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Chair

Ms. Marie-Claude Morin

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•(1100)

[Translation]

The Chair (Ms. Marie-Claude Morin (Saint-Hyacinthe—Bagot, NDP)): If you don't mind, we will begin.

First of all, I would like to wish you all a happy new year.

We are continuing our study on sexual harassment in the federal workplace. This is the 55th meeting of the Standing Committee on the Status of Women.

We have a new member of Parliament on our committee. Joan Crockatt is replacing Mr. Aspin. Welcome to our committee.

Let us begin now. Joining us today are many people from the same group, the Public Service Alliance of Canada. We have Robyn Benson, Andrée Côté, Mary Chamberlain, Bob Kingston, Janet Hauck, Robin Kers, Anne-Marie Beauchemin and Francine Boudreau.

Welcome. Thank you very much for accepting our invitation. Your testimony will be very useful to us.

I apologize, but I have to correct the record. We have two witnesses, Ms. Beauchemin and Ms. Boudreau, who are from the Union of Canadian Correctional Officers. My mistake.

Without further ado, we will start.

Ms. Benson, you have 10 minutes.

[English]

Ms. Robyn Benson (National President, Public Service Alliance of Canada): Thank you.

Good morning, Madam Chair and committee members. I am proud to be here to represent the Public Service Alliance of Canada. I'm happy to appear with representatives of our components, which in our union have a key role in representing our members on the front lines in the workplace.

With me today, as you've introduced, are Mary Chamberlain, executive vice-president for the Union of National Defence Employees; Bob Kingston, president of the Agriculture Union; Jan Hauck, national vice-president for the Union of Solicitor General Employees, and Robin Kers, one of their national representatives; and of course, Andrée Côté, the women's program and human rights officer for the PSAC.

The PSAC is the largest federal public sector union, representing more than 180,000 workers from coast to coast to coast. The majority of the PSAC members work for the federal government and

its agencies, and almost two in three of our members who work in the federal public service are women.

The PSAC has a long-standing commitment to ensuring our members are free from sexual harassment. Our own constitution recognizes that every member of the PSAC is entitled to be free from harassment by another member, both within the union and in the workplace. Our first sexual harassment policy dates back to 1984. In 1986 we negotiated the first sexual harassment clause in a PSAC collective agreement.

It is fair to say that the PSAC leadership on sexual harassment was ignited by the efforts and courage of one of our members, Bonnie Robichaud. At times Bonnie pushed her union and her employer to go in the right direction, and we should all thank her for that.

A PSAC member who has been sexually harassed will usually seek support from her local union shop steward or another component representative.

I should note that while the overwhelming majority of cases of sexual harassment that come to our attention are brought forward by women, we acknowledge that men are also sometimes sexually harassed.

The PSAC will support a sexual harassment complainant through the various options that are available to our members: a complaint under the Treasury Board harassment policy; a grievance under the collective agreement; a complaint to the Canadian Human Rights Commission; and a health and safety investigation.

All of these mechanisms play different roles. Taken together, they are essential in ensuring that sexual harassment, indeed all forms of harassment, in the workplace are properly investigated, and that appropriate sanctions are imposed on the perpetrators. Hopefully they will be effective in creating a safe working environment.

Given the sensitive, often private, nature of the issues at play, the majority of harassment complaints and grievances are treated through mediation. Mediation offers a less adversarial and a confidential process wherein the parties are able to craft a mutually acceptable resolution.

While ideally the grievance process results in resolution in the workplace at the earliest level, the process can become lengthy and conflict-laden. It can result in additional stress and hardship for victims who are engaged in a protracted litigation. In our brief we have provided a few examples of these difficult cases. My colleagues can also provide examples.

Education and training are also key to changing workplace culture and preventing sexual harassment. For example, in the context of the joint learning program with Treasury Board that PSAC has negotiated, the anti-harassment course is the most popular. Over 800 workshops have been delivered across departments since 2007.

Despite all this, sexual harassment and other forms of harassment remain pervasive in the workplace. The public service employee survey indicates that almost one woman out of three reports that she has been harassed at some time in the workplace. That proportion increases dramatically for women of colour and women from the other equity groups.

• (1105)

Clearly, Treasury Board is not living up to the expected standards of providing a workplace free of harassment and discrimination. This is why the first recommendation in our brief is to require Treasury Board to review the process and the outcomes of all settlements, internal investigations, arbitrations, and human rights complaints involving sexual harassment and to report back to the standing committee within one year.

Canada has a commitment to promoting women's equality and eliminating discrimination and harassment under the Canadian Human Rights Act, the Canadian Charter of Rights and Freedoms, as well as under the Convention on the Elimination of All Forms of Discrimination against Women and the Beijing platform for action.

We call on Canada to reaffirm its commitment to eliminate sexual harassment and other forms of discrimination and violence against women. It can start by doing that at the upcoming session of the United Nations Commission on the Status of Women, which will begin on March 4.

We also ask that you recommend that the federal government respond to the call by national women's organizations and trade unions for a national action plan against violence against women. Finally, as you can see in our brief, we have other important recommendations, and we would be happy to discuss these further during the time allotted for questions.

I'll stop here, but of course, I invite you to raise questions with my colleagues, Mary Chamberlain, Jan Hauck, and Robin Kers. They deal with sexual harassment complaints in the RCMP and in the Department of National Defence, and I'm sure you will be interested in hearing from them. For his part, Bob Kingston is co-chair of the public service-wide policy committee on health and safety and he is an expert on the Canada Labour Code regulations on violence prevention in the workplace. We hope these regulations will be instrumental in preventing sexual harassment in our workplaces.

Thank you for your attention.

• (1110)

[*Translation*]

The Chair: Thank you, Ms. Benson.

We will now proceed to the question period.

I am sorry, I was about to forget the second presentation. I apologize.

I will now give the floor to Ms. Beauchemin. You have 10 minutes.

Ms. Anne-Marie Beauchemin (Correctional Officer, Union of Canadian Correctional Officers): Thank you, Madam Chair.

If you don't mind, we are going to split the time.

The Chair: No problem.

[*English*]

Ms. Anne-Marie Beauchemin: I am Anne-Marie Beauchemin, the Ontario Regional Status of Women representative for UCCO-SACC-CSN. I have been a correctional officer for 12 years and I currently work at Kingston Penitentiary, a maximum security institution for men.

I will be discussing CSC policy and legislation, both of which make the job of a female correctional officer more challenging than that of our male colleagues.

In May 2012, the Minister of Public Safety, Vic Toews, was made aware that federal inmates had access to pornography on television. He announced that he would be putting an end to this unacceptable practice. To date, this has not happened. The satellite and cable television to which inmates have access for only pennies a day still includes sexually explicit channels and movies.

Inmates are also still permitted to keep sexually suggestive and explicit magazines and personal photographs that continue to subject female officers to unwanted attention, unwelcome comments, and intentional displays of sexual gratification. How is it that inmates are not allowed to have material in their possession that has gang or alcohol-related logos because these are considered to be anti-social, but pornography is acceptable?

Female officers do report incidents of inmates deliberately masturbating and exposing themselves. In one of these cases, a female officer was conducting a routine hourly range walk on a midnight shift at a medium security institution. She observed an inmate masturbating in his cell. During each subsequent walk, the inmate appeared to position himself in such a way to make sure that she saw him masturbating. Later that night he handed her a note, offering to put on a show for her and asked her not to tell anyone. The next time she passed his cell, he asked her for an answer and whether or not this would get him in trouble.

The officer reported the incident to the correctional manager on duty, yet despite the situation she was not redeployed to another post. She submitted an observation report at the end of her shift but the incident was not reported to the incoming correctional manager on the day shift. When asked to have the inmate moved to segregation, management refused due to a lack of bed space in the unit. Eventually the inmate was relocated to segregation and institutionally charged by the officer. When the police were approached with a request to press outside charges on the inmate, they informed her that there really wasn't anything to charge him with.

Subsequently, the officer booked the next shift off and ultimately used up to 200 hours of sick leave. After a lengthy battle with senior management at regional headquarters, the inmate was transferred to Kingston Penitentiary where he was reassessed and found to be a sexual deviant.

The officer has since returned to work but has not yet returned to full duties as a result of this traumatic experience.

CSC policy states that inmates must be respectful to officers. The CCRA, the Corrections and Conditional Release Act, also addresses this matter. Unfortunately, intentionally masturbating in front of an officer is not clearly defined and this needs to change. Officers must be given a viable avenue in which corrective measures can be consistently applied.

Although officers have the ability to charge an inmate in these circumstances through the internal inmate discipline system, the officer must be able to prove that the act was committed by the inmate with intent to insult, offend, disrespect, and harass the officer. In our region, a review of charges filed in 2011 within a nine-month period demonstrated that nine charges were submitted for inmates masturbating in front of an officer. These charges were all classified as minor, and in one case, although the inmate did admit his guilt, there did not seem to be any final resolution.

Criminal charges could be an avenue for officers as well, but again, there remains the difficulty of proving guilt beyond a reasonable doubt, and further that the offence is punishable by summary conviction.

What is being permitted in our federal jails and its impact on female officers is contrary to CSC's own mission statement, which purports to rehabilitate offenders into law-abiding citizens. The ongoing exposure to pornography and to these kinds of inmate behaviour, which seem to be without any consequence, causes female correctional officers, sworn-in peace officers, risks to their emotional well-being and ultimately results in a loss of dignity.

Female correctional officers face different challenges than their male counterparts do. Many of these can be addressed by amending the Criminal Code, the CCRA, and other policies providing clear direction within the Correctional Service of Canada. We are not the problem.

Thank you for your interest in addressing this problem. Francine and I look forward to your questions.

•(1115)

[*Translation*]

Ms. Francine Boudreau (Correctional Officer, Union of Canadian Correctional Officers): Good morning.

First of all, I would like to thank you for giving me the opportunity to speak before you. My name is Francine Boudreau. I am currently working at the Cowansville federal penitentiary, which is a medium-security institution. I have been a correctional officer with the Correctional Service of Canada for 26 years. For all those years, I have had to work at five men's institutions with various security levels—maximum, medium and minimum security. I am also a coordinator for the status of women as part of the Province of Quebec delegation for the UCCO-SACC-CSN union.

The prison setting used to be exclusively for men. But, over the past few years, women have been able to take their places in prisons by filling various positions. It was not easy for the first women who were hired to take up the challenge of legitimizing the place of female officers in penitentiaries. It was not easy for them to move up

the ladder and to achieve employment equity and recognition for women's contribution to correctional settings. They were able to get people to recognize that the correctional setting was no longer a place where physical strength was the only consideration in hiring.

Although we commend all the steps taken by government authorities to achieve this significant representation of women as full members in the criminal justice system and although we are seeing a definite improvement in the status of women, a particular problem can still be observed. It is not very common—we may even say it is very rare—in other fields of work. I am talking about sexual harassment by clients, in this case by inmates.

Over the past decades, women had to demonstrate that they had the necessary physical and psychological abilities to work in this harsh environment, largely designed for men. By demonstrating that they had the skills, the capacity and the strength to deal with inmates, women were able to make a place for themselves in this environment.

But the fact remains that they may be subject to sexual harassment by the inmates, which male colleagues do not have to face. So it is wrong to assume that women are on an equal footing with their male colleagues in their careers. And that is precisely because they are women.

If a woman is a victim of sexual harassment by an inmate, she may experience various emotions. She may be very worried and stressed, particularly because she may feel that she has to justify herself and prove that she did not bring this about through her femininity. This reaction comes from the fact that the woman will probably have to live with value judgments, second-guessing her own actions and words, as well as lack of trust on the part of her work colleagues and superiors. So she may end up with a number of questions on her mind. How will her colleagues and superiors react? What did she do to bring this about?

If she isolates herself as a result of this type of harassment and the ensuing questions, her career may be undermined and she will be doubly penalized. All too often, women second-guess themselves and feel guilty, although they have no control over other people's reactions. Being a woman should not be a difficulty in itself. Yet others often blame them or question their actions. When women are hired, they must not be expected to become more masculine. Women have a right to advance in their jobs without inmates harassing them. They should never feel powerless in those types of situations.

The employer has zero tolerance for harassment when it happens between colleagues. However, when the inmates are responsible for sexual harassment, the resources are more limited. In fact, this type of situation is little known because the person going through it does not report it right away. For all the reasons I listed earlier, the victim will not easily confide in her work colleagues or superiors, which only complicates the problem and does not provide any solutions.

In addition, since these situations are not often known, it is more difficult to raise awareness in the workplace and, as a result, to demystify the issue. Moreover, from a disciplinary perspective, it is much easier to prove offences when offenders' language and behaviour are abusive. Sexual harassment is open to interpretation and the grey areas leave less room for recourse. Yet the situation is very real, and it is important for everyone to know that, in 2013, women who take their places in correctional settings still have to continue to fight on a number of fronts to achieve respect for their rights and to be respected as individuals in order to really have equal status with men.

● (1120)

The Chair: Your presentation was exactly 10 minutes. You timed it well.

Thank you very much. It was very interesting. I must admit that this is the first time I have heard correctional officers testify. Your testimony was very interesting.

We will now proceed to the question period. I will warn you when you have one minute left so that I don't have to stop you in the middle of the sentence. As long as you know that you have one minute left, you can still continue with your remarks.

We will start with a government member, Ms. Truppe.

You have seven minutes.

[English]

Mrs. Susan Truppe (London North Centre, CPC): Thank you, Madam Chair.

I would like to welcome our guests. I think this is the largest group we've had since we've been doing this study. Welcome and thank you for your testimony.

I have some questions for PSAC, so, Ms. Benson, they might be for you, or if you want to refer them to anyone else, feel free to.

I have a couple of questions in regard to your report. It states that most of the complaints are resolved informally and that confidential agreements are drafted between the parties. Can you give me some examples? I noticed that a lot in this report. It seems as though a lot of different things are being resolved informally. How would they resolve them informally? Can you give me a couple of examples of the consequences if they're resolved informally?

Mr. Robin Kers (National Representative, Union of Solicitor General Employees, Public Service Alliance of Canada): I can respond to that.

Informally is a bit of a misnomer, because it can be informal without the utilization of various redress mechanisms, or it can be informal at the end of a process of using redress mechanisms. For example, in one of the cases I was involved with, at the end of a protracted process of trying to resolve it, with grievances having been filed and with investigations and so on and so forth, a settlement offer was proposed and subsequently agreed to.

It's informal in the sense that normally some of the agreements are considered confidential, so they're not precedent setting, they're not publicized, and they provide no information to the larger body of

workers about a sexual harassment file having been dealt with in x way. In that sense it's informal.

Mrs. Susan Truppe: Would the results be monetary? Are they settling with money? It says, "54% of the respondents said they were satisfied with the way informal complaints were resolved." What about the other 46%? What happens to them? Fifty-four per cent are satisfied with what: with the recourse that was given to the harasser, or was there a financial settlement? What do the other 46% who aren't satisfied do? What would the next step be for them?

Ms. Robyn Benson: Certainly when you look at the actual brief, what we are quoting is that the public service employees survey indicates that 54% of the respondents said they were satisfied with the way informal complaints were resolved. That's the survey in and of itself.

We have a process, the alternative dispute resolution, as an example, and they'll go into a form of mediation. No grievances are filed. There may not be an actual complaint filed, but they've gone to the ADR officer. There's been a resolution in that manner.

When Mr. Kers speaks to some of the resolutions, there is some compensation with respect to monetary awards, but there is also some resolution with respect to individuals being moved to other workplaces. Certainly we haven't seen enough individuals being moved to other workplaces so that the employer can provide a safe environment for its employees.

● (1125)

Mrs. Susan Truppe: Thank you.

Case number one was about the habitual harasser. It seemed as though everybody knew this person was a harasser, so much so that nothing really ever got done. When new women were hired, they would fill them in on this harasser.

I'm just wondering, because I don't understand how it works. I have not been in that situation. I assume you represent both. I'm assuming in that case—it doesn't say that it's a boss—they are both on the same level, in which case the union would represent both, I think. In this case, the management did not fire the harasser, and the woman was forced to still be in the same area as the harasser, so new women who came on board had to be apprised of this before they got there.

Can anything be done? The union is obviously representing both, so that must be difficult. How do you do that? How do you represent both? You are representing this guy who is still harassing women, but you are also representing the women who are charging him with harassment. How does that work? It must be complicated.

Ms. Robyn Benson: PSAC will give information to the individual who is accused of harassment. We'll tell that individual what their rights are, but in the true sense of representation, we won't go into the investigative meetings with them. We will, however, go into meetings with the individual who has made the claim of being harassed.

At the end if the individual is found guilty of harassment, then we will certainly look at the discipline, if you will, in terms of its quantum and whether it is appropriate and whether the employer did a proper and thorough investigation. At that point there might be some representation. We will let the individual who is accused of harassment know what their rights are, but this is an employer investigation, so we just ensure that everyone is represented fairly. We will go in with the individual who has laid the charges.

I don't know if Mr. Kingston wishes to speak to case one, because it is from Agriculture, but maybe he could.

Mr. Bob Kingston (National President, Agriculture Union, Co-Chair, Public Service Wide Policy Committee on Health and Safety, Public Service Alliance of Canada): In addition to that, what we do now in a case like this is we go back and address it under the Canada Labour Code. There are no timeframes around that.

This happened within the time that the legal requirements to address it under health and safety were in place. As we find cases like this, we're going back and we're redoing them. So far, we are very successful. What that provides is a requirement on the employer to keep people safe—everybody. It's not complaint driven, it's awareness driven. As soon as the employer is aware of the situation, they must follow certain requirements. It's much more easy to enforce. They have to have preventative measure recommendations that can be implemented, and that health and safety committees can monitor for effectiveness, that provide ongoing prevention. They also get down to what's called root cause where you find out what was wrong at the management or supervisory level that allowed this situation to unfold and persist. As long as the situation still exists, which in this case it does, then it's open to be addressed. We will go after this.

Mrs. Susan Truppe: Okay, thank you.

[Translation]

The Chair: Thank you.

We will now go to a representative from the official opposition.

Ms. Ashton, you have seven minutes.

[English]

Ms. Niki Ashton (Churchill, NDP): Thank you very much to all of our guests today, and for your very important testimony for the study we are doing. Obviously, it's a very key issue for so many people working in the public service and the federal workplace.

I came across some shocking statistics in the brief that you provided. Thirty-one per cent of all women report having experienced harassment according to the 2011 public service employee survey. Fifty-four per cent were satisfied with the way informal complaints had been resolved. It's obviously an indication that a significant number weren't satisfied. Forty-four per cent of respondents felt that they could not initiate a formal recourse process without fear of reprisal. There are some pretty big numbers, which speak to the real challenges and the duty we have as a committee to come forward with some serious recommendations here.

My first question, Ms. Benson, is, having heard these statistics, could you tell us in your opinion why sexual harassment complaints

aren't filed more often? Do you believe this is a cultural or a systemic issue?

• (1130)

Ms. Robyn Benson: Ms. Chamberlain.

Ms. Mary Chamberlain (Executive Vice-President, Union of National Defence Employees, Public Service Alliance of Canada): Thank you for the question.

When you are identifying statistics out of the public service employee survey, you have to also take into consideration where the statistics came from in regard to the geography of the country.

Coming from a DND perspective, our numbers were considerably high in relation to the overall public service survey. But when we actually looked at the satisfaction levels—if you want to call it that—the satisfaction levels came from the NCR. Out in what I call the real world, out on our bases across the country, harassment and sexual harassment are not treated the same way as they are in Ottawa. The same level of satisfaction is not there.

Ms. Niki Ashton: Do you have some of those numbers on hand? Could you provide them to the committee?

Ms. Mary Chamberlain: I could give them to the committee following this meeting, yes.

Ms. Niki Ashton: Okay, thank you very much.

All of the public service has been subjected to some severe job cuts. In fact, in some departments they have been more severe than in others. Perhaps Ms. Benson or somebody else could answer these questions. During this period in which the public service is facing such job cuts, there is tension in the air, of course, but do you believe that might prevent an employee from coming forward with an allegation of experiencing sexual harassment?

Ms. Robyn Benson: I certainly do agree that is going to prevent them. It's difficult for our members in terms of filing complaints whichever avenue or redress mechanism they use with respect to sexual harassment, let alone in the climate they find themselves now. We have young women, our members, who are expecting their first child and because of the cuts are afraid to tell the employer, their immediate manager, that they are three months pregnant. They feel they would be cut because they're expendable. They are going to go on maternity leave, so when they do the retention process, they feel they wouldn't fare as well.

It's not just sexual harassment right now that makes it an unsure climate for our membership. It's every member ducking their head, thinking, “not me, not me”, because of the cuts that are taking place. They are all very much affected.

Ms. Niki Ashton: That's a very powerful example of the deterrents that are out there.

Mr. Kingston, as you know, the Treasury Board has come up with a new policy on sexual harassment. Given your involvement and in-depth knowledge of policy, would you say it's more effective? How would you change the Treasury Board policy on sexual harassment to make it more accountable?

Mr. Bob Kingston: First of all, I'd try to make it compliant with the law. The first thing is that the policy gives unilateral authority to a manager to determine how it will proceed, and the law doesn't. The law makes it absolutely clear. HRSDC has, in fact, issued directions to many employers when managers have taken that role upon themselves, but Treasury Board didn't have anybody at the table who understood the Canada Labour Code when they were drafting their policy. That's where that went off the rails.

In terms of following the procedures coming under the Canada Labour Code and the section on violence, the advantage would be that it's not complaint driven, so it's as soon as they're aware. That means even if the victim is too intimidated, somebody else can raise the issue and have it dealt with.

The investigation itself has required visible impartiality: the investigator is required to be seen as impartial by the parties.

As to the scope and depth of the investigation, they get to root cause. That's the only way you will ever get long-term prevention, by identifying what's going on in the system, what's going on at lower levels of management and supervision that allows these situations to evolve in the first place. Usually, if you just lop off the top where the problem is, it keeps happening. Anybody who has worked for a while in the public service can tell you about stories where managers two or three levels down, not necessarily through intent but just because of the managers' styles or the systems they have in place, allow these problems to flourish.

The investigation under the code gets to the cause of that, and is required to make recommendations about preventive measures. The investigations under other formats are not required to do that. They're required to make those preventive measure recommendations even when there's an informal resolution to the process.

Those are all positives. The other big difference is that when you go under policy, you have fences built around the investigation, not only in depth but in time. You're usually limited to a year back, and it's very difficult to build case history. Disciplinary letters disappear off a file after two years. One year is the cap that relates to the incidents you can investigate.

No such parameters exist under the Canada Labour Code. You go where the investigation takes you. In fact you're required to look at the history to figure out what's actually going on.

It's a whole new world, and I think there are all kinds of very positive possibilities. It has only been in place for a couple of years. There will be a learning curve, but the faster we get there, the better for all, I think.

• (1135)

Ms. Niki Ashton: Thank you.

[Translation]

The Chair: Thank you.

I will now give the floor to a government member.

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

[English]

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

Welcome to all our guests. It certainly is great to have you here.

We have been working diligently on our study, and we've spent many hours doing it. From all the presentations there is one thing we hear along the way, and that is seeing that workplaces strive for a place free of sexual harassment. We feel this is very important to all.

I'm wondering, are there specific changes you see that still need to be made to contribute to a harassment-free workplace for your members? Is there something missing that we need to have put in there so that we can always have this harassment-free workplace?

That question is for anybody.

Ms. Mary Chamberlain: I'll speak as a 35-year public service worker with DND.

We need our employer to respect legislation and the policies that they actually put in place. The harassment policy that we have in DND they call harassment prevention. They promote zero tolerance, but at the same time the policy, as brother Kingston spoke to earlier, gives the employer the latitude to determine whether or not an allegation of harassment meets the definition, and it's the definition in the eye of the receiver of the complaint, not in the eye of the person who filed it. Quite often complaints of harassment and sexual harassment are dismissed because the employer does not believe the complaints meet the definition of harassment or sexual harassment.

We're looking forward, actually, to the violence prevention policy coming forward.

Mrs. Tilly O'Neill Gordon: Okay.

Someone spoke about how quite often people fail to report it because they're afraid for their jobs. I wondered if you had any numbers, or any specific incidents, that would show us this pattern over time. Do you have any examples of people who are really worried about losing their jobs, and what would the numbers be over time?

Ms. Robyn Benson: Ms. Hauck.

Ms. Janet Hauck (National Vice-President, Union of Solicitor General Employees, Public Service Alliance of Canada): We don't have numbers because we would never really know who was not willing to come forward because obviously they haven't come forward, but my colleague and I can probably give you too many examples whereby, because of the fear of coming forward and reporting wrongdoing, they have reached out to the union because they feel somehow that we're neutral, that we're safe.

I had a case right here in the national capital region within the RCMP, a sergeant, a young woman, a young mom who was raped. She went to the Ottawa police. She couldn't go through with the allegations and the charges and ended up not reporting it, which is sad, extremely sad. She was fearful. She was 24 at the time and asked what she was going to do, who was going to believe her against the word of a police officer. No one. No, I don't have numbers for you, but we have examples.

Mr. Robin Kers: Yes, if I may.

We have some specific examples and numbers in terms of a specific scenario. For example, the case of Donald Ray, and just for your benefit, it's a matter of public record. The case has been much publicized. The disciplinary report was publicized on the Internet and by the media. In that case, the adjudication board or the code of conduct investigation of Donald Ray substantiated a whole series of allegations relating to his abuse of authority and sexual harassment of a number of public servants.

I could go into as graphic a detail as my colleague from UCCO-SACC, but it may be pointless. In our follow-up to this we determined that the RCMP focused on the code of conduct and dealing with the recalcitrant member, but it doesn't have a process to deal with the corollary, which is the sexual harassment and the suffering of those individuals. The union and our local would follow up by talking to these people to find out exactly what the employer had done for them on this matter because it was kept very secret. The majority of them are afraid to even speak to the union about their issues because they fear job loss, career damage, retaliation, a whole host of things. I'm talking about a group of seven individuals who are public servants who were affected in that particular case.

In case two, as I think it's referred to in our brief, which I represented in British Columbia, the individual also suffered retaliation in a variety of forms while pursuing her case.

The problem is that aside from what you hear in the media and what you read about, word gets around within organizations. People will talk to their close friends. It's relatively secret, but the message gets out when you try to complain about harassment, and particularly when you try to complain about sexual harassment, you're in extreme jeopardy because in the system, the old boys' network, not just in the RCMP and DND and other quasi-military organizations but even in other federal government departments, the network and the understanding of dealing with sexual harassment is not there, so women are fearful about complaining.

• (1140)

Mr. Bob Kingston: An added aggravation to this is the way the recent downsizing is having an effect. In theory departments were supposed to identify work to be cut, not individuals. What's happened instead in many of the headquarters is that they have started identifying people and they'll sort out what work they're going to get rid of afterwards. This has put a huge chill on our members. I know of many headquarters in this town where people have been afraid to come forward with cases like this because of that, because it is well-known at the headquarters level that it's not the work that's being cut, it's the people who are being cut. They are scared to death to come forward. If that had been handled better and if departments had been forced to identify work, as the WFA,

workforce adjustment, requirements indicate, instead of the individuals, it wouldn't have that chilling effect. It's very sad to see.

We're trying to figure out how to raise those issues on a more global and less personal level to try to protect some of these people. We have several complaints about the abuse of that process.

[*Translation*]

The Chair: Thank you, Mr. Kingston.

We will now go to Ms. Sgro. You have seven minutes.

[*English*]

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

Welcome back, everyone.

It's great to have all of these witnesses, but there's not enough time. I'm going to suggest, because I have a variety of questions for representatives of the Solicitor General's office, that we could have the Corrections Canada representatives come back at a subsequent meeting. I put that forward as a suggestion.

[*Translation*]

The Chair: Ms. Sgro, some committee members would like us to ask the witnesses to stay an extra 15 minutes since we are not expecting anyone else to appear afterwards.

So, if you all agree and are available—I see that the committee members welcome this suggestion unanimously—our witnesses can stay with us until 12:15 p.m. I think everyone agrees.

[*English*]

Hon. Judy Sgro: I still think that the Corrections Canada issues that have been raised deserve more time than we're going to be able to give them with the extra 15 minutes. I put that forward for the consideration of our subcommittee at a further discussion.

[*Translation*]

The Chair: We will continue for 15 minutes and perhaps continue this discussion under committee business.

Is that okay with you, Ms. Sgro?

[*English*]

Hon. Judy Sgro: Yes.

[*Translation*]

The Chair: You can continue.

[*English*]

Hon. Judy Sgro: Mr. Kers and Ms. Hauck, thank you very much for being here. As you know, we initially started the study in response to some of the issues being raised by a variety of RCMP officers. Certainly, the issue of Donald Ray is one of those that I have mentioned in the House and which many of us have talked about.

I'm going to echo my frustration as well. No matter what policies we bring in, there are people who are going to feel intimidated no matter how great our unions can be. There's a culture that has to change and a mindset that has to change.

In particular cases such as the Donald Ray one, where the punishment means being transferred to another division, department or area, and he can just continue on, what do we need to do? What kinds of policies do we need to have in place? Should it not be an automatic dismissal if the person has clearly been found in contravention of the kind of code of conduct that is expected? Why, in Mr. Ray's case, was it not just a dismissal?

I would appreciate your comments, to the degree that you can comment. It has all been very public, as you've said.

• (1145)

Mr. Robin Kers: A lot of problems have been identified in dealing with the issue of sexual harassment in the federal workplace. Part of the problem is a lack of accurate statistical information. In a PSAC brief, for example, a suggestion was made that when we do our next public service employee survey, we clearly delineate a question concerning sexual harassment.

When Ms. Truppe raised a question earlier about informal, I mentioned that one of the problems is that essentially, the so-called solutions to these issues are being kept hidden. Too often in government departments, whether it be the RCMP or whatever, the resolution is buried in legalese and the complainant is essentially obliged to agree to a confidentiality agreement in order to obtain some form of redress to address the complaint. The consequence of this, of course, is that there's no statistical information for government departments at the end of the year so that they can say that they've had x number of sexual harassment files. The other problem is that this methodology for dealing with cases doesn't provide any assurance to co-workers who may have similar problems with respect to how their department or their government handles sexual harassment in the workplace. There's no way, for example, to advertise successes in dealing with sexual harassment.

In Donald Ray's case, for example.... I sit on the RCMP working group that's going to deal with a response to the changes as a consequence of Bill C-42. I pointed out to the RCMP regular member chair of that committee the other day two particular areas I thought we needed to deal with. One was that not just at the RCMP but throughout the federal government recognition needs to be given to applying the reasonable woman standard of assessing evidence when dealing with sexual harassment in gender discrimination files, rather than always looking at it through the optics of a man's eyes.

The other point I raised, in particular with the RCMP, is that you can't always focus on how we're going to change the way we deal with regular members in the RCMP. You have to have a corollary process that addresses the victims and the victimization. They've taken cognizance of both things.

At the end of the day, people like Donald Ray should be fired. If they were to be fired, and if that was a clear message that was pronounced in the media and within the department, I think it would embolden and provide courage and support to females who are being harassed to come forward with these issues. Until such time as the government and its various arms are prepared to take that step and deal with this issue in a concrete fashion, change will be very, very slow.

Hon. Judy Sgro: Is Bill C-42 going to really do much in its current form?

Mr. Robin Kers: In my view, no.

Hon. Judy Sgro: Can you give the committee a list of some recommendations you think need to be done, over and above Bill C-42, that our committee can make specifically to the RCMP and the kind of people working in the Solicitor General's office and so on?

Mr. Robin Kers: You have the RCMP and then the other departments we serve. Let's look at Treasury Board policy, for example. Yes, there's a new harassment policy, but in my view, it's a dramatically weakened policy.

I'll give you a classic example. The old policy granted a complainant the right to review a final report before it became final and to provide additional witnesses, where necessary, documentation, and clarification. The new Treasury Board policy has eliminated that. While Treasury Board says to all the departments that they have a minimal policy and they're free to expand it, it's a crucial element which, in my view, should be obligatory for all departments when they deal with harassment cases, sexual or otherwise.

• (1150)

Hon. Judy Sgro: If you could supply the committee with some suggestions and ideas based on your role and your experience, we would very much appreciate that.

Mr. Robin Kers: I'd be pleased to do so.

Hon. Judy Sgro: Thank you.

I very much want to get over to our Corrections Canada witnesses and just say, wow. You're constantly breaking down barriers for others by working for Corrections Canada, the last place in the world I would ever want to work. I applaud you on behalf of many women by saying that we're equal and we can do the job every bit as well, no questions asked.

I hope we're able to bring you back so that we can hear more about the kinds of challenges you're facing such as in that one particular case, although I suspect there are many. I hope that we can get to some specific areas that are different from others when it comes to some recommendations that I hope will come out of this study. I hope we'll have an opportunity to have you back.

[Translation]

The Chair: Thank you, Ms. Sgro.

Ms. Ambler, you have five minutes.

[English]

Ms. Roxanne James (Scarborough Centre, CPC): It's okay—

[Translation]

The Chair: I am sorry. There was an error on our list.

Ms. James has the floor. You have five minutes.

[English]

Ms. Roxanne James: Thank you, Madam Chair.

Thank you to all of our guests for being here.

I'm going to direct my question to you, Ms. Chamberlain, because I believe you made some comments with regard to a question asked by my colleague, Ms. O'Neill Gordon. It had to do with the current policy in place and the zero tolerance the policy states.

I believe you said that the problem with the current policy is that it gives the employer the latitude to determine whether a case meets the definition of the current sexual harassment or harassment definition. I usually ask a question related to this, so I'm glad you brought that up, because my questioning in the past has been referred to as the million-dollar question.

Being a politician and having run in multiple elections, I'll say that you can imagine that many of us have suffered comments or harassment in getting here to Ottawa. The way I look at it is that, in some cases, what may offend one person may not necessarily offend another. From discussions we've had with other witnesses, the definition of harassment ties into the fact that the person who is the harasser should know, or ought to have known, that it may offend the other person.

I guess the million-dollar question is this: how would an employer know in that particular case that the harasser should have known or ought to have known, when each of us are individuals and certain things roll off my back and other things really piss me off? I guess that's the million-dollar question with the statement you made. How is the employer supposed to know? At the end of the day, there has to be a judgment call.

Ms. Mary Chamberlain: It's a good question.

I agree with you. I always say that harassment is in the eye of the person filing the complaint. What is offensive to me should be investigated. If it's determined at the end of the process that it's not harassment in the eyes of the law or the legislation, then provide the rationale for why it isn't.

I recently was involved in three situations at the very same work location under the very same employer. One was a complaint under the employer's policy. Two were grievances. All three were dismissed. In one case, there were 69 allegations against a co-worker, and these same employer representatives dismissed all three sets of allegations saying they did not meet the definition. When we addressed the concern up to the higher command, the response we got was that "you don't have to like the answer but at least you got one".

If DND is going to promote zero tolerance, then the persons filing the complaint have the right to be given due consideration. In one of the incidents that I identified, a third party actually recommended to the base commander that an impartial investigation be done. The base commander declined the opportunity to do an investigation although it was recommended.

Ms. Roxanne James: Okay, thank you.

You mentioned three particular examples. Did any of those examples go further? Did that person file a complaint with a human rights tribunal or any other tribunal? What happened to these particular cases? Did they go higher? Did they not go higher? I just wonder what the outcome was of those particular three examples you just stated.

•(1155)

Ms. Mary Chamberlain: Two of the three examples are now at the final level of the grievance process. Depending on the outcome at the final level, we'll make a determination as to whether they can go to the PSAC for adjudication. The third one I personally represented, and the member could have filed a discrimination with human rights. I'm still working with him and encouraging him to follow up on that.

Ms. Roxanne James: Okay. Thank you very much.

I don't know if I have an answer to my million-dollar question, because it is discretionary, I guess, at best, in human nature, and each person can think different things. As I said myself, certain things roll off my back. But I'll continue to ask that question to every witness who comes in.

The Chair: You have one minute.

Ms. Roxanne James: Thank you.

We've talked about statistics with respect to employees who have experienced harassment but may not have reported it because they've been afraid. I think someone mentioned that we actually have no statistics on that. Do we have percentages of the number of employees who might fall into that category? Do we have any estimates?

Ms. Andrée Côté (Women's and Human Rights Officer, National Programs Section, Public Service Alliance of Canada): The data that is available is data collected under the public service employee survey. Unfortunately, the question that is asked in the survey is just an overall question on harassment. It covers sexual harassment, but it can cover harassment on the basis of ethnic origin, religion, disability, and so on. We don't have any specific information. That's why we're recommending that the survey be—

Ms. Roxanne James: Do we know if the estimates or statistics just on sexual harassment, even though we might not have solid numbers, over time have increased, decreased, or stayed the same?

[Translation]

The Chair: I am sorry, Ms. James, but I have to interrupt you.

[English]

Ms. Andrée Côté: My understanding is there's been a slight increase since the last public service employee survey. We're now at 31% of women reporting harassment. If I remember correctly, it was 29% in the 2009 survey, so there is a slight increase. We are concerned that increase might be the effect of the cuts and the insecurity in the workplace. When women feel—

[Translation]

The Chair: I have to interrupt you, Ms. Côté, because Ms. James ran out of time. Thank you.

We will continue with Ms. Ashton. You have five minutes.

[English]

Ms. Niki Ashton: Thank you very much.

I definitely support Madam Sgro's proposal to have the corrections union come back to us, because we also feel there are a number of issues there that you raised that are a bit separate from what we're looking at more broadly today. I certainly hope that is looked into.

Turning to PSAC quickly, Mr. Kingston, were you or PSAC ever consulted to shape the new Treasury Board policy?

Ms. Robyn Benson: Do you mean the harassment policy?

Ms. Niki Ashton: Yes.

Ms. Robyn Benson: We had consultation, or what Treasury Board would deem to be consultation, not necessarily our interpretation of consultation. We have worked diligently to try to have some of our changes put within it. We were successful at actually keeping a harassment policy.

I think that's an important issue to raise in front of the committee. At one point in time, of course, they wanted to take the harassment policy and put it into the workforce policy. They have a policy suites review taking place right now, which is undermining a lot of the policies that are in place.

I don't know if Mr. Kingston would like to speak more to it.

Mr. Bob Kingston: When the bargaining agents who were in consultation with Treasury Board brought to Treasury Board's attention that the policy did need to be compliant with the new violence regulation, that's where it started to fall apart. The bargaining agents' sides informed Treasury Board that they could not formally agree to or buy into the new policy as long as it wasn't consistent or compliant with legislation.

That became a major problem. Treasury Board never put anybody at the table who understood that legislation, so it was a problem and still is.

Ms. Niki Ashton: I'm wondering, because the PSAC is bringing up a very key point around a policy that certainly has been presented as being the be-all and end-all to deal with harassment. If you could provide in writing to our committee the pieces, as well as some which you shared earlier, you feel are outstanding or ought to be improved upon, we'd certainly be keen to have those.

• (1200)

Mr. Bob Kingston: I'd like to make just one point now, because it's also in answer to the million-dollar question that was posed from across the table. The issue is that a person, like the perpetrator, should have known, and it's about trying to get inside their head. When it's dealt with as a health and safety issue, that problem, like many of the other problems, disappears. The health and safety legislation doesn't talk about how the perpetrator should have reasonably known; it just says that it can reasonably be expected to cause harm. It doesn't say that's assigned to any individual.

Ms. Niki Ashton: Well, personally, as a young woman in this work, there's a lot of sexual harassment in our universe, and I think the important point about the eye of the person living through it is the most essential point in dealing with sexual harassment.

Ms. Chamberlain, Mr. Kers, and Ms. Hauck, you brought up some very important cases, both in the RCMP and involving civilians working in Defence. I'm wondering if there are other cases that you have. Obviously, the ones you brought forward were shocking enough, but are there other cases that you feel are examples of both the harassment that exists and the lack of action that's been taken to provide redress?

Mr. Robin Kers: Speaking for USGE, as you know, all the components have a mandate to represent x departments. My focus and the bulk of my work happens to be with the RCMP, although I represent employees at a number of other departments.

In preparation for this appearance I focused on the very difficult issue of one individual trying to resolve her sexual harassment complaint. That's the case summary of Ms. R. I have copies of a more elaborate summary. If you wish I could leave it with you. And of course there's the case of Donald Ray.

From our perspective what would be important for this committee to take away from the RCMP situation is a crucial realization that all the publicity has been on the plight of female regular members of the RCMP. Because of the nature of the beast, the members that we represent and the fact that we operate under a different act than the RCMP does, our approach has not been public and cannot have been public. I would hazard a guess and say that on a pro rata basis there are probably as many sexual harassment concerns of public servants in the RCMP as there are among regular members of the RCMP.

[Translation]

The Chair: Mr. Kers, I have to interrupt you because your time is up.

The floor now goes to Ms. Ambler. You have five minutes.

[English]

Mrs. Stella Ambler (Mississauga South, CPC): Thank you, Madam Chair, and thank you to all witnesses for being here today. You've provided very interesting testimony, so thank you for that.

I'd like to address the example of the woman who was three months pregnant and worried about her job. Was that you who raised it, Ms. Benson? Sorry, I knew it was in this area. I believe it was as a result of Ms. Ashton's question about looming job cuts.

It probably struck me because like many of us in the room we've all been working and pregnant at the same time and worrying if our employer will look at us differently and consider us a bit more expendable because we're going to be taking maternity leave and maybe are not worthy of keeping on. I'm trying to better understand how that relates to sexual harassment in particular.

Do you consider sexual harassment that choice not to continue the employment of someone who is three months pregnant or do you believe that.... I'm trying to link how job cuts cause sexual harassment.

Ms. Robyn Benson: It is not that job cuts cause sexual harassment. The question was why don't people come forward about sexual harassment.

What I was trying to convey is that women are afraid to come forward and say they have been sexually harassed because of what's going on within their workplaces. Will they be believed it has taken place? Will the complaint perhaps impede their career? When we're talking about the job cuts and the real fear out there, I think it's probably quadrupled. If there was sexual harassment, women would not be coming forward. I said I was at a meeting and a young woman who was three months pregnant was saying she was afraid to say she was pregnant for fear of losing her job. The woman sitting beside her may be sexually harassed but she's not going to put up her hand and say she's being sexually harassed and could she still please have her job.

I think that you have to look at the climate within our workplaces right now, where the job cuts are taking place, where the process that's in place is very unfair, which I have spoken to Mr. Clement about. Because we don't have seniority within our workplaces, individuals are forced to compete against their colleagues. As Mr. Kingston said, it's not the work that's leaving, it's people who are leaving and the work is still there.

My reference was that in today's climate with all the looming job cuts, if there is—and there is—sexual harassment in the workplace, those women would not stand up and say so and file a complaint that they've been sexually harassed.

● (1205)

Mrs. Stella Ambler: Okay. That's certainly what we think in some cases might happen.

Other than never cutting jobs or firing anyone for any reason whatsoever, what is the solution to that problem? Other than complete job security, what's the solution to that?

Ms. Robyn Benson: The solution to sexual harassment in the workplace is that the employer has an obligation to have a safe working environment, and—

Mrs. Stella Ambler: No, no. What's the solution to the problem of people not wanting to report because they feel their job might be in jeopardy, other than giving people 100% complete security that they will never lose their job for any reason?

I guess maybe it's too much of a philosophical question.

Ms. Robyn Benson: No, no.

Go ahead, Bob.

Mr. Bob Kingston: Okay, it's the solution to that.

Mrs. Stella Ambler: Yes.

Mr. Bob Kingston: We all know there was a downsizing process. As I said, it was supposed to be based on work identified and the people then associated with that work. It didn't happen. They went in and just started targeting people and then sorting it out after. If you changed it to what it was supposed to be, that would be transparent.

As well, the website that would allow people to change was never managed, never set up properly. When we did that in the nineties, we actually did it physically. We managed the alternation process. It was a lot more transparent and it was much more well received. This spectre that you'd be picked on, you're in trouble....

Mrs. Stella Ambler: I'm glad you brought that up, because when you talked about jobs versus the work itself, I found myself—

[*Translation*]

The Chair: Ms. Ambler, I am sorry to interrupt you. Thank you.

We have enough time for one last round.

Ms. Ashton, you have five minutes.

[*English*]

Ms. Niki Ashton: Thank you very much.

I'd like to go back and make sure that Ms. Chamberlain and Ms. Hauck have an opportunity to share some cases or some of the trends they see in their work.

Ms. Mary Chamberlain: In preparation for coming here today, I actually canvassed my staff, because I'm not directly involved in the representation of the membership. Quite frankly, I have not personally witnessed or experienced sexual harassment. Even though DND may not be the greatest workplace, I enjoyed my work with DND.

I asked for examples and whether or not we have any ongoing cases. I was surprised to find out that we actually have four.

One was an actual allegation by a male member against a male member. I don't know what's going to happen with that one.

In another case brought to my attention, one of our female members filed a charge of sexual harassment in the workplace. She's in a non-traditional female job working with a group of males. The outcome of her grievance was that the complaint was not founded. She is now facing allegations of filing a frivolous charge and is under investigation herself.

In another case, the employer actually upheld a grievance of an allegation that a male co-worker exposed himself to another female member. The respondent received a five-day suspension. The reason the grievance is at the final level with us is that the complainant was not happy with the outcome of the five-day suspension. She felt the penalty should be more.

In the fourth example I was given, we actually have a person who has been accused of touching female co-workers. The employer is possibly looking at workforce adjusting this person and giving them a buyout to leave.

That's how DND addresses harassment in the workplace.

● (1210)

Ms. Janet Hauck: Quickly, because I know our time is short, I will speak on behalf of the membership within the RCMP.

Unlike Mary, I am on the ground. I have been with the RCMP for a considerable number of decades. As my colleague, brother Kers, very eloquently said, yes, it knows no bounds. Whether you're a regular member facing sexual harassment, a civilian member, or a public service employee—within the RCMP we have the three categories of employees—it knows no bounds.

I could give you example upon example, if we had the time, but I think the key in the RCMP is that the police officers are our protectors. They are our members in society whom we turn to each and every day and ask them to please keep us safe. The last thing we believe as an employee is that they will be the offender. That is the last thing we believe.

They are also in positions of authority. Those are our managers, for the most part, and they are the police officers. They are our police officers over here and our managers over here: we have power of authority, abuse of authority. We have the protectors of society: well, we'll just not worry about whether we have to live up to those expectations.

They as the RCMP should have a very high tolerance for differences. It doesn't matter if it's a difference in your sexual beliefs or your ethnic background, they should have a high tolerance. They don't appear to have that.

For me, as a worker within that workplace representing employees and members of the PSAC, it becomes very difficult, because they police themselves in these situations.

Ms. Niki Ashton: Thank you very much for that.

Going back to Bill C-42, what consultation took place with your colleagues? What sense do civilians working on the ground have that Bill C-42 will make any difference?

Mr. Robin Kers: As an offshoot of a normal labour management consultation process, USGE was offered the opportunity to take part in a variety of working groups to assess or deal with different elements of Bill C-42. As I mentioned earlier, in my case, I sit on the working group that is dealing with the issue of harassment. Quite frankly, from the assessment of the membership I have contact with—I represent the RCMP in western and northern Canada, while my colleague does Ontario east—I think it's safe to say that the assessment of the public servants is that changes to Bill C-42 won't make a hill of beans of difference in the handling of harassment, sexual harassment, or many other issues at the RCMP.

[*Translation*]

The Chair: I am going to have to stop you there. Since we do not have enough time for another round, we are going to end this meeting.

Thank you very much to our witnesses for coming to meet with us. It was very interesting.

We will now continue the meeting in camera to discuss committee business. So I will suspend the meeting for a few moments.

Thank you.

[*Proceedings continue in camera*]

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