsibilities of deputy ministers on human resources relative to the responsibilities of the Treasury Board. In order to ensure that they had the full responsibility they were supposed to have, we reviewed this policy.

The old policy was inflexible in specific work environments. We thought it would be useful to do this so that deputies could target the specific issues of their work environment that the old policy did not address.

**Hon. Judy Sgro:** Have you had discussions with the unions and the human rights people in developing your new policy?

**Mr. Ross MacLeod:** We consulted widely on this and had a multi-month consultative process regarding the agents. We consulted the federal government heads of HR, the Human Rights Commission, and so on.

**Hon. Judy Sgro:** With respect to changing the culture of a particular organization or a department, how frequently do you have sessions at which you encourage openness and understanding? The words are wonderful and they read beautifully and it sounds great, but words are only words. They don't necessarily change things, even though the intention may be there. It's very difficult to change the culture of any organization just by putting it on a piece of paper. It's really a mindset that has to change.

**Mr. Ross MacLeod:** That's absolutely correct, and culture change is at the core of this approach. It is pushing culture change down to the level of every single employee.

It can come from anywhere, even from clients. You have dual responsibilities in this. There is the responsibility of the deputy head to provide a safe work environment for employees, but there's also

the responsibility of every individual who works in the government to make sure that they comply and that they're part of this culture of prevention.

One of the things we're trying to promote with the new policy in our work with heads of HR and practitioners of anti-harassment is prevention, as opposed to dealing with the situation after the fact.

[*Translation*]

**The Chair:** I will have to stop you at this point.

This concludes our meeting with representatives from Treasury Board.

I thank you very much for your indulgence. I discussed the matter with Madam clerk and members of the committee. We have some free time on October 25. It is therefore possible that we may call you back and invite you to appear before our committee again, if you are available, of course. From what I gather, the committee wants to know more on the subject. Thank you.

I will now suspend the meeting for a few moments to allow our next panel of witnesses to come forward.

● (0945) \_\_\_\_\_ (Pause) \_\_\_\_\_

● (0945)

**The Chair:** Good morning. Please sit down. We will continue the meeting.

First I'd like to welcome the people from the Canadian Human Rights Commission, represented today by Mr. David Langtry, Ms. Monette Maillet and Mr. Philippe Dufresne.

We also have with us Mr. Susheel Gupta from the Canadian Human Rights Tribunal.

Welcome to the Standing Committee on the Status of Women, which is examining sexual harassment.

Each organization will have 10 minutes to make a presentation. This will be followed by a period during which members of the committee can put questions to witnesses.

I will therefore give the floor to representatives of the Canadian Human Rights Commission.

● (0950)

[*English*]

**Mr. David Langtry (Acting Chief Commissioner, Chief Commissioner's Office, Canadian Human Rights Commission):** Madam Chair, honourable members,

[*Translation*]

Thank you for inviting the Canadian Human Rights Commission to contribute to your study of sexual harassment in Canada's federally-regulated workplaces. I have three main points.

[*English*]

The first is that despite all the work that has been done to eliminate it, sexual harassment persists; second, that while organizations need to be proactive about it, policies alone are not good enough; and finally, that ending harassment depends on cultural change.

Complaints of sexual harassment are more prevalent in hierarchical, male-dominated organizations. An equitable distribution of power within the workplace helps foster the inclusion of women and a workplace culture of respect.

[Translation]

It is only within our lifetimes that Canada has made strides to stamp out sexual harassment in the workplace. When our mothers joined the labour force, years ago, it was a different story.

[English]

My mother was 15 years old when she got her first job, driving a gravel truck in Stony Mountain, Manitoba. Like many children who lived through the Great Depression, she worked out of necessity to support her family.

Women joining the labour force at that time were routinely subjected to abuse, and there was little they could do about it. Inappropriate comments and jokes, unwanted touching, and uninvited sexual overtures were a condition of work, part of the price you paid for being a female. It was just part of the job. They often just had to put up with it. It was a matter of survival.

Today every person has the right to live and work free from sexual harassment. This right is protected by the Canadian Human Rights Act, by provincial and territorial human rights laws, and by the Canada Labour Code.

[Translation]

All provide recourse to victims of sexual harassment. Today, you can do something about it. But nobody should have to.

[English]

Once an act of sexual harassment has occurred, the damage has been done. Humiliation, stigma, embarrassment, fear, and stress cause emotional pain and suffering. We know emotional suffering to be akin to physical illness in the way it affects an individual. It goes without saying that organizations and society as a whole pay a heavy price in lost productivity. It's a far, far better thing to prevent harassment from occurring.

Parliament designed the Canadian Human Rights Act as a tool to fight discrimination. The intent of Parliament was to provide equality of opportunity to everyone in Canada. The Canadian Human Rights Commission is responsible for administering the act and promoting equality. We receive discrimination complaints regarding employment and services provided by organizations under federal jurisdiction. This includes the federal public sector, as well as private sector companies involved in industries such as transportation, telecommunications, and banking. The commission screens all the discrimination complaints that it receives. Many are settled through mediation or resolved through a dispute resolution process; in some instances, we refer complaints to the Canadian Human Rights Tribunal for adjudication. The tribunal operates independently of the commission.

Canada was slow to outlaw sexual harassment in the workplace. In fact, sexual harassment was not recognized as a form of discrimination when Parliament passed the Canadian Human Rights Act in 1977. It wasn't until six years later, in 1983, that it was added

as a form of sex discrimination, a definition that was confirmed by the Supreme Court in 1989.

In other words, by the time the right to live and work free of sexual harassment was enshrined in law, women of my mother's generation were already retiring, having spent all of their working lives without the benefit of these protections. What succeeding generations have found, sadly, is that while laws can protect our rights, they are not a shield. Sexual harassment persists in workplaces in Canada today.

● (0955)

In the past five years, the commission has received 332 complaints related to sexual harassment. More than 85% of these complaints were filed by women. When considering this number, it is important to note that the commission usually only deals with the most intractable complaints. Many sexual harassment complaints from workplaces under federal jurisdiction never come to the commission. They are handled through internal dispute resolution processes, internal grievance processes, or by the Public Service Labour Relations Board, which has jurisdiction to apply the Canadian Human Rights Act.

You will never get a complete picture of the problem from the number of complaints that come forward. We at the commission believe in fact that sexual harassment in the workplace is under-reported. Filing a complaint takes courage. In some organizations, there could be fears of stigma or retaliation. For many, complaining is a last resort. It's often easier just to quit or to remain silent and take it.

As well, there are gaps in our understanding. We simply have no contemporary data on the prevalence of sexual harassment in Canada. In fact, only one major study has ever been conducted in Canada, and that was in 1994. The honourable members are no doubt aware of that study, entitled "Work-related sexual harassment", which analyzed survey data collected by Statistics Canada in 1993. The study found that close to 400,000 women—6% of employed women—reported experiencing sexual harassment in the preceding 12 months. The same study found that 2.4 million women had experienced work-related sexual harassment in their working lives.

We can't tell you what has changed in quantitative terms, because we don't have the data. Clearly, that's a gap that needs to be filled

Our laws and redress mechanisms may be effective in providing recourse for those who choose to and have the courage to seek it. However, their influence on human behaviour or the internal culture of an organization is limited. In other words, they do not prevent sexual harassment from occurring or reoccurring, so they do little to protect those who, for whatever reason, are unwilling to speak out.

[Translation]

The Canadian Human Rights Act and the Canada Labour Code place the onus on employers to ensure that employees can work free from sexual harassment.

[English]

According to the 2008 federal jurisdiction workplace survey, 87% of employees who work under federal jurisdiction work for an organization with a harassment prevention program in place, 77% work for an organization with an appeal process against a decision related to harassment, and 76% work for an organization with a dispute or grievance review process.

[Translation]

The smaller the organizations, the less likely they are to have processes like these in place.

[English]

I don't believe it is enough to ensure that victims of sexual harassment have effective recourse. As I said earlier, by the time someone seeks recourse or remedy, the damage is already done. We must find better ways to address the issue before a person's dignity and self-respect suffer injury.

[Translation]

Based on the commission's experience, sexual harassment is more prevalent in hierarchical, male-dominated cultures.

[English]

Addressing sexual harassment in federally regulated workplaces requires a fundamental cultural shift within organizations. It requires a far-reaching commitment to respect for human rights, one that extends to all corners of an organization.

The commission believes that an equitable distribution of power within the workplace, with an equitable representation of women in positions of responsibility, fosters respect for human rights, inclusion, and diversity. However, the proportion of women employed in senior management in Canada has remained relatively unchanged over the past two decades, according to the Conference Board of Canada's 2011 report. Men have been two to three times more likely than women to hold senior management positions in both the private and the public sectors.

The latest employment equity figures show that in the federally regulated private sector, women held 42% of the jobs but only 22% of senior management positions. In the federal public service, women held 55% of the jobs but only 45% of senior management positions.

• (1000)

[Translation]

So that's another gap, another piece of the puzzle that needs to be addressed. The fact that close to three decades after sexual harassment was added to the Canadian Human Rights Act we are sitting here...

**The Chair:** Unfortunately, I'm going to have to interrupt you, Mr. Langtry. Your allotted time is up. Your testimony was very interesting. You can speak again during the question period.

I will now give the floor to Mr. Gupta of the Canadian Human Rights Tribunal.

You have 10 minutes.

[English]

**Mr. Susheel Gupta (Vice-Chairperson, Acting Chairperson and Chief Executive Officer, Canadian Human Rights Tribunal):** Thank you.

[Translation]

**Ms. Joyce Bateman (Winnipeg South Centre, CPC):** Madam Chair, would it be possible to obtain the entire presentation?

**The Chair:** Yes, of course.

**Ms. Joyce Bateman:** Thank you.

**The Chair:** Mr. Gupta, you have the floor.

[English]

**Mr. Susheel Gupta:** Good morning. Thank you, Madam Chair and honourable members, for the invitation to appear before your committee today as you begin your very important study of sexual harassment in federally regulated workplaces. I am joined by two colleagues from my office: Rachel Boyer, executive director and registrar at the Canadian Human Rights Tribunal, and Greg Miller, legal counsel.

Upon review of the questions that the committee seeks to address with its study, I thought I would begin by taking a few moments to discuss the mandate of the Canadian Human Rights Tribunal, as it will inform the scope of my presentation. I will then provide an overview of the legal principles that govern us when dealing with complaints of sexual harassment. In closing, I will provide the committee with some statistical information that may be of interest.

The Canadian Human Rights Tribunal is one of the two administrative agencies created by the Canadian Human Rights Act. You have already heard from my colleague from the Canadian Human Rights Commission. It is important to note that there is significant interplay in the contributions each organization makes towards the resolution of discrimination complaints under the CHRA. However, there are important distinctions to be drawn as well: while the commission's mandate is multi-faceted and includes a wide range of powers, duties, and functions, the statute has only assigned one main function to the tribunal, and that is the adjudication of complaints. In the context of the Canadian Human Rights Act, this adjudication process is referred to as an inquiry.

An individual who believes that sexual harassment has occurred within the meaning of the Canadian Human Rights Act can file a complaint to this effect with the commission. If the commission believes that an inquiry is warranted, it triggers the adjudicative process by making a request to the tribunal to inquire into the complaint.

The inquiry mandated under the Canadian Human Rights Act has been described as quasi-judicial, which essentially means court-like. Hence, the tribunal has many of the powers and attributes of a court. It is empowered to find facts, to interpret and apply the law to the facts before it, and to award appropriate remedies. The tribunal's hearings have much the same attributes and structure as a formal trial before a court. The parties before the tribunal lead evidence, call and cross-examine witnesses, and make submissions on how the law should be applied to the facts. The parties who are entitled to appear before the tribunal include the individual who filed the complaint, the complainant; the person alleged to have engaged in the discriminatory practice, meaning the respondent; and the commission, the agency that initiated the inquiry process.

As Parliament assigned to the tribunal only the role of adjudication, it cannot be involved in crafting policy. It has no regulatory role vis-à-vis employment practices in the federal workplace, nor does it have a public advocacy role. These roles are assigned to other bodies.

A number of consequences flow from the court-like structure and focused mandate of the tribunal. Its members are required to maintain a high degree of independence from the executive branch of government—for example, the Treasury Board, the Department of Justice, or HRSDC. Furthermore, to conserve impartiality, it is important for an adjudicator to adopt and retain a position of neutrality with respect to the issues that can and will be debated in the cases that he or she may be called upon to decide.

In the context of the current briefing and the work of this committee, these principles prevent tribunal members, including myself, from issuing opinions on many of the matters that will be discussed in your study of sexual harassment in the federally regulated workplace, which is not to say that tribunal members will never make findings on any of these issues. On the contrary, they have done so frequently, and will be called upon to do so again in the future. However, they must make these findings in the context of their adjudicative mandate, based on the submissions made by parties to a case, along with the evidence led and the applicable legal principle, which leads me to my next topic.

What are the legal principles the tribunal applies to complaints of sexual harassment? How do we define sexual harassment? The answers to these questions originate in our enabling legislation, the Canadian Human Rights Act.

This legislation designates 11 prohibited grounds of discrimination, including discrimination based on sex. It also proscribes roughly 11 discriminatory practices, including the discriminatory practice set out in paragraph (c) of subsection 14(1), which provides that it is a discriminatory practice to harass an individual in matters related to employment on a prohibited ground. I would add that the eradication of sexual harassment was a matter of particular seriousness for Parliament, as evidenced by its being expressly mentioned in subsection 14(2) of the Canadian Human Rights Act.

The legal meaning of harassment generally, and sexual harassment in particular, for the purposes of section 14, has been defined in the jurisprudence of the superior courts, and has been developed by the decisions of the tribunal itself in individual cases.

● (1005)

When a complaint of sexual harassment is referred to the tribunal for an inquiry, the tribunal member, after hearing all of the evidence and arguments, generally has to decide whether the conduct at issue was unwelcome; sexual in nature; sufficiently persistent, repetitive, or severe enough to create a poisoned workplace; and, in certain circumstances, whether the employee had notified the employer of the offensive conduct. If the tribunal determines that the impugned conduct fulfills these criteria, it can issue a number of remedial orders against the person found to have engaged in sexual harassment.

In this last regard, it is worth noting that the respondent parties in sexual harassment complaints typically fall into two categories: the alleged harasser—generally the victim's co-worker or superior who allegedly subjected the individual to the harassment—and/or the employer, who has a legislative duty to exercise all due diligence to prevent harassment and mitigate or avoid its effects, failing which it is held responsible for the harassment.

Where the harassment complaint has been substantiated, orders can be made against either the individual harasser or the employer or both.

Finally, discussion of the tribunal's resolution of complaints would not be complete without mentioning that a significant portion of complaints referred to the tribunal are resolved by tribunal members mediating the complaints to facilitate settlements by parties and that tribunal members have been mediating human rights complaints for well over a decade.

However, it is important to note that we have also adopted special measures to mitigate the effects of any power imbalance that may exist in negotiations between complainants and respondents, which are of particular concern in harassment cases.

Finally, I would like to provide you with some indication of the number of sexual harassment cases at the tribunal and the proportion that they make up of the tribunal's total caseload. Before I do so, there are a number of baseline considerations that should be taken into account.

As has been alluded to, not all federal discrimination matters become complaints filed with the commission. Of the complaints filed with the commission, it is important to realize that only a small subset are referred to the tribunal for an inquiry. Moreover, of the total number of discrimination complaints referred to the tribunal for an inquiry, only a very small portion allege harassment in employment on the grounds of sex. Finally, not all complaints of harassment are found by the tribunal to be substantiated. Some are dismissed at the conclusion of the inquiry because the adjudicator has found that the evidence has not satisfied the legal requirements to prove harassment.

That said, the statistics that follow may be of assistance to the committee.

The commission has referred 600 complaints to the tribunal since 2008, and those are complaints under all headings of discrimination. Of those 600 complaints, 36 received since April 2008 have alleged harassment in matters related to employment and on the prohibited grounds of sex. Those represent 6% of the total referrals.

Perhaps of further interest to the committee as it pursues its study is a breakdown by respondent groups.

Of the 36 complaints I referred to involving harassment, 20 were against federally regulated companies and/or individuals employed therein, i.e., non-governmental entities. That equals 3% of the total referrals to the tribunal.

Nine of those complaints are against federal government and/or individuals therein. They account for 1.5% of the total referrals to the tribunal.

Finally, seven are against first nations and/or individuals employed therein.

In conclusion, I hope this presentation has been of assistance to the committee, and I would be pleased to provide any additional information or answer any questions you might have.

Thank you, Madam Chair.

•(1010)

[*Translation*]

**The Chair:** Thank you.

We will now go on the question period, starting with the government side.

Ms. James, you have seven minutes.

[*English*]

**Ms. Roxanne James (Scarborough Centre, CPC):** Thank you, Madam Chair.

Thank you to all of our guests this afternoon.

This is a very serious issue we're embarking on. I'm very glad the parliamentary secretary for the Status of Women has put this proposal forward, and I hope we can come out with some really good recommendations to improve the situation.

I want to touch on a couple of things. I'm hearing these small numbers. You said a very small percentage of the issues that have been forwarded to the tribunal are actually related to sexual harassment in the workplace.

I believe, Mr. Langtry, if I had it correctly, you indicated that very few complaints ever come to you from the federal workplace because they are dealt with through the grievance or complaint process within the federally regulated workplace itself.

Did you say that? I wasn't sure if I heard that. I just want to make sure I heard that correctly, because I'm going to ask a second question after that.

Thank you.

**Mr. David Langtry:** Yes: what I was saying was that the numbers, the 332 complaints that we have received since 2007, would represent only a small number of the complaints. You are

quite right that many would be dealt with through an internal grievance, or a person may not report it, or it may be referred to the Public Service Labour Relations Board, so that it wouldn't come before us.

**Ms. Roxanne James:** Okay.

Our last witness was from the Treasury Board Secretariat. The witness indicated that within the federal workplace there are formal mechanisms to file a complaint: you can file a complaint, file a grievance, or actually file the complaint through the Canadian Human Rights Commission.

Are you saying that you've had none come from the federal regulated workplace?

**Mr. David Langtry:** No, we have had; what we're saying is that the numbers that we have would not be reflective of all of the complaints that are made. A complainant may avail himself or herself of the internal grievance redress process, or they may come to us, or it may be dealt with by the Public Service Labour Relations Board.

**Ms. Roxanne James:** Okay.

Do we know exactly the statistics for those that may come? An example might be a complaint in an organization regulated by the federal government that hasn't been resolved through the grievance process or the complaint process that's put in through other means.

Do you have the statistics or the actual number that might come your way as a result of the complaint not being resolved, or the complainant not being fully satisfied that it's resolved?

**Mr. David Langtry:** I should say that not all are as a result of that; they may come directly to the commission without going through the other redress.

I can say that of all the complaints the commission receives, just to put it into context, 3.7% are with respect to sexual harassment. Of the complaints that come to us against the federal public service, 3% of those complaints are with respect to sexual harassment.

**Ms. Roxanne James:** Okay.

I believe it was you, Mr. Langtry, who was speaking to the fact that there needs to be a cultural change in the workplace, regardless of whether it's federal or elsewhere, and that predominantly, when we run into problems with sexual harassment in the workplace, it's because it's a workforce dominated by senior males. Is that what you stated?

**Mr. David Langtry:** Yes.

**Ms. Roxanne James:** Do you feel it's because...? I don't know whether you necessarily feel it's because it's a male-dominated workforce or whether you believe it's because it's a senior position. I am just curious to know whether you feel it's a position of authority or whether it's a gender issue in this particular case.

•(1015)

**Mr. David Langtry:** I wouldn't necessarily be able to answer what the view is. The reason for saying it, though, is that based upon the statistics we have, the complaints statistics, 3.7% of all our complaints are with respect to sexual harassment, and, as I said, in the federal public service, which would generally be regarded not as a male-dominated hierarchical organization, 3% of their complaints are.

If we look, though, to the RCMP, of all of the complaints against the RCMP, 7% are with respect to sexual harassment. In the Canadian Forces, 8% of all of the complaints brought against the Canadian Forces are based on sexual harassment. If we look in the transportation sector, 5% of the complaints against the transportation sector are sexual harassment. I would add that almost half of those complaints come from the trucking industry.

**Ms. Roxanne James:** Do you differentiate, in terms of sexual harassment cases and complaints, between...? You've given me a number of 3.6%. Do you differentiate between how often it happens for someone who is not coming from a senior position?

Normally, when I think of a typical case like this, I think of someone who is in a less senior position being the complainant and someone who is higher up in the organization being the one who's the dominant figure. Do you have many cases where it's on an even ground, or it's someone in a lower position?

**Mr. David Langtry:** We receive cases from people in all levels of an organization.

**Ms. Roxanne James:** Maybe I'll direct my next question to Mr. Gupta. You were talking about the legal definition of sexual harassment. You indicated that it could include unwelcomed gestures or, I suppose, comments sexual in nature or going to severe in nature.

What is the definition of "unwelcomed"? What does that mean? This is for curiosity and to get clarification. Is "unwelcomed" someone making an unwelcomed comment or is it someone pursuing a date? What would be considered something unwelcomed in terms of sexual harassment?

**Mr. Susheel Gupta:** I think those two examples you give would be considered unwelcome.

It's anything that makes the individual who's the recipient of the action, the discussion, the talk, feel unwelcome.

[Translation]

**The Chair:** I'm sorry, Ms. James, but your allotted time is up. I have to stop you there.

[English]

Thank you.

[Translation]

We will now go on to the official opposition.

Ms. Hassainia, you have seven minutes.

**Mrs. Sana Hassainia (Verchères—Les Patriotes, NDP):** Thank you, Madam Chair. I'd like to inform you that I'll be sharing my time with my colleague Ms. Day.

First of all, I'd like to thank you for the excellent work that you do as well as for your presentations and clarifications. They are much appreciated.

I'd like to put a question to Mr. Langtry or his colleagues.

Correct me if I'm wrong, but you mentioned that 7% of the complaints you received concern the RCMP. Do these complaints come from civilian members or regular members of the RCMP?

[English]

**Mr. David Langtry:** I don't have the breakdown between civilian and regular members of the RCMP because both do bring complaints. I certainly can provide that information, but it is from both sorts of members, as I say, that we receive complaints.

[Translation]

**Mrs. Sana Hassainia:** That's perfect.

You also mentioned that the federal government deals with complaints for which it is responsible through its own institutions. Is it important to know the extent of the problem of sexual harassment? Do you think we can really respond to such serious incidents if we don't know the general extent of them?

[English]

**Mr. David Langtry:** That may be true. We wouldn't necessarily know that. The complaints that come before us, as I mentioned in my comments, tend to be the ones in which they use the word "intractable". They tend to be the more serious ones. That's not to say all of them are then referred to the tribunal, of course, but that said, there may be cases that are dealt with at the local level, if you will, within a department through their agency, and it may be that in serious cases, as I said, a person chooses not even to come forward. Some may well leave the workforce or whatever.

We have no way of tracking that kind of statistic, because we can only deal with the complaints that come in to the commission.

•(1020)

[Translation]

**Mrs. Sana Hassainia:** I would like to know what human and financial resources are currently allocated to dealing with complaints and sexual harassment. Has funding increased, decreased or stayed more or less the same in recent years?

[English]

**Mr. David Langtry:** No, there haven't been changes in finances, except that the commission did receive additional funding of \$5.7 million at the time of change to our legislation in 2008 over five years, with the change being that complaints can now be brought by first nations people in this country, both against the federal government and against first nations government for matters done under or pursuant to the Indian Act, which were previously precluded.

We did receive additional funding for this that will sunset midway through the next fiscal year. Otherwise, we devote our resources to, and we certainly look to, trends on where the maximum or the highest number of complaints are. Right now we're prioritizing systemic discrimination complaints to ensure we deal with those areas that have the greatest impact on Canadians, but we're still required by legislation to receive individual complaints and deal with them in the same way as all other complaints.

[Translation]

**Mrs. Sana Hassainia:** Thank you.

**Mrs. Anne-Marie Day (Charlesbourg—Haute-Saint-Charles, NDP):** I would like to ask a question that is probably also for Mr. Langtry.

One of the witnesses said that culture is part of work. In the case of sexual harassment, some methods have changed. Now, the Internet, Facebook, and the like are used a lot. It seems it is still a part of work. In fact, this morning we saw and heard pretty serious numbers. Very few of the people who experience harassment make a complaint or make it to the commission. You demonstrated that, once again.

Furthermore, I was left quite puzzled about your appeal procedures. Your document says the following:

[...] the commission can:

refer the complainant to a more appropriate forum if it believes that there are other review or dispute resolution procedures that are accessible or if it believes that it would be more appropriate for the issue to be resolved under other federal laws;

refer complainants to the Canadian Human Rights Tribunal for adjudication; dismiss the complaint.

We get the impression that the policy is designed so that complaints do not make it through or that there be as few as possible to deal with.

Is it possible that many victims are eliminated along the way?

[English]

**Mr. David Langtry:** I would not necessarily say that they are being diverted, because if the respondent or the employer says they want us to refer it to the alternate dispute process that they have, it is within our jurisdiction, under our act, to refer it out. However, it is open to the complainant to raise the reasons that he or she should not be required to go through that other process, and we can choose, then, to deal with it ourselves in those appropriate circumstances, so it's not always being diverted out. They're not always required to go to another process. They can come to us.

It is our view, and obviously the view of Parliament, in providing for that avenue, that the Canadian Human Rights Commission does not have the monopoly on human rights and on dealing with discrimination and that other tribunals and other sources have the ability to deal with and apply the Canadian Human Rights Act.

[Translation]

**Mrs. Anne-Marie Day:** Does your organization play a role in preventing sexual harassment in the workplace?

[English]

**Mr. David Langtry:** Yes, we do have a preventive role. Certainly that's one of the mandates, and we have a branch devoted to that. Ms. Maillet is from our knowledge centre, which develops policies and knowledge-based research, and there is our discrimination prevention branch as well. We have a recent tool, the human rights maturity model, which is a tool to assist employers in developing a culture of human rights in the workplace.

• (1025)

[Translation]

**The Chair:** Thank you.

We will now go back to the government side.

Ms. Ambler, you have seven minutes.

[English]

**Mrs. Stella Ambler (Mississauga South, CPC):** Thank you, Madam Chair.

Thank you for being here today to discuss this issue with us.

I'd like to wrap up Ms. James's questions, if I might.

Mr. Gupta, I think what she was trying to get at was the definition of "sexual harassment", and, in particular, at what point it reaches the stage where you would call it harassment.

For example, if someone in a workplace was being asked out on a date or for a drink after work, and that question or request was unwanted and the person asked again the next day and the next day, is there a number of times after which it's considered harassment? Is it more than just perception by the person? As far as the unwelcome advances go, is it just about perception? At what point does the Human Rights Tribunal define it as "harassment"?

**Mr. Susheel Gupta:** The courts have said there are a number of factors the decision-maker must look at. Specifically, for example, you asked about whether it's unwelcome. I'll read it to you. It says:

The test for sexual harassment is unwelcome conduct of a sexual nature that is detrimental to the work environment. To determine whether conduct is unwelcome, the Tribunal will look at the complainant's reaction at the time the incident occurred and assess whether she expressly, or by her behaviour, demonstrated that the conduct was unwelcome.

That's one factor the tribunal would have to consider. The other factors would be the repetitiousness of it, and the severity of the actions or comments that are made. There are a whole number of factors that a tribunal in an individual case would have to consider to determine whether that scenario met the test for harassment.

**Mrs. Stella Ambler:** Okay, so it's not just about persistence, but about the effect in the workplace, the effect on people around them, and the ability to do one's job without retribution.

**Mr. Susheel Gupta:** Correct.

**Mrs. Stella Ambler:** Fair enough. Thank you.

I wonder how often tribunal complaints are referred to a panel. My understanding is that if the case is complex enough, the chairperson will assign it to a panel to conduct an inquiry. Is that true, and at what point is a case sufficiently complex to warrant a panel referral?



**Mr. Susheel Gupta:** In terms of the number of cases that the tribunal has assigned to a panel, our legislation provides for an inquiry to be overseen by either a panel of one or a panel of three. I presume you're asking about a panel of three.

**Mrs. Stella Ambler:** I think so, yes.

**Mr. Susheel Gupta:** I don't have the data in terms of how many cases have been referred to a panel.

**Mrs. Stella Ambler:** Is it half, many, most, hardly any...?

**Mr. Susheel Gupta:** It isn't many.

**Mrs. Stella Ambler:** It's not many. Okay.

**Mr. Susheel Gupta:** Certainly in the early 2000s and late 1990s, there were a few cases under pay equity.

**Mrs. Stella Ambler:** They would have to be, I would think, very complicated, and very—

**Mr. Susheel Gupta:** There are a number of factors, including complication, number of witnesses, complexity of the issues, even novelty—are these new legal issues that need to be considered?

Are we talking about hundreds of thousands of pages of documents? Is this significant to national importance, for example? All these considerations, as well as the resource implications of essentially taking three of our members off assignment to 60 cases that they might all share to hear something like that.

•(1030)

**Mrs. Stella Ambler:** You obviously keep statistics, and I'm very pleased to get some idea of numbers and I thank you for that.

How often are the employers held liable for the action of their employees and specifically asked to compensate the victim? I know there are \$20,000 limits for pain and suffering and another \$20,000 if the harassment was deemed to be wilful. How often does that happen? How often do we charge the employer, convict the employer, and make that person pay damages?

**Mr. Susheel Gupta:** First, we don't actually collect statistics at the tribunal generally. We've prepared some numbers today for the committee members to assist them, and certainly if there are some other specific data sets you would like us to collect, I think we can do so.

In terms of the remedial orders that the tribunal can issue, you are correct. Where a respondent—be it an individual, a government department, or a corporation—has been found to have discriminated against an individual or sexually harassed an individual, the person or the organization can be ordered to implement sexual harassment training and sensitization within the workplace. The employer, in consultation with the commission can.... The tribunal can require that the respondent draft a revised sexual harassment policy. That's something that the commission has a lot of expertise in doing, and that can include internal complaint and investigation procedures.

**Mrs. Stella Ambler:** Then there are many ways of redress, including monetary payment.

**Mr. Susheel Gupta:** Most certainly there are.

**Mrs. Stella Ambler:** You wouldn't know off the top of your head how often one is used versus a different kind?

**Mr. Susheel Gupta:** No, I wouldn't know that.

**Mrs. Stella Ambler:** That's okay. No problem. Thank you.

In terms of those statistics on harassment, have you noticed or observed the frequency of sexual harassment cases in particular on the rise? I wonder if there is a trend, and if so, in what direction that trend might be heading.

**Mr. Susheel Gupta:** It's hard for me to say. I think I mentioned that we've had 36 cases of harassment referred to us since 2008, and it's pretty consistent over that period, so I can't say that we've seen a trend per se.

**Mrs. Stella Ambler:** I wonder how often, if ever, you see cases of complaints by men where the harasser is a woman.

**Mr. Susheel Gupta:** I can't say I've seen any personally. Now, I wouldn't know the facts of every single one of our cases at the tribunal, as acting chair.

**Mrs. Stella Ambler:** Should I be asking you, Mr. Langtry?

Sorry, I'm not sure who I should ask.

[Translation]

**The Chair:** Unfortunately, your speaking time is up, Ms. Ambler. Thank you.

Now on to Ms. Sgro.

You have seven minutes.

[English]

**Hon. Judy Sgro:** Thank you very much.

I think we're all very much interested in similar information when it comes to the numbers, because it really says a lot.

Mr. Gupta, can you provide for us, from the tribunal's perspective—or the commission's perspective, Mr. Langtry—the breakdown of the numbers? You were pretty specific on cases, but how many of them resulted in.... I'm not saying that “victory” is the word, but how many of them resulted in successful treatment for the complainant and how many of them were found to be unsubstantiated?

I think it would be helpful for our committee as we go forward if you could supply us with that breakdown of those kinds of numbers for further discussion.

**Mr. Susheel Gupta:** Maybe I'll start with at least what's happened at the tribunal at the adjudication and then turn it over to my colleague here.

**Hon. Judy Sgro:** Be brief, please. I have several questions.

**Mr. Susheel Gupta:** To be very brief, I mentioned 36 cases involving harassment since 2008, or 36 complaints—sorry. In two cases, awards were rendered, which I would interpret as a finding of harassment; two were dismissed; three have had a hearing and are awaiting a decision by the adjudicator; 16 were settled through mediation; and the 13 remaining are currently in the inquiry process, meaning they're leading towards a hearing or mediation.

**Hon. Judy Sgro:** Maybe you could supply the committee with your notes, Mr. Gupta, so that we would have those, if you—

**Mr. Susheel Gupta:** Most certainly—

**Hon. Judy Sgro:**—have them down, so that we would all have them for further reference.

**Mr. Susheel Gupta:** Of course.

**Hon. Judy Sgro:** Mr. Langtry, could you?

**Mr. David Langtry:** Yes. I think from a time point of view, I can certainly provide the information. I'm wondering whether it might be helpful to provide that after the fact—

**Hon. Judy Sgro:** Yes.

**Mr. David Langtry:** —and I can answer also the question on the percentage of complaints that have been brought by men alleging a female perpetrator and that kind of information.

• (1035)

**Hon. Judy Sgro:** It would be very helpful for all of us as we go forward.

**Mr. David Langtry:** I could provide both in the information. We do have the breakdown of cases and how they have been handled and resolved.

**Hon. Judy Sgro:** In regard to the 1993 study that was done on work-related sexual harassment, there are quite alarming numbers when we see that 6% of the 400,000 women reported experiencing sexual harassment. The same study pointed out that 2.4 million women had experienced workplace sexual harassment in their working lives. Those were the ones who had responded to the survey; I suspect that there are many, many more who, if asked today on that larger issue, simply leave their place of employment.

Filing a complaint with the Human Rights Commission is, as far as I'm concerned, the avenue of last resort. Many women I have talked to, women who often raise these issues, just say that they weren't going to put themselves through it, when the chances of success.... It's the employee against the employer, and they're feeling intimidated. Again, some of that relates back to the RCMP issues and the frustrations that many of the female officers had.

Now, you've said that 7% of your complaints were from the RCMP and 8% were from the armed forces. I'm told the armed forces have made some fairly significant changes, at least on paper. Time will tell whether they're effective or not, but why is it...? Is it that both of those are male-dominated and both in an area that requires military attitudes, I suppose you could put it? Why is it that those two areas are where you're getting the highest numbers of complaints? Is there any particular point there?

**Mr. David Langtry:** Not necessarily, other than the conclusion that we had drawn: it is the hierarchical male-dominated organizations where we see the greatest proportionate number of complaints of sexual harassment. In both cases we will sometimes receive the complaints on the basis that concern has been expressed over the internal grievance process, because of the chain of command. That doesn't mean to say we always take the case, but we do receive a number in which a complaint or a concern is expressed, because of the chain of command, as to whether it's an independent and impartial grievance process and whether ultimately there is a neutral third party who can consider the complaint.

**Hon. Judy Sgro:** You don't necessarily just accept them; you review them and then can suggest that they seek adjudication somewhere else because of the chain-of-command issue.

**Mr. David Langtry:** Yes, we have the discretion under our legislation to refer it out. According to the way section 41 of our act

reads, we are required to accept the complaint “unless”, and the first “unless” is if there is a redress mechanism, an alternate mechanism, or a grievance process that can handle the complaint. It's discretionary. We don't have to send it out to the other. When a complainant says, “Here are the reasons I don't want it to be sent out”, we can take the case and deal with it.

**Hon. Judy Sgro:** Do you know if the public service has ever done a survey, or have you ever done a survey, of the people who have left the public service, and why?

**Mr. David Langtry:** I know we have never done it, and I'm not aware of whether the public service has.

**Hon. Judy Sgro:** It may be time for that kind of a survey to be done to find out exactly how many are leaving because of intimidation, sexual harassment, or harassment in general. Many people just leave because it's not worth the battle and it's not worth the embarrassment and the stigma, as you so clearly point out, as we move forward on a lot of this.

With regard to the internal monitoring of some of these cases that I was referring to earlier—and we're getting the numbers so that we can get a better handle on just how large the number is, specifically with the issue of sexual harassment—and how those issues were resolved, I'd be very interested in knowing the success rate. I think it would be encouraging for many people out there if they knew that there was a really good chance that a tribunal would go to bat for them. There would probably be more. You clearly probably have lots of work on your plate now.

How long does it generally take from the time a complaint is brought to you to the time that it is resolved?

• (1040)

[Translation]

**The Chair:** Unfortunately, Ms. Sgro, your time is up.

[English]

**Hon. Judy Sgro:** Okay. Could we just have a fast answer? Is it three years, six years, or...?

**Mr. David Langtry:** Our average age of cases is one year.

[Translation]

**The Chair:** Thank you.

I would now like to consult the committee. We have here Mr. Gupta's speaking notes. He has allowed us to distribute them, given that members had asked for them. However, since the notes are only in English, I need the committee's unanimous consent.

**Mrs. Anne-Marie Day:** I refuse.

**The Chair:** We therefore cannot distribute the notes. We will have them translated and you will have them at a later date. Thank you.

We will continue with questions.

Ms. Bateman, you have five minutes.

**Ms. Joyce Bateman:** Thank you, Madam Chair.

[English]

Thank you all so very much for your presentations today.

I first want to get clarification. You are in charge of the Canadian Human Rights Commission, which is governed by the rules from Treasury Board. It is a federal government arm, is it not?

**Mr. David Langtry:** We are independent of government, because, of course, we receive complaints against the federal government, including complaints against Treasury Board.

**Ms. Joyce Bateman:** But when you hire an employee, the values and ethics of the federal Government of Canada apply to your employees, right?

**Mr. David Langtry:** That is correct. Yes.

**Ms. Joyce Bateman:** In fact, you participate across Canada with federal councils. You're in Ottawa, so you probably don't know what those are—

**Mr. David Langtry:** But I live in Winnipeg.

**Ms. Joyce Bateman:** Exactly. I knew you were a good guy.

I think it's a very important point that your employees are governed in the same way as every federal government employee. We had a little bit of lack of clarity at the start of this meeting about who actually governs the policies and procedures regarding this very important issue, but is Treasury Board, and you must comply. Is that clear?

**Mr. David Langtry:** Yes.

**Ms. Joyce Bateman:** Okay.

Do your employees get the training, as the gentleman from Treasury Board indicated all federal government employees receive, in terms of what the expectations are for the respectful workplace and how we expect people to respect differences, etc.?

**Mr. David Langtry:** We provide training to employees almost on a continual basis. It can be on specific or general areas. As well, all new employees are mentored one-on-one, and of course, as you say, all employees are covered by all those policies, values, and ethics. They all sign.

To digress for just a moment, I can say we were very pleased with the results of the last public service employee survey that was done. Obviously there is always room for improvement, but we fared considerably better than the average of the public service in most of the categories. We are responsible for the Employment Equity Act as well, in terms of the auditing of employment equity.

**Ms. Joyce Bateman:** You are responsible for the Employment Equity Act of the Government of Canada.

**Mr. David Langtry:** That's correct, yes.

**Ms. Joyce Bateman:** That's really good that you are governed by the Treasury Board. From what I understand and from what we heard this morning, this is responsible, respectful policy. The fact that all federal government agencies are governed by it is good.

In your comments just now, you referred to the public service employee survey.

There has been a lot of discussion about surveys. People have randomly said we need another survey. You mentioned you performed well under the last public service employee survey, and those are very expensive to conduct. They are also very important to

do. We value that analysis. Could that become an integral part of your testimony?

The fact that you are remarking on your performance is wonderful. I understand the public service itself also generally demonstrated some improvement. If not, we should see those numbers. Is that possible?

• (1045)

**Mr. David Langtry:** Yes, certainly we can provide our results, which also include the benchmarks of the whole public service.

**Ms. Joyce Bateman:** That would be fantastic.

On the leadership piece, we heard about what is being done for the employee. There is no employee in the Government of Canada who is unaware of the values and ethics. You are indicating they are required to sign something. It is very clear that they are part of this philosophy. Are we doing the same thing—

[Translation]

Unfortunately, I only have 30 seconds left.

**The Chair:** At most, yes.

**Ms. Joyce Bateman:** Okay. Thank you, Madam Chair.

[English]

You may have to put the walk and the talk, the leadership piece, in your subsequent piece as well. That matters.

The other thing is that I want to thank our colleague, the Honourable Judy Sgro, for her question, and my colleague Stella Ambler, who talked about—

[Translation]

**The Chair:** Ms. Bateman, if you want the witness to answer the question...

[English]

**Ms. Joyce Bateman:** —the filter of the male and female, because we are hearing more and more that males are also subjected to harassment.

[Translation]

**The Chair:** Ms. Bateman...

[English]

**Mme Joyce Bateman:** Thank you for giving us those *statistiques*.

**The Chair:** Please answer very quickly, because time has ended.

**Mr. David Langtry:** I will take up the offer to provide that when I send the rest of the information to answer that question.

[Translation]

**The Chair:** That is the end of our meeting.

Thank you to the witnesses for having come to meet with us today.

I simply want to remind the committee that we will not meet next Thursday. The next meeting will therefore be on Wednesday, October 23.

Have a great day.

The meeting is adjourned.

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