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Chair

Mr. Kevin Sorenson

Standing Committee on Public Safety and National Security

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•(1530)

[English]

The Chair (Mr. Kevin Sorenson (Crowfoot, CPC)): Good afternoon, everyone.

This is meeting number 51 of the Standing Committee on Public Safety and National Security on Monday, October 15, 2012. Today we are going to continue our consideration of Bill C-42, An Act to amend the Royal Canadian Mounted Police Act.

On our first panel of witnesses we have, from the Department of Public Safety and Emergency Preparedness, Mark Potter, director general for the policing policy directorate, law enforcement and policing branch, and Anita Dagenais, senior director of the RCMP policy division, law enforcement and policing branch.

Welcome.

Also, from the Royal Canadian Mounted Police, we have Chief Superintendent Craig MacMillan, director general, adjudicative services, and Superintendent Michael O'Rielly, director of the legislative reform initiative.

From the Treasury Board Secretariat, we have Carl Trotter, executive director of strategic compensation management, compensation and labour relations sector.

We're looking forward to your comments.

We'll extend the time for our first panel to ensure that our witnesses and members have ample opportunity for questions and answers. We are going to go beyond 4:30, if that would be all right. We have three different groups here.

Also, I see Mr. Potter here. I recall that the last time Mr. Potter was here in the spring we started three-quarters of an hour late, I think, and we had votes and we went back and forth. His day was cut short then, so we certainly don't want to do that again today.

We welcome you.

Mr. Potter, perhaps we will begin with you.

Mr. Mark Potter (Director General, Policing Policy Directorate, Law Enforcement and Policing Branch, Department of Public Safety and Emergency Preparedness): Thank you very much, Mr. Chair. It's a pleasure to be here again.

You've already introduced the five of us at the table. I'd just like to say that we and others have been heavily involved in developing this legislation, and we very much appreciate the opportunity to meet before this committee and to discuss Bill C-42 with all of you today.

As you heard from the minister on October 3, this bill has three main components. I will provide an overview of the first two, namely, the strengthened RCMP public complaints regime and the establishment of a statutory framework for handling criminal investigations of serious incidents involving RCMP members.

My RCMP colleague, Chief Superintendent Craig MacMillan, will speak to the RCMP's modernized discipline, grievance, and human resource management framework.

Before going into the substance of the bill, I think it would be helpful to provide some context around oversight of RCMP conduct. When an incident or event occurs that puts into question the appropriateness of an RCMP member's conduct, up to three distinct processes can be triggered. Although each process is distinct, sometimes all three are engaged. Permit me to quickly outline each of these three processes.

The first is a public complaint, which is usually investigated in the first instance by the RCMP. If the complainant is not satisfied with the RCMP's handling of the complaint, which only happens with about 15% of all complaints, he or she can seek further review by the current Commission for Public Complaints Against the RCMP, or CPC.

The second is internal RCMP conduct or discipline investigations. Similar to that of all other police services in Canada, the internal discipline regime within the RCMP is based on its code of conduct. If an officer conducts himself in such a way that may be contrary to the RCMP's code of conduct, for example, by behaving in a manner that is disgraceful or disorderly or that could bring discredit on the force, an internal review process is undertaken.

If the officer is not satisfied with that outcome, the RCMP external review committee, an independent review agency similar to the CPC, will review the case and make recommendations to the RCMP commissioner, who renders the final decision. Judicial review is available should the officer wish to appeal further.

The third element of oversight is the investigation of police conduct that could lead to criminal charges against an RCMP officer. It's important to note that a criminal investigation will take precedence over the other two processes, which may be placed on hold until the conclusion of the criminal case.

To recap, you could have a single incident that gives rise to one, two, or all three processes, namely: public complaint, internal discipline, and criminal investigation.

Bill C-42 enhances and streamlines each of these three processes, and in so doing contributes to improved oversight, accountability, and, ultimately, public confidence in the RCMP.

In terms of the public complaints regime, this bill modernizes it in several important ways. First, it creates a new independent complaints commission—the civilian review and complaints commission for the RCMP, or the CRCC—in order to strengthen and bring the RCMP's complaints regime in line with other modern provincial, federal, and international review bodies. The chairperson of the new commission, acting independently within the framework of the CRCC's legal mandate, reports to Parliament through the Minister of Public Safety. The minister is required to table the commission's annual report in each House of Parliament within the first 15 sitting days after receiving the report. This is a long-standing statutory obligation that would be continued under Bill C-42.

I would note that this reporting structure is common among review bodies and respects the RCMP accountability structure, where the commissioner is responsible for the control and management of the RCMP under the direction of the minister.

The CRCC will have strengthened investigative powers similar to that of a superior court of record whenever it undertakes a complaint investigation or a public hearing of a complaint. The CRCC will be able to summon and enforce the attendance of witnesses, compel witnesses to give oral or written evidence under oath, and compel the production of any documents or material considered relevant and necessary for the investigation.

Bill C-42 provides the CRCC with access to all RCMP information that it deems relevant to the performance of its duties and functions, including national security information as well as privileged information, with two important qualifications.

- (1535)

In terms of privileged information, which is sensitive and requires a higher standard of protection, the commission will now have access to such information if it is both relevant and necessary to the work of the commission. To my knowledge, no other police review body has access to privileged information by statute.

This regime sets a new standard in this regard. The commission will not have access to cabinet confidences. This is consistent with other federal and provincial review bodies.

Currently the CPC's work is centred on complaints. It does not have the legislative authority to conduct reviews of RCMP policies and procedures without a complaint first being lodged. Under Bill C-42 the CRCC will have the ability to review RCMP activities to assess whether these were carried out in accordance with legislation, regulations, and policies.

Such reviews will serve as an early warning signal, identifying issues or trends before they become the subject of a complaint or delving into matters for which there is often limited direct interaction with the public, for example, national security activities. These CRCC reviews will examine the RCMP's compliance with legislation and policies and make recommendations to the RCMP commissioner and the Public Safety minister through public reports.

Further, the bill addresses provincial and territorial calls for enhanced RCMP accountability to contract jurisdictions. As you would have heard from the Minister of Public Safety, the proposed changes to the RCMP Act are designed to enhance the accountability of the RCMP and to support the implementation of the new 20-year contract agreements entered into with the provinces and territories this year, which include enhanced governance and engagement.

Provinces and territories that contract RCMP police services have told us that they want to be kept apprised of police complaints in their jurisdictions. Accordingly, provincial police complaints bodies, which exist in all provinces, will be notified whenever a complaint against the RCMP is filed in contract jurisdictions.

In addition, contract jurisdictions will receive the CRCC's reports on relevant individual complaints in their respective jurisdictions, tailored annual reports, and reports on relevant policy reviews.

Separate from the complaints process, Bill C-42 will increase the transparency and accountability of criminal investigations into serious incidents involving RCMP members, essentially addressing long-standing concerns regarding the RCMP investigating its own members.

A serious incident is any incident in which the actions of an RCMP member may have resulted in death or serious injury or is of significant public interest that it merits an independent criminal investigation. In these latter cases, the Commissioner of the RCMP, the Minister of Public Safety, or the appropriate provincial or territorial minister will determine if the public interest is such that an external investigation is required.

There will be a clear, legally mandated three-step hierarchy for handling criminal investigations involving RCMP members. First, investigations into these incidents will be referred, subject to the province's approval, to an independent provincial civilian investigative body that has as its mandate to undertake criminal investigations of incidents involving police officers. Civilian investigative bodies currently exist in B.C., Alberta, and Nova Scotia. Manitoba has also passed legislation to allow for such a body.

Second, if these provincial bodies are unable to take on the investigation, or in those provinces where they do not exist, the RCMP will be required to refer the investigation to another separate police service where feasible. For example, for a serious incident involving an RCMP member in Moose Jaw, Saskatchewan, the case would be referred to another police service, such as the Regina Police Service.

Finally, as a last resort, when neither of these options apply, the RCMP would undertake the investigation itself and would be required to take special measures to ensure the investigation is unbiased and impartial. It is important to note that when these criminal investigations are undertaken by the RCMP or another separate police service, an independent observer could be appointed from the province or the new commission to ensure the impartiality of the investigation.

That concludes my overview of the proposed strengthened RCMP public complaints regime and the new statutory requirements placed on the RCMP regarding serious incident investigations involving RCMP officers.

Let me now turn to my RCMP colleague, who will outline the provisions for the new RCMP HR management framework.

Thank you very much.

• (1540)

The Chair: Thank you, Mr. Potter.

Mr. MacMillan.

Chief Superintendent Craig MacMillan (Director General, Adjudicative Services, Royal Canadian Mounted Police): Good afternoon, Mr. Chair and members of the committee. Thank you for providing us the opportunity to appear before you.

I will briefly highlight how Bill C-42 will contribute to enhancing accountability and responsibility within the RCMP through the reform of certain key human resource management processes.

One of the primary concerns regarding the existing RCMP Act is that it limits the ability of a manager or supervisor to deal with incidents of misconduct. If an incident is considered to require more than a reprimand or forfeiture of one day's leave, responsibility for the case is taken out of the hands of the immediate manager, as it must be forwarded to an adjudication board for a formal hearing. There, before a board composed of three officers, an adversarial and time-consuming process of formally presenting evidence in a court-like setting occurs. Bill C-42 provides a framework that permits and empowers managers closest to the action, so to speak, to identify and respond more promptly and more effectively to the vast majority of incidents of misconduct.

Particularly important to all stakeholders and to the public is that the bill expressly articulates the purposes of the conduct regime, including a code of conduct that emphasizes the importance of maintaining the public trust and the high standard of conduct expected of members, establishing a process for dealing with contraventions in a fair and consistent manner at the most appropriate level and for the imposition of measures that are proportionate to the nature and circumstances of the contravention and, where appropriate, are educative and remedial rather than punitive.

Managers will be provided with the ability to ensure that relevant information is gathered to determine if a member has contravened the code of conduct, and, once a member has had the opportunity to provide a response to the allegations, to determine the most appropriate response.

This approach is not only consistent with how issues of misconduct are generally dealt with in the public service, it also accords with a trend in police reform in other Commonwealth jurisdictions to handle incidents of misconduct through less formalistic mechanisms.

Cases in which a member may face dismissal will be referred to conduct boards that have greater latitude to manage hearings as informally and expeditiously as the circumstances and considera-

tions of fairness permit. During conduct proceedings, members will have access to representation from either a staff relations representative or legal counsel. Decisions on measures may be appealed to the commissioner.

When a manager has imposed a measure that includes a penalty of more than one day of pay or demotion, the member will be able to seek a review through an independent third party, the external review committee. The committee will provide a report containing findings and recommendations for the commissioner, who then makes the final decision on appeal, subject to judicial review. Timelines will be established to ensure the process is conducted in a timely fashion, including the establishment of service standards for the external review committee.

The bill also provides the commissioner with the authority to establish procedures for the investigation and resolution of harassment complaints, including sexual harassment, when the respondent is a member. This authority is necessary for the commissioner to deal with concerns that have been raised in respect of harassment in the RCMP workplace. Presently, the RCMP is required to consider complaints of harassing behaviour through two processes, one defined by the Treasury Board harassment policy and the second through the legislative provisions of the RCMP Act.

The Treasury Board harassment policy focuses on preventing and stopping harassing behaviour through early intervention in order to return the workplace to a respectful and professional state. The current RCMP Act discipline system is designed to determine if a contravention of the code of conduct has occurred, and, if so, to impose a consequence on the offending member.

The issue of relationship repair or complainant participation during investigation or hearing does not really form part of the discipline process at present. This dichotomy has resulted in an inordinate amount of time being spent trying to comply with conflicting processes in place of addressing and resolving the matter of harassment.

In addition, the RCMP is actively pursuing the establishment of a comprehensive respectful workplace program that focuses on the prevention and early resolution of harassing behaviours, which will also be bolstered by the new investigation and conflict resolution processes in Bill C-42.

During the October 3 meeting of this committee, the minister and commissioner described how the bill will provide new authorities for the commissioner to, among other things, discharge and demote members on non-disciplinary administrative grounds. A question that has been raised in relation to these authorities is whether members will be adequately protected.

First, it is important to note that these proposed authorities essentially mirror those provided to deputy heads under the Financial Administration Act and to other Canadian police executives. The authorities are remarkable in the RCMP context only in that they were not previously available to the commissioner in the proposed form. Second, it is important to note that Bill C-42 requires that these authorities be based on cause.

Finally, as with cases of misconduct, members will have access to representation and advice and will have the right to grieve these decisions, which will be subject to independent examination by the external review committee and to judicial review if necessary.

I'd also like to briefly address how the bill will support cultural change in the RCMP.

Legislation alone cannot bring about a cultural change, nor can it ultimately prevent any or all bad behaviour. However, what the bill can do is to serve as a catalyst for change.

• (1545)

First and foremost, the bill provides a statutory framework to ensure that members are responsible and accountable for the promotion and maintenance of good conduct in the force.

Further, it will permit and require managers to manage. Where members have not behaved consistent with expectations, managers at the most appropriate level will have both the responsibility and authority to deal with most incidents of misconduct in a timely, fair, and proportionate manner. The requirement to create and apply a professionalized, informal conflict management system will also provide members, their representatives, supervisors, and managers the ability to identify and resolve workplace issues as they arise and not let them fester. All of these factors are important to sustaining a culture of accountability and responsibility in support of a respectful workplace.

Finally, unlike the strictures of the current act, an important feature of Bill C-42 is that it provides an overall framework that enables ongoing reform and modernization of RCMP human resource processes. The ongoing ability to develop and adapt such processes based on experience and practice is a central component to enhancing accountability and assuring the continuing transformation of the RCMP.

It will be our pleasure to provide further information and response to any question the committee may have.

Thank you.

The Chair: Thank you to both presenters.

I think those are the only presentations that are going to be given at this time, so we'll move into our first round of questioning.

We'll go to Ms. Bergen, please, for seven minutes.

Ms. Candice Bergen (Portage—Lisgar, CPC): Thank you very much, Mr. Chair.

Thank you to all the witnesses for being here. We really appreciate your expertise and the information you will be providing.

I want to address my question to Mr. Potter specifically, and I want to talk about when serious incidents happen with the RCMP.

To provide a little bit of context, at our last meeting, Mr. Scarpaleggia said that the Minister of Public Safety and our government have changed our views on civilian oversight bodies. I had a chance to review the blues from the minister's appearance on March 18, 2010, at this committee. When the minister was asked if he agreed with the concept that police should not investigate police

when it comes to allegations of police misconduct, the minister replied:

No, I don't agree. Police should investigate police because sometimes they're the ones with the expertise to investigate. You don't want somebody who has no experience or no ability to investigate the police.

That was what Minister Toews said at the time, which I think provides context.

What I would like you to do, Mr. Potter, is explain again the three options that are available in the priority that you gave, where, first of all, there would possibly be a civilian investigative body that would provide the investigation for a matter of serious incident; the second option being, if one of those is not available, another investigative body within that province or jurisdiction; and then the third one, which I think is where everyone wants assurance that if that third option is taken there would be checks and balances and measures so that it would be unbiased and impartial.

• (1550)

Mr. Mark Potter: Thank you very much.

As you rightly note, there is an important consideration here of ensuring that you have a high-quality, credible investigation of the police. That requires a certain level of skill and experience by the individuals conducting that investigation. You want to balance that, on the other hand, by ensuring that public confidence is strengthened in knowing that it's not necessarily the police investigating the police when at all possible. This scheme tries to find the right balance, one that recognizes the important principles at play and some of the operational realities.

The three-step hierarchy is very much intended to do that. It's not that you pick one of the three; you start with the first option, and if that doesn't work—and only if that doesn't work—you go to the second. The first option in B.C., Alberta, and Nova Scotia is that the province would refer that matter for investigation to the existing civilian police investigation body. It would be unusual if there was some reason they couldn't do that. That would be the process you would use. You ensure public confidence in the process by knowing there's an entirely separate civilian investigative body with the right skills and experience to fully conduct that investigation.

If you are in Saskatchewan or another contract jurisdiction and you don't have one of these civilian investigative bodies available to you, you would go to the next-best option, which is to have a completely separate police service conduct the review. That ensures there's impartiality, that there is no possibility that members of the same police service who know each other—perhaps socially—would be investigating one another. You rule out any partiality.

If that is not possible, for whatever reason—and it's usually operational, such as in the far north or somewhere where you can't get a police service there quickly enough—you would have the RCMP conduct the investigation. In that case, there would be an obligation on the RCMP to demonstrate that they have gone through that three-step process and they haven't been able to refer to a civilian body or have another police service do it. Moreover, they would have to explain what measures they are taking to ensure the impartiality of the investigation they are conducting on themselves. For example, there would have to be information provided on the nature of the RCMP investigators. Do they have any connections whatsoever to the individuals being investigated?

The CPC did an important report about two years ago that reviewed RCMP investigations and looked at this question of impartiality. They established a number of benchmarks to look at in terms of ensuring the impartiality of the investigation. That provides a useful framework to help the RCMP and all police services to ensure that in the approach they take when they are placed in a situation of having to investigate themselves, they take as many steps as possible to ensure impartiality and a lack of bias.

On top of all that, for those last two options of another police service or the RCMP being involved, an observer can be appointed. This is an independent observer appointed by, for example, the province or territory, who would have the necessary skill set to understand how investigations are undertaken and who would be able to provide an impartial assessment of the quality, credibility, and impartiality of that investigation. That provides an important tool to make adjustments, if needed, during the course of the investigation. Let's say the Regina Police Service is conducting the investigation of an RCMP member; the observer would have the capacity to contact the chief of police in Regina and say, "This is what I have observed. I have problems with this. It needs to be fixed."

If, for whatever reason, it's not fixed, the report at the end of the process goes to the provincial attorney general. That is taken into account in going forward with this matter, so there are a number of steps taken to buttress the process of police investigating police.

The Chair: You have one minute.

Ms. Candice Bergen: I have a very quick follow-up. It appears there has been consultation with provinces and provincial jurisdictions in setting up this process. Overall, would you say the provinces and other jurisdictions are supportive? Are they satisfied that they will be able to have input, and that these decisions will be made and these investigations carried out in an impartial manner?

•(1555)

Mr. Mark Potter: I have been working on this file for five years. We have gone to extraordinary lengths to consult with the provinces and territories, given the nature of that contract relationship through which, in effect, the RCMP is acting as the provincial police service in many jurisdictions. It's their police service. It's extremely important to them that this regime meet their needs. We have gone to a number of meetings with them where we have discussed in great detail all aspects of this bill that are relevant to them. We have a high level of support. Perhaps you will have an opportunity to hear from them more directly if they are able to appear before this committee.

The Chair: Thank you very much. Thank you, Ms. Bergen.

We'll now move to Mr. Garrison, please, for seven minutes.

Mr. Randall Garrison (Esquimalt—Juan de Fuca, NDP): Thank you, Mr. Chair, and thank you to all of you for appearing here today.

I unfortunately had to be in my riding, so I wasn't here for the minister's presentation, but I had a chance to review the blues.

I still have some concerns I'd like to raise in the areas of independence of the new commission and the investigations and access to information.

Let me start by talking about some restrictions, which seem quite significant, on the ability of the new commission to undertake studies.

You said that one of the positive things is that it can do more proactive studies without waiting for complaints. Yet there seem to be three big restrictions in the law. First, it has to have the resources available, implying that the old work of reviewing individual complaints takes precedence over the new power. Second, the new commission cannot undertake any investigation if there's already an investigation under way by any other government entity. And third is that the new commission would be required to suspend any investigation at the request of the commissioner. The word used in the section is "shall" suspend rather than "may" suspend.

To me, these seem like some very severe restrictions on the independence of the new commission. I wonder if you have any comments in those areas.

Mr. Mark Potter: That's an important question, because this is a new element, and it responds to a number of key recommendations, including from Justice O'Connor in his report a few years ago. It takes the level of review of the RCMP to a whole new level.

Essentially what it does is give pretty broad discretion, recognizing the first two points you mentioned that limit that to some degree. But I would argue that the scope and the range of activities they can look at are as broad as everything the RCMP does with respect to their mandate under the RCMP Act, the Witness Protection Program Act, and so on.

Let me speak specifically to the first two points you raised. First, conducting this review will not unduly diminish their ability to review and process public complaints. What that is basically saying is that your core business is public complaints. You need to keep processing those public complaints.

The policy reviews are something you will need to do in the context of your budget. However, what the government has done, in this case, is increase the budget of the agency. You had a base budget in the last several years of \$5.4 million annually. It has been increased by \$5 million to \$10.4 million annually. Now, I should caveat that by saying that they got an increase from Treasury Board over the last few years of about \$3 million. Really it's about \$2 million more a year, and a big reason for that additional \$2 million per year is to conduct these policy reviews. There will be resources available for the policy reviews right from the beginning to allow the agency to do that.

In terms of other review bodies looking at it, it's just a question of efficiency. If you already have another body looking at a matter, you probably don't want someone duplicating that process. That's not to say that the other review body might complete its process and there might still be outstanding questions or other matters this body may feel it appropriate to look at. They may choose to do that at that time.

These are constraints only in the sense that the chair of this new body has to inform the minister. It's not the case that the minister is going to say, "No, I don't want you to do that." This is an independent body, and the chair will conduct those policy reviews. There is no capability for the minister to say, "I do not want you to conduct review X." The body will conduct the review.

Mr. Randall Garrison: The RCMP commissioner can do that.

Mr. Mark Potter: Yes, the commission, the chair, and the new commission have the legal mandate to proceed completely independently in these matters.

Mr. Randall Garrison: But the RCMP commissioner, and I'll have to search my section, has the right to request the suspension of any investigation.

• (1600)

Mr. Mark Potter: That's only under rare circumstances, where the review gets into some kind of a criminal investigation and impinges upon, let's say, either an ongoing or a potential criminal investigation and could hinder that criminal investigation. As mentioned in my opening remarks, criminal investigations take precedence over all other processes and need to be completed first, before any of these other processes can start.

Mr. Randall Garrison: Is that restriction on criminal investigations actually written in that section of the bill? I don't remember that it is.

On the question of who is going to do these investigations so that we have civilian confidence that the police force is not investigating itself, I find one curious submission. That's the question of federal policing. Who investigates in the area of federal policing? You focused on the contract policing. There are responsibilities of the RCMP, which are strictly federal policing. Is there any change proposed in this bill for the investigation if it involves federal policing?

Mr. Mark Potter: The three-step hierarchy refers to all RCMP conduct, whether it's under the federal policing mandate or provincial contract responsibilities.

Mr. Randall Garrison: You are proposing that, say, the British Columbia unit could investigate the RCMP's handling of national security matters?

Mr. Mark Potter: If a criminal incident was alleged related to the conduct of an RCMP member, and given the constitutional responsibility of the provinces to administer justice, yes, the provincial body would investigate the criminal matter.

Mr. Randall Garrison: That's a matter of concern on this side of the table. The RCMP has some national responsibilities. Having provincial bodies investigating in those areas might create a patchwork of decisions in different provinces about how things are being handled, which are essentially federal matters.

If I have time, I want to ask one last question, and that's on access to information. It says that for privileged information there would be some restrictions. In the Arar inquiry, Justice O'Connor was very clear in saying that he thought the civilian complaints commission should have the same kind of access to information as CRCC does—in other words, very few restrictions, only cabinet confidence and solicitor-client privilege, with an obligation to check on the release of information before sensitive information would be released. Why is that model not being used in this case?

The Chair: Answer very quickly, please.

Mr. Mark Potter: The short answer is we have an extraordinarily robust regime in this legislation for access to privileged information that balances the sensitivity of that information and the need to protect that information to the greatest extent possible. It recognizes that when it is relevant and necessary for the consideration of a certain matter, it can be accessed under fairly constrained conditions. This is unique in Canada, and it is an innovation to have such a system in law. It goes well beyond by expressly laying out the nature of the system and the checks and balances of what exists in terms of CSIS and CRCC.

The Chair: Thank you very much, Mr. Potter.

We will now move back to Mr. Leef for seven minutes, please.

Mr. Ryan Leef (Yukon, CPC): Thank you, Mr. Chair. Thank you to all our witnesses today.

On the modernization aspect of the bill, I was going to ask a question about one of the recommendations that came from the RCMP's Reform Implementation Council's fourth report. That report highlighted a program, the RCMP reserve program, which uses retired officers to provide backfill capacity and mentor younger members. From my experience in the RCMP, the mentorship program was invaluable. I certainly see that representing the Yukon, where they use a reserve program a fair bit for longer stretches of time to provide necessary relief to a lot of our remote communities.

My understanding right now is that reservists who are hired on short-term contracts have frequent downtime mixed up in that to conform with pension rules. It prohibits the longer-term or progressive use of that reservist program. It seems to me that might be a little cumbersome, having a member on for six months, then giving them some time off, and then getting them back on for another six months. It creates some challenges, particularly in rural and remote Canada, where we are using them for relief, or where you want to continue or extend a mentorship program, and you want to maintain that continuity without a break. Am I reading this right? Is that how that works? Is how that system works a cumbersome obligation for the RCMP right now?

C/Supt Craig MacMillan: That is. I will let Superintendent O'Reilly address that. He has a little more detail on it.

Superintendent Michael O'Reilly (Director, Legislative Reform Initiative, Royal Canadian Mounted Police): Thank you, Mr. Chair.

The RCMP reserve program itself has been in operation since approximately 2004, and it's been run on a pilot basis for the last few years. It is an incredibly useful tool in terms of backfilling vacancies and being able to provide the seniority that sometimes can be lacking, especially in some of our smaller or more remote areas.

The challenge you speak of, the way the program is administered, has to do with a lack of clarity, if you will, between the way the reservists are appointed and a particular statement under the RCMP Superannuation Act. Reservists are right now hired for a period of three years. However, that three years is broken up into periods of six months less a day, and at the end of six months less a day, a reservist is required to take a two-week cessation period.

The idea of that is to ensure there is no mix-up between being appointed under the RCMP Act and then the RCMP Superannuation Act. The RCMP Superannuation Act says that if a person is appointed under the RCMP Act but is not appointed as a member—and this is an incredibly important point, because reservists aren't appointed as members, they're appointed as reservists—they are appointed as an employee in the public service. It becomes confusing in terms of trying to administer the program. If we have someone who has worked for six months plus one day, does that mean they're no longer a reservist but instead they are now a public service employee?

This lack of clarity has caused issues in terms of the administration of the program. It does impact our ability to deploy for greater than six months. There is also the question, if someone were to work for six months plus a day, of whether that would have an impact on their benefits, for example, pension allotments or entitlements.

There is some clarity required around that particular question.

•(1605)

Mr. Ryan Leef: Okay.

Everybody here at the table has worked heavily with this piece of legislation. Obviously, from your indication, you'd probably be amiable to us considering some form of amendment to clear that up.

Has anybody on your side worked on any sort of amendment, or do you have any ideas on how we can sharpen that up a little for your benefit?

Supt Michael O'Reilly: The opportunity would be to ensure that notwithstanding that particular subsection of the RCMP Superannuation Act, which is subsection 3(3), a person who is appointed as a reservist is not to be considered a public service employee.

Mr. Ryan Leef: Okay. Thank you.

The Chair: Two minutes.

Mr. Ryan Leef: There's a bit of discussion around the impartiality and lack of bias that's important with the changes in the act. We're talking, generally speaking, about community and the public's perception of the investigations. It would be just as important that members of the RCMP feel there's impartiality and lack of bias in the process if they're subject to an investigation.

I'm speaking from a rural region of Canada, where sometimes rumours can turn into fact really quickly and they supercede any kind of investigative work that is going on. It doesn't matter what the outcome of the RCMP's investigation is; the public don't necessarily believe that. I think some front-line members might be concerned that because of that public input and pressure they may not be subject to an impartial investigation.

What kinds of things are in the act to ensure—I guess with the independent body, this might answer the question itself—that an independent review might allow for both public confidence and front-line member confidence in the investigative process, which sometimes can have its own wings in the small regions of our country?

Any comments on that?

The Chair: Thank you, Mr. Leef.

Mr. Mark Potter: Thank you, Mr. Chair.

I think the member's question gets at some of the fundamental principles that underlie this legislation. Arguably, one of the most important and fundamental roles of government is to provide public safety, and in that context having a policing service that enjoys the confidence of the people is absolutely essential. Measures such as this get at an issue where....

Particularly in some other countries, police investigating police has been considered to be done inappropriately and has led to loss of confidence in the police service. That can have a very negative effect on the officers themselves, which is exactly what you're saying. The members themselves are often the strongest advocates for wanting to ensure there is a completely unbiased process. Even though they feel in many respects that they do these investigations in an impartial way, they know that public perception is very important, so addressing that perception is important for them to be able to retain the confidence of the people they serve.

•(1610)

The Chair: Thank you, Mr. Potter.

We'll welcome Madame St-Denis here today. Welcome to the committee. She's a new member, filling in for Mr. Scarpaleggia.

You have seven minutes.

[Translation]

Ms. Lise St-Denis (Saint-Maurice—Champlain, Lib.): Thank you.

I will ask a couple of questions that may already have been answered, since I am only here temporarily. I have three brief questions.

On page 8, it says that the new commission will have strengthened investigative powers similar to that of a superior court of record. Who will sit on this commission?

We have seen this in the employment insurance bill. Judicial power was simply transferred to a committee or a commission. So who will sit on this commission? Is it a matter of transferring judicial power?

Mr. Mark Potter: Thank you very much.

[English]

In terms of the composition of the commission itself, Bill C-42 allows for the appointment of a chairperson, as well as up to four additional members of the commission. These are Governor in Council appointments by the government, and these are the individuals who will lead that organization and have certain powers within the context of the act.

To support these individuals there is a public agency that is made up of some 40 to 50 individuals. I believe you'll be hearing this week from Mr. McPhail, who's the current interim chair of the commission, and he can give you more details. It's a fairly robust body that exists to provide the support to conduct the investigations and to compile the information on complaints. That's the office in Ottawa.

In Surrey, B.C., they have an intake office that works with complainants to process the complaints and ensures that particularly those individuals who may not understand the process very well or need support can be assisted in preparing their written complaints so they can be submitted and reviewed by this agency.

These public servants form the bulk of the agency, conduct the investigations, and develop the reports, but ultimately, it is the chair, appointed by the government and acting independently within its legal mandate, that approves those reports and submits them.

[Translation]

Ms. Lise St-Denis: When I read what is on page 4, I was very surprised to learn that during the first stage of the public complaints process, as few as 15% of complaints were resolved.

The new bill—

[English]

The Chair: Madame St-Denis, we're having a problem with our translation. Nothing's coming through here.

[Translation]

Ms. Lise St-Denis: I apologize.

[English]

The Chair: That sounds better. All right, please continue. Sorry for the interruption.

[Translation]

Ms. Lise St-Denis: I was surprised to learn that only 15% of complaints were resolved. Do you think that the new bill or the new structure will improve the situation? Fifteen per cent is not very high, given that this is a basic process.

Mr. Mark Potter: Thank you very much.

[English]

You will have a great opportunity when you hear from the commission itself, the current CPC, I believe later this week or soon, about some of their statistics on complaints.

This regime builds on the existing regime, and under both regimes, in the first instance, when an incident happens and a member of the public wishes to make a complaint, they can go through three doors: they can complain directly to the RCMP; they can complain to the Commission for Public Complaints; or they can complain to the provincial complaint body. In doing that, although there are three means by which the complaint is submitted, normally in the first instance the RCMP itself would investigate that complaint. There may be exceptions to that depending on the nature of the incident, but in the vast majority of cases the RCMP would conduct the investigation.

The rationale behind that is that many of these complaints are fairly minor. I guess that would be one way to describe them. There might be concerns about the attitude of the officer involved, or there might have been a misunderstanding regarding the number of investigative resources that would be applied to the case. Often through a discussion directly with the RCMP and the RCMP member involved, the matter can be resolved informally and both parties can walk away quite satisfied that they understand what happened and they're comfortable with the outcome.

The first instance is to have the RCMP investigate the matter. What happens in that figure you were referring to is that in 85% of all those instances where the RCMP reviews the matter, the individuals involved are satisfied with the outcome and there is no role for a further review by the independent complaints investigation body.

In the 15% left over, the complainant is told that if he's not happy with how this matter was handled, he has the option of having this matter investigated by the independent complaints review body, and they will conduct that investigation. They can do the investigation directly. They can ask the RCMP to do further investigation around it, or they could do both. The goal is to get all the information relative to the matter, and if they, in conducting their own independent investigation, reach a different conclusion from the one the RCMP reached, they will convey that to the RCMP and say here's the interim report on this matter—here's what they found; here's what they recommend. The Commissioner of the RCMP will have an opportunity to consider that interim report.

In the vast majority of cases, the commissioner will accept the independent findings and recommendations of the independent body and will proceed on that basis, which often involves some kind of corrective action, for example, training of an RCMP member, reminding him or her of certain policies and procedures to follow in certain instances. The RCMP will typically be in concurrence with the findings and recommendations.

If, in those rare instances, the commissioner feels on some basis that he does not agree with those independent findings and recommendations, he has the opportunity to provide his views in writing back to the independent review body prior to its finalizing the report. The independent review body will take those comments and input from the commissioner into account and may find that adds some useful information for the investigation, or it may find that it doesn't add useful information and it may continue to believe that the matter needs to be handled in a certain way; it will convey that through its findings and recommendations, and that final report will go to the commissioner, to the minister, to the RCMP member directly involved, and to the complainant directly involved.

By going to the minister there is the opportunity to make the minister aware, given that he is accountable for the force and can direct the force on any issues that in the minister's view are cause for concern. It is a check and a balance on the powers and authorities of the commissioner, aided by independent findings and recommendations from the review body.

• (1615)

The Chair: Thank you very much.

We'll move back to the opposition, and we'll go to Madame Doré Lefebvre.

[Translation]

You have five minutes.

Ms. Rosane Doré Lefebvre (Alfred-Pellan, NDP): Thank you very much, Mr. Chairman.

Ladies and gentlemen, I would like to thank you for being here to answer our questions. We have several of them, because this is a large bill. I am very pleased to see you here, and to hear your answers to our questions.

I tried to go through the Royal Canadian Mounted Police Act over the last few days. There is a lot in there.

Bill C-42 contains many amendments to the act. If you could shed some light on a few issues for me, that would be greatly appreciated.

Under the current legislation, the commissioner has the power to hire and fire members. Under Bill C-42, the commissioner would have more power to fire or to sanction a member of the RCMP. I would like to know why this is necessary, since the commissioner already has this kind of power.

[English]

C/Supt Craig MacMillan: In terms of a dismissal as a result of discipline, the commissioner doesn't do that directly, in the first instance. The adjudication board would have to make a determination that there had to be a dismissal. If the member appealed that decision, it would only be at that point that it would go to the

external review committee. They would then make findings and recommendations, and it would come to the commissioner.

In those instances when the adjudication board didn't dismiss the member, there is no right of appeal for the manager. That's where the case stops. In that instance, the commissioner would not have the authority to effectively make the final determination on whether that employee should be dismissed, because there is no appeal authority there.

• (1620)

[Translation]

Ms. Rosane Doré Lefebvre: Therefore, without a recommendation to the commissioner, the commissioner will not have the power to dismiss that person. A recommendation must absolutely be made. Is that correct?

[English]

C/Supt Craig MacMillan: No.

I'll keep my answer in the discipline realm.

If you have an allegation of misconduct against a member presently, and the appropriate officer, which is the commanding officer of the division, is seeking dismissal—they think that's the correct sanction that ought to be imposed—it's a requirement, under the current act, that there be an adjudication board held. There are three officers. They will hear the evidence. If they find that the misconduct is established, they will then turn to what sanction they would impose.

In the instance where the board says they are not going to fire the member, the manager doesn't have an ability to appeal, and it is effectively terminated there.

If the board does dismiss, and the member appeals, it goes to the ERC. Then it would go to the commissioner, who would have the opportunity to make a decision on whether he or she agreed with the board. Or maybe if the ERC said they thought termination was too harsh, the commissioner ultimately would then have the ability to make the decision.

That's in the area of dismissal.

If you're talking about performance-related matters, there is a legislative process under the RCMP Act. Again, there is a board involved and a decision is made.

The commissioner is not directly making these decisions. These decisions are coming to him, through the final instance, to make a decision, but it really depends on which process you're in.

I wouldn't view it as a situation where the commissioner is actively going out and saying that he or she is hiring someone and then has the ability to necessarily, in all instances, terminate somebody's employment.

[Translation]

Ms. Rosane Doré Lefebvre: I have read the provisions contained in Bill C-42 which would add new ones to the act. I was struck by proposed subsection 4(1), which is on page 16. I will read it out loud, since some of you might not have it on hand:

(4.1) A member is not entitled to have access to a standardized test used by the force, or to information concerning such a test, if in the opinion of the commissioner, its disclosure would affect its validity or continued use or would affect the results of such a test by giving an unfair advantage to any person.

I don't quite understand this subclause as worded in the bill. What is its purpose? What is it going to change or bring about within the RCMP?

[English]

C/Supt Craig MacMillan: Presently, under the RCMP Act, when a grievance is filed in relation to a promotion matter, there is a requirement under the act that information that is relevant and necessary to establish the grievance or deal with the grievance is to be disclosed to the member.

There are some limitations, such as national security and other things. It's very expensive to develop testing instruments for promotional processes. What this is designed to say is that you would get access to other relevant information, but the test itself, where the criteria met are established, would not be disclosed. My understanding is that this exists in the public service regime as well.

The Chair: Thank you very much.

We'll now move back to the government side and Mr. Norlock, please, for five minutes.

Mr. Rick Norlock (Northumberland—Quinte West, CPC): Thank you, Mr. Chair, and through you to the witnesses, thank you for attending.

My questions will be directed primarily towards Chief MacMillan. On page 3, you indicate that:

Bill C-42 provides a framework that permits and empowers managers closest to the incident to identify and respond more promptly and more effectively to the vast majority of incidents....

First, are you able to speak to the difference in the time to investigate offences or breaches of conduct, etc., under the old system as compared to the new system proposed under Bill C-42? Could you walk us through why you are saying it is going to be much faster?

• (1625)

C/Supt Craig MacMillan: Presently, if you were talking about anything that's formal—we're talking about formal discipline and you're asking for more than a reprimand or a one-day forfeiture of leave—it's required to go to a board. For informal and formal discipline, depending on the nature of the case, it would probably average about one year to do the investigation. Bill C-42 will address that. The commissioner will have the ability to make rules around timelines and other matters relating to investigations.

Moving into the next step, which is the formal adjudication board, the data shows we're averaging between 12 and 16 months. The members said, "We think you did something bad. Here's your notice. We're taking it to a hearing." It's about 12 months before that matter is actually going to get to a hearing, so you're already up to about 24 months in total.

If the discipline that's imposed upon the member in the formal process is appealed to the commissioner, it would go to the external review committee. At present, it's two years for the external review committee to review a matter. It then goes to the commissioner, and

there's been anywhere from six months to a year to do that process. Since Commissioner Paulson has come in, we've managed, through his dedicated attention to these matters, to get the timeline for formal discipline appeals down.

Under Bill C-42, the vast majority of these matters, which are below dismissal, are not going to require a formal adjudicative process.

Recurring in any reports that we've had is that it's too legalistic, too formalistic, and it's seen purely through a lens of a legal process. Rather than trying to deal with the performance and conduct that's at issue at the local level—they're going to have to have checks and balances involved in that process—the idea is that we should be talking about a matter of days or weeks, not months and years.

I'd say that roughly 98% of our discipline should be dealt with through the more informal process that will be proposed under Bill C-42. It creates the framework around which, through rules, regulations, and policies, you can create a process that can adapt to the changes.

It relates to what Mr. Potter was talking about when you're trying to resolve public complaints. There is an ability to marry these things together. We'll be required to inform public complainants about what discipline is going to be imposed.

I can see managers having the confidence now because they know that on the one hand they have the ability to resolve public complaints; on the other hand, if there's performance or conduct that's at issue, they can resolve that as well. It's not leaving their hands and going into a formal process where they have no control, and really it's not dealing with the conduct at the level that it should be.

Mr. Rick Norlock: Thank you.

I have a follow-up question to do with the code of conduct. Bill C-42 addresses a code of conduct. Are you able to speak to what this will be? It's nice to say "code of conduct", but without being too specific, and yet giving an overview to Canadians who will be looking at this, what would be some of the conduct that would be required? What would be in that code?

C/Supt Craig MacMillan: What's proposed under Bill C-42 is that there will be a regulation that can create the code of conduct. Our current code of conduct is very formal. It is written in legal language and there are a lot of sections. The proposal is that through consultations with the stakeholders, employees, external partners, and others, we'll come up with a conduct code that I can envision being a page and a half. It will be stated more as positive ethical principles and obligations on responsibilities and performance.

Britain has some experience with that. We've looked at what they've done, and they've come up with a positive statement that members "will" instead of members "shall not", and then getting into a series of specifics. It's more in keeping with reforms that are happening generally.

Am I correct that the code is regulation, or is it CSO?

Supt Michael O'Rielly: It is a regulation.

The Chair: Thank you very much.

Thank you, Mr. Norlock.

We'll move back to Mr. Rousseau. You have five minutes, please.

[Translation]

Mr. Jean Rousseau (Compton—Stanstead, NDP): Thank you very much, Mr. Chairman.

I have many questions about the disciplinary measures. In one sentence, which jumped out at me, it says that the new act will force managers to manage. I thought there already was an ethics code. However, under the new bill, it is as if this code had never been applied, and did not allow managers to manage.

In particular, my questions are about disciplinary measures and the ranking of sanctions. How will the appeal process work? How will the valid reasons that may trigger disciplinary measures be defined?

• (1630)

[English]

C/Supt Craig MacMillan: If I've understood, there would be three parts to your question in terms of a code of conduct.

Mr. Jean Rousseau: Yes, sorry about that.

C/Supt Craig MacMillan: That's okay.

There currently is a code of conduct, you're correct. We intend to modernize and upgrade what we have as a code of conduct, so it's more relevant to how human resource processes have progressed.

In terms of managers being able to manage, as I've explained, the difficulty is that if you're looking for more than a reprimand, essentially you don't have an ability to deal with that. It's off into a formal process that's going to be occurring outside of your immediate area. So the notion that you're managing it...yes, we have managers who are managing, but the problem is once it gets to a certain level, it's out of their hands. If we bring it down to the most appropriate level, that allows them to effectively deal with it. If there are performance issues, if there are wellness issues and other things, it's really keeping it where it ought to be, and not pulling a piece of it away and they're caught in this timeline where it could take months or years for a matter to be resolved. Again, if it's not a dismissal matter, I think most people would accept that it's more appropriate that it be dealt with at the lowest and most appropriate level in the organization, which is your direct manager.

In terms of appeals, an appeal process will be created. One of the things we're anticipating is that any decision to impose measures will be subject to an appeal. Right now we do have certain disciplinary actions that are not subject to grievance or appeal, such as counselling or recommendation for transfer, but we're proposing that all those things be subject to appeal and it will be one level. But if you're going to be getting a financial penalty of more than one day because of the importance of having externality and independence, it will go to the external review committee and they can have a look at that.

In terms of cause, we've now moved out of the dismissal context. We're into other administrative processes for discharges. Processes will be created, which this legislation would enable us to do. An example of a cause would be if you're an employee or a member and you lose your security clearance. There's a reason you lost your

security clearance. That would provide cause. But we currently don't have the authority to dismiss an employee because they don't have a security clearance. That's an example of where we'd modernize a process to recognize that it's not just for any reason; there's a specific reason that has to be established why they don't have a security clearance. That's a requirement for employment, and that would be a grounds for cause.

Mr. Jean Rousseau: Thank you very much.

[Translation]

You also refer to a change in culture within the RCMP police force. The leaders of the organization will need strong will to provoke a change in culture, a change in conduct and, mostly, a change among individual members. How will you apply that out in the field? Are RCMP officers and workers on the ground calling for this change? Or rather, is it due to public pressure that you are considering this change?

[English]

C/Supt Craig MacMillan: I think it's an ongoing process. There have been a series of reports and examinations covering a wide swath of activity by the RCMP, from operations to human resource practices. Certainly civil actions have been started. We've had grievance processes and we've had complaints. I would say to you, yes, we do have employees who are saying we need to have processes that are more effective and more timely. And part of that process is getting them to have trust in the processes we have and that the organization is being effective.

If it's taken five years to dismiss an employee who clearly ought to be dismissed, that's not going to instill a lot of trust and confidence.

Mr. Jean Rousseau: It's not very effective.

C/Supt Craig MacMillan: And our surveys show us that. The employees say they're untimely and they're not doing that. We are responding to our own internal surveys and other examinations that have demonstrated that trust and confidence are things we need to work on. I think an element that most would agree on is that if it's timely, it will proceed more quickly, and that will instill a change in culture because people will believe that things will be acted upon.

The Chair: Thank you very much. That was a good question, Mr. Rousseau.

Let's move to Mr. Hawn, please, for five minutes.

Hon. Laurie Hawn (Edmonton Centre, CPC): Thank you, Chair, and thank you to all the witnesses for being here.

I want to clarify something, just to be 100% sure it gets reflected correctly, Mr. Potter. It reflects back to a question from Madame St-Denis. Just confirm that 85% of complaints are satisfied at the first level and only 15% have to move on to further action. Is that correct?

Mr. Mark Potter: That's correct.

Hon. Laurie Hawn: Okay, thank you.

How have these changes been received by members in the field, Chief Superintendent MacMillan or Superintendent O'Rielly?

• (1635)

C/Supt Craig MacMillan: You'll be hearing from our staff relations representatives.

I think there's some anxiety because there's change and we're in a bit of a catch-22. We need the framework, which is what we want, which provides adaptability and the ability to change, but at the same time we can't nail down the details. We have to consult. This is going to be a consultative process; we'll be involving our representatives and our employees. We don't want to come out with the widget built, because then you're accused of not consulting. So it's a catch-22.

My general sense is that there is positive support for the changes when you talk to employees and they understand that the most appropriate level in their organization will have more authority to deal with that, but we need caution. You've got to have checks and balances on that process.

Hon. Laurie Hawn: I guess my next question follows along with that.

Will that consultation then work its way back to this committee for amendments?

C/Supt Craig MacMillan: No, I'm sorry.

Hon. Laurie Hawn: It is going to follow on....

C/Supt Craig MacMillan: That would be post-enactment.

Hon. Laurie Hawn: It's the evolution of the process down the road.

C/Supt Craig MacMillan: Yes. The bill provides the framework, and then we consult and create.

Hon. Laurie Hawn: Mr. Potter, I think this one would be to you. You talked about when there is no investigative body in a province. For instance, Regina would investigate something in Moose Jaw. Maybe that's a bad example, but it seems to me that's pretty close. They are pretty close; they are side by side.

Is there an ability, where there's not an investigative body in a province, to use an investigative body from another province?

Mr. Mark Potter: Yes, there is. For example, in the Yukon right now, if there is a serious incident, there is an arrangement—it's still evolving, but it actually is in operation—whereby ASIRT, the Alberta Serious Incident Response Team, which is a civilian criminal investigative review body in the province of Alberta, will conduct investigations in the Yukon. If there's an incident involving an RCMP member in Whitehorse and you want an independent criminal investigation of it, you can call on the Alberta body to do that.

There are arrangements like this across the country. For example, if there's an incident in Nunavut, there's an arrangement between the Ottawa Police Service and the Government of Nunavut that the Ottawa Police Service will fly up to Nunavut and conduct the investigation.

Hon. Laurie Hawn: Those are two cases where they are territories, which obviously have very small populations and police forces. What about the case of something happening in Saskatchewan? Is it possible for Alberta, Ontario, or somebody else that has an investigative body to do that investigation in Saskatchewan?

Mr. Mark Potter: It depends. I would have to look specifically into it. This is an evolving area. For example, the one in B.C. just became operational last month.

There are processes in place to build these bodies where it makes sense. For example, in Nova Scotia, I know there have been discussions with New Brunswick, P.E.I., and Newfoundland to use the existing and new Nova Scotia body, primarily for reasons of cost-effectiveness. You have the body. It's a civilian-led body. It can conduct these investigations, rather than, say, New Brunswick. Instead of recreating that, given the size of their jurisdiction and the small number of these incidents, why not use the Nova Scotia body?

Those arrangements are evolving and are at different stages, depending on the jurisdiction.

In the case of Saskatchewan, yes, it's entirely possible that the Government of Saskatchewan—it's their call—could ask the Alberta body, the B.C. body, or the one that's emerging in Manitoba to conduct those investigations.

Hon. Laurie Hawn: We talked about investigations, priorities, and so on. Chief Superintendent MacMillan, would the commissioner have to justify to someone when ceasing an investigation due to a higher-priority criminal aspect, or would it simply be obvious?

Madam Dagenais.

Ms. Anita Dagenais (Senior Director, RCMP Policy Division, Law Enforcement and Policing Branch, Department of Public Safety and Emergency Preparedness): Perhaps I can answer that. It goes back to the earlier question. The duty to suspend is under subsections 45.74(1) and 45.74(2). There is a provision there that if the chair of the Public Complaints Commission finds that their review of a complaint could seriously hinder a criminal investigation, then under that provision the chair has a duty to suspend the complaint investigation until that criminal investigation is done.

The next provision gives that discretion to the commissioner. If the commissioner feels that it is interfering and prejudicing the criminal investigation, he or she can, in writing, ask the chair to cease. It's a stay, really, just to put it on hold. The commissioner has to explain the reasons for that request.

The Chair: Thank you.

Mr. Garrison, please.

● (1640)

Mr. Randall Garrison: I'm going to try to guess what Mr. Hawn was going to ask.

Ms. Dagenais, you've clarified for me that both sections have a restriction with respect to criminal. We get into a situation where it says, "investigation or proceedings". Of course, in Canada, we don't have a statute of limitations. That could mean a criminal investigation could remain open. Therefore, the commissioner could request the permanent suspension of an investigation. Is that the way you would read it?

Ms. Anita Dagenais: You would have to show how that complaint investigation is interfering with the criminal investigation.

Mr. Randall Garrison: Who would the commissioner show that to?

Ms. Anita Dagenais: The commissioner has to explain that to the chair.

Mr. Randall Garrison: The chair has no ability to overrule that.

Ms. Anita Dagenais: There is a duty to suspend if it's going to actively interfere with a criminal investigation.

Mr. Randall Garrison: So again, it's back to the commissioner. The commissioner could then permanently suspend any investigation if the criminal matter were still open. The commissioner would have to explain it but would still have the power to do that.

Mr. Mark Potter: I think that's a theoretical possibility. The criminal investigation could, for some reason, be suspended. The commissioner might seek to continue to have the complaint investigation suspended, but for that to happen we'd need—

Mr. Randall Garrison: With respect, we've had things like the Air India inquiry, which dragged on for 25 years. We've had things that have dragged on for a very long time.

Mr. Mark Potter: Yes. I think there'd be a positive obligation on the part of the commissioner to demonstrate very clearly how the complaint investigation would interfere with the criminal investigation. And if the chair of the commission didn't agree with that, I presume they could continue with their complaint investigation, and this would be subject to judicial review.

Mr. Randall Garrison: Okay. That was my question.

The first section establishes this duty for the chair of the complaints commission. It could proceed if he or she believes it's not interfering with that investigation.

Mr. Mark Potter: Yes.

If the RCMP commissioner felt very strongly that the complaint investigation should not proceed, and the chair of the commission felt equally strongly that it should proceed, because the investigation had been going on for 25 years, then the chair would proceed with the complaint investigation. If the commissioner continued to feel strongly, he could seek a judicial action to stop that complaint investigation.

I think there would be absolutely extraordinary circumstances for that to occur.

Ms. Anita Dagenais: I might add that in our discussions with the CPC, the current commission, they were open to maybe scoping out the complaint and putting part of it in abeyance, on hold, and continuing to pursue this element of the complaint.

Mr. Randall Garrison: You're reassuring me that they have the ability to proceed with the parts they believe do not interfere. That was my original question. If they do have that ability, I am reassured in that area.

I just want to ask a question about the informal complaints. In the statistics, we see that most of those things are resolved at the informal level. It would seem to me that the bill makes some improvements here. Correct me if I'm wrong.

It now requires the RCMP to produce written reports, which would be lodged with the commission, on all informal complaints. I don't believe that's the case now, is it?

Mr. Mark Potter: That's not the case now.

What is happening is that we're attempting to build a more robust base of information on what exactly is happening to these complaints.

Mr. Randall Garrison: I didn't believe they had that obligation now.

It also says that the Governor in Council may make regulations prescribing categories of complaints not to be resolved informally.

Would that mean that the chair of the review commission could make recommendations to the minister on things that should be added to that list? Would that be the way they would have to proceed?

Ms. Anita Dagenais: Yes. We'll be moving with regulations that will prescribe those kinds of complaints that couldn't be resolved informally.

Mr. Randall Garrison: They would be complaints such as sexual harassment.

Ms. Anita Dagenais: Exactly.

As we do those regulations, we'll be consulting, and there will be the ability to comment, etc.

Mr. Randall Garrison: I think those are some important improvements in the bill with regard to the informal complaints.

The Chair: Thank you very much, Mr. Garrison.

We'll go to Mr. Payne, please, for five minutes.

Mr. LaVar Payne (Medicine Hat, CPC): Thank you, Chair. Thanks to the witnesses for attending today.

I have some questions about the membership of these independent bodies.

I know there have been some ongoing discussions with the various provinces. I'm wondering if you could tell us what you've done in terms of a review of those independent bodies. Do we know what kind of membership they have and the types of individuals who might be on those bodies? Are they former RCMP? Are they police officers? What kind of membership do they have?

•(1645)

Mr. Mark Potter: Thank you very much.

I think you're referring to the criminal civilian investigative bodies, such as the ones in B.C., Alberta, and Nova Scotia.

Mr. LaVar Payne: Yes.

Mr. Mark Potter: It would be very useful for this committee to hear directly from them.

I can speak a little bit about, for example, the one in B.C., which was just started a month ago. They went through a public process of soliciting individuals who could head that organization. They found someone. He's an individual who has a lot of experience in that field. He has worked in Denver and some other places in the United States in a very similar role. He is a civilian with a legal background.

In staffing that organization, clearly they want individuals who can conduct competent investigations. Often, in the current environment, that means you're looking at former police officers. However, I know that in B.C., through the justice training they're doing, and in other jurisdictions, they're trying to train more civilians to conduct investigations, so that when someone joins a body like that they have no previous link whatsoever to a previous police service.

We're not there yet. But I think the goal is to ensure that there is absolutely no potential perception of partiality with respect to these individuals and any background connections they may have, even if they're extremely remote or distant. That is the goal, but we're not there yet in terms of training those individuals with the required skills.

Mr. LaVar Payne: Thank you.

I also have some questions around harassment and the complaints.

Those were fairly general, and I would like to get a little more specific information in terms of harassment, particularly around civilians.

What is the process? Is it a normal complaint? How is that managed, if there are harassment complaints to the RCMP?

C/Supt Craig MacMillan: It depends on who the parties are. If the respondent is an RCMP officer, regular member or a civilian member, the RCMP Act has to be considered and applied in terms of the conduct. If it's a public servant who is the respondent, it's generally the Treasury Board policy that applies. If it's between two public servants, it's clear that the Treasury Board policy applies.

That's one of the considerations—who is making the allegation and who is responding to the allegation—in determining which process you are going to be under.

If you are under the RCMP process, I am aware there is dissatisfaction from the public service employee side. There is a view that there should be more active participation and disclosure of certain information as part of that investigative process. That's not presently provided for under our code of conduct investigations for regular and civilian members, and that causes some tension in that regard.

I see quite a few of these in my current capacity. You try to work with the spirit and intent of the Treasury Board policy, which is trying to resolve this in the workplace, but under the statute it says that if it appears there's a contravention of the code of conduct, that's the process you're supposed to be using.

You're trying to balance the rights and interests and responsibilities of the parties involved, but it can become difficult if somebody wants to use a code of conduct and insists that is how it has to happen. It closes the door to dealing with the other complaint more informally.

Now that's not to say there aren't attempts to mediate and resolve issues, but there are these kinds of jurisdictional issues that arise in the investigative process. You can go all the way through the Treasury Board process and not be successful in resolving it, and then you're triggering a code of conduct process. People will say, "Okay, I gave a statement on that. What are you doing with that?"

Where does that apply? I didn't know you were going to use that here."

It's a complexity that doesn't have to exist. The rule-making authority that will be granted to the commissioner will allow him to meet the needs of Treasury Board and respectful workplaces that are trying to resolve conflicts, while at the same time making sure there's some rigour in making sure the member's interests are protected and dealt with properly.

Mr. LaVar Payne: What would happen in the case of John Doe Public having a complaint of harassment?

The Chair: Very quickly.

C/Supt Craig MacMillan: They were the subject of harassment?

Mr. LaVar Payne: Yes.

C/Supt Craig MacMillan: That could be a public complaint. It could be reviewed by the CRCC. That whole process would be triggered, if they wanted to go that route and they were dissatisfied with the investigation done by the RCMP.

Mr. LaVar Payne: Thank you, Chair.

The Chair: Thank you very much.

I want to thank all of you for appearing before our committee today. Certainly I think you've been a good help. The questions have been good and your answers have been good. We appreciate your being here.

We will suspend for about one minute and ask our next guests to take the stand. We look forward to their comments.

● (1645)

(Pause)

● (1650)

The Chair: I'll call the meeting back to order. We're going to continue our consideration of Bill C-42.

In our final panel today we're going to hear from the Royal Canadian Mounted Police staff relations representative program. We have two members of the national executive here: Staff Sergeant Abe Townsend and Staff Sergeant Mike Casault.

We invite you to make a brief opening statement, and then we'll begin with seven-minute rounds again.

Mr. Townsend.

Staff Sergeant Abraham Townsend (National Executive, Staff Relations Representative Program, Royal Canadian Mounted Police): Good afternoon, Mr. Chair and ladies and gentlemen. We thank you for the opportunity to appear before your committee today on behalf of the 24,000 regular and civilian RCMP members who serve across Canada and internationally, to provide their perspective and input.

My name is Abe Townsend. I am in my 32nd year of service. With me is Mike Casault, in his 23rd year of service. We are the national executive of the staff relations representative program.

During my service I have served in four different provinces and two territories. My duties have included general duty policing, federal policing, and major crime investigation. My last uniformed posting was as a detachment commander in Yarmouth, Nova Scotia, at the rank of staff sergeant.

I have been an elected representative since 2004. Mike has served in the province of British Columbia, and was elected to represent our members in 2008.

The staff relations representative program is the non-union labour relations program for all 24,000 members of the RCMP. The program is authorized by law, and is the officially recognized program of representation on all issues that affect the welfare and/or dignity of RCMP members.

Our program is comprised of 42 representatives, democratically elected by and from the membership in all territories and provinces. The program has its own constitution, attached to this submission as appendix A, and a formal agreement with the commissioner, attached as appendix B.

We welcome the parliamentary hearings and your consideration of our feedback in relation to Bill C-42. We were not consulted during the drafting of Bill C-42. We look forward to providing this committee with our members' perspectives as well as updates on the outcomes of your work.

While there are some aspects of Bill C-42 that we appreciate, we have some fundamental areas of concern that we wish to express on behalf of our members.

We have heard much criticism directed towards the present RCMP Act and the need to change. Unfortunately, there has been no reference to the report of Mr. Justice René Marin. His report was the framework for the RCMP's current disciplinary and grievance system. I have attached as appendix C the historical overview taken from the RCMP Internet site. The emphasis was to have discipline administered and dispensed at the lowest possible level. The 1988 act brought into play procedural fairness and natural justice. Emphasis was on identifying weaknesses and unacceptable behaviours and taking appropriate remedial action—corrective action versus punitive action. Grievance rights and processes were introduced, as was the external review committee.

We believe some managers at all levels of the organization did not do what the act encouraged and empowered them to do, and we find ourselves here today.

Accountability is no stranger to our members. As peace and public officers, they are accountable to the rule of law. Accountability touches every aspect of our job. The vast majority of our members meet and exceed these expectations.

Our members execute their duties realizing the dangerous and conflict-ridden environments in which they serve.

We realize that internal and external review may be the byproduct of honourable service.

Legislation must serve their unique interests as they serve the community.

The present act contains the necessary authorities, but they have not been utilized properly. Managers at all levels have not been held accountable for their behaviour, action, and inaction. What will change with new legislation?

Unfortunately, I can speak of instances where internal processes of the RCMP have failed individual members, and by extension the force and the public we have sworn to serve. I can speak of a young member, a single mother who endured almost a decade of suspension, only to be reinstated, after appeal, by Commissioner Paulson. I venture to say that this female member, under the provisions of Bill C-42, with the stay provision removed from the act, would no longer be employed with the RCMP. Where is the fairness?

I can speak of a female member who alleged sexual harassment and faced roadblock after roadblock in seeking resolution.

● (1655)

I can speak of the file of a member who was accused of sexual assault. This member was investigated by the RCMP and criminally charged. Only later was the truth revealed: there was no assault. In the meantime, the RCMP member's career and personal life were in ruins. Yes, there was a public apology by the attorney general of the province involved, but it was too late. What would happen to this member under Bill C-42?

There has to be protection for such instances. We have far too many cases of harassment left to drift aimlessly, and we have conduct investigations and decisions associated with those investigations that are delayed beyond reason—delayed by bureaucratic obstructions and avoidance. It has been my experience that these failures were not always due to faults with or restrictions imposed by the present act.

My purpose is not to focus on failure. The vast majority of our members will not come into conflict with the RCMP Act during their career—the majority will serve with distinction without internal challenge—but for the few who do, we must have legislation that will serve in a fair and constructive manner. Our managers must be trained to properly utilize the authorities available.

There has been much debate in relation to the RCMP culture. Millions of taxpayer dollars have been spent to examine the RCMP on many important issues. This is an investment in our national police force. My concern is not with the investment, but with our ability and desire to pay real attention to the recommendations of those various reports: the Brown task force and the reform implementation committee reports, the reports of Dr. Linda Duxbury, or the RCMP Pay Council report on discipline. All are reports having been made with the goal of advancing our organization.

As we focus on discipline, I am left to wonder: if the recommendations of the pay council report on discipline had been implemented when written in 2005, would the criticism and frustration we now realize have been avoided?

Bill C-42 will see the commissioner given broad authority to make rules. These rules must have accountability on outcome. We look forward to working constructively in building these rules. Principles of procedural fairness and natural justice must remain. The legislation and the rules that follow cannot simply be about dealing with the very few bad apples, but must nourish the entire orchard. We must invest through learning and development.

I would like to draw specific attention to areas of the proposed legislation. The first is grievance procedures and discipline appeals. In Bill C-42, the commissioner makes the final decision on grievance procedures and discipline appeals.

On behalf of our membership, we believe grievance procedures and appeals for discipline cases should be expedient and impartial. Further, the decision-maker should have expertise and broad experience in labour relations. We have attached appendix D for your consideration.

With regard to the code of conduct, we commend the authors of this act for their proposed section 36.2. As a member, as a former detachment commander, and as a representative, I believe that if we adhere to these principles, we will find success.

With regard to the authority under the code of conduct for investigation of warrants, our members have expressed fear and apprehension in relation to this new authority provided under proposed section 40.2 of Bill C-42. We urge your consideration: remove or amend this section as suggested in our appendix E.

On conduct boards, under proposed section 43 of Bill C-42, we believe conduct boards must be reserved for the most serious of alleged breaches of the code of conduct. In these cases, legislation should clearly articulate the implicit right to an oral hearing wherein evidence can be examined and cross-examined.

In relation to the CRCC, the enhanced authorities provided to the CRCC in Bill C-42 will only serve to reassure the Canadian public, in their eyes, of our members' accountability.

We invite external review; however, we must express our concern and objection in relation to the escalation of powers provided to the CRCC in proposed section 45.65, specifically the authority to order a statement during an investigation. While there are protections offered, we believe these protections against self-incrimination do not go far enough. We have similar concerns with proposed section 45.56.

• (1700)

In concluding my opening statement, I wish to make one final comment.

The “category of employee” issue has been with us for several years. We would also like to see a time when all employed in the RCMP are just that—employed under the authority of, and accountable to, the RCMP Act.

Thank you.

The Chair: Thank you very much, Mr. Townsend.

We'll move into the first round of questioning.

Just before we do that, Mr. Townsend has referenced appendices A, B, C, D, and E in his presentation. It was in one official language, so we will get that translated....

It is in both?

The Clerk of the Committee (Mr. Andrew Bartholomew Chaplin): I'll make copies of his appendix E—

The Chair: All right. It's just a matter....

We will get it to you. There were some things that I think we didn't have a chance to circulate, so it will be circulated and you will get it.

Mr. Leef, please, for seven minutes.

Mr. Ryan Leef: Thank you, Mr. Chair.

Thank you to both gentlemen for appearing today.

In previous committees I had the opportunity to ask the commissioner specifically about training. We talked about the RCMP being such a big organization, with diverse postings. Their promotional boards and the way in which people are promoted.... They don't always come through a necessary stream of supervision or leadership. There are a number of ways you could be promoted, and a number of postings and positions in which you never had to actually supervise anybody.

I personally was encouraged by the commissioner's remarks that they see building in, and I think you mentioned it, as part of promotion, as part of recruitment for selection for supervision, that necessary training for detachment commanders in small rural detachments, right up to supervisors who are promoted in large municipal policing settings, to undertake the kind of training that might lead to some of the concern you're highlighting.

Can you just build a little bit on your input there? You talked about concern around that, and we'd like to hear about those challenges.

S/Sgt Abraham Townsend: During my 32 years, I've worked in everything from a fly-in two-person detachment to a major municipal detachment, and the demographics of our policing are much different from what you see in your normal urban environment. We have a detachment commander who is a corporal, and that corporal could have seven to ten to twelve years' service. They have a good handle on core policing skills. Administrative and human resource management skills—that wasn't their bailiwick. All of a sudden they're put in command of a unit. They have the authority to discipline, under the current RCMP Act, up to and including the highest levels of informal, or under a proposed new act in relation to the conduct regime that has yet to be developed.

I think where we have failed in the current regime is that there was never any training. I was a commander, as a corporal in a small detachment, with nine years' service. I'll be honest: I knew very little, if anything, about the conduct regime of the RCMP Act. To me, it was just common sense.

As I progressed in my career, to the point where I was a staff sergeant running a unit with 40 members, unfortunately—or fortunately—I was able to dispense informal discipline, and I was able to refer misconduct that I felt, in my heart of hearts, was way beyond the scope of informal, up the chain of command to the appropriate officer or the commanding officer. I had those fortunate and unfortunate experiences as a commander. But there was never... You learn as you go. You learn through osmosis.

If, under a new regime, we are going to push this down to the most appropriate level, there has to be learning and development and mentorship in relation to conduct authorities, giving commanders the knowledge, skills, and ability to do what the legislation intends us to do.

That was missing in the 1988 act. We can't go through that error again.

• (1705)

Mr. Ryan Leef: So you'd be encouraged, then, by at least the commissioner's comments that he recognizes that a necessary part of fully integrating this act is the training down to the members who are going to be asked to deal with this discipline.

S/Sgt Abraham Townsend: Yes.

Mr. Ryan Leef: You were present for the testimony we heard a little bit earlier as well, and that I think is somewhat encouraging, that they recognize right now that they can't nail down the details of this, so we're not dealing with the core specifics; that will come through consultation and come through development through the members of the RCMP.

Is that encouraging to you? Is that hopeful? Is that something you see your members being able to do, to contribute to the training and development that the commissioner has certainly recognized is an important aspect of laying out this bill properly?

S/Sgt Abraham Townsend: The members we represent will step up to the opportunities, step up to the challenge. With anything there's always a balance between your core business—what you have to do day to day in policing—and these new responsibilities in relation to human resource management. It's been my experience that if the opportunity is there, as the commissioner described it would be—and it would be a necessity, for this to work—then I'm encouraged by that. We'll look forward to that level of accountability throughout the organization.

For this to work, there has to be buy-in from top to bottom.

Mr. Ryan Leef: Right. You make a good point there, and as a former front-line guy, I think the concern is always that this discipline is going to be meted out at the lowest possible level to the lowest possible level. This act does speak to accountability and discipline that ranges right up to the highest levels of the RCMP.

I guess my vision would be that if a supervisor wasn't meting out discipline in an appropriate fashion, then they themselves would be accountable for discipline. If somebody failed to act upon that, they would be accountable as well, so it wouldn't always fall down and be applied to the front-line officers who, I'm guessing—and please tell me—would be the people you're hearing most from as those with the

greatest level of concern about the range within which we play with discipline. Would that be accurate?

S/Sgt Abraham Townsend: In terms of numbers, we hear more often from the front-line members, the lowest level of our employment, at the constable level. Their apprehension is about how this is going to be dispensed. As we move up the rank-and-responsibility ladder, we hear the concern, "We're going to get this new authority, but we'll have no tools to go with it."

The concern is very alive in the organization: "What will this look like?" As you go further up the chain of command, people ask, "Will I get the necessary knowledge, skills, and ability? Will I be trained to the point where I can make a meaningful contribution to this?"

• (1710)

The Chair: Thank you very much.

Thank you, Mr. Leef.

We'll come back to Mr. Garrison, please.

Mr. Randall Garrison: Thank you very much.

Your appearance today is I think very valuable to us. One of the statements you made in your presentation is actually quite shocking to me, and I just want to reconfirm that I heard correctly, since we don't have a written copy. I believe you said that the organization you represent was not consulted in any way in the preparation of this bill.

S/Sgt Abraham Townsend: We were not consulted on Bill C-42.

Mr. Randall Garrison: Has there been any consultation with you since its introduction?

S/Sgt Abraham Townsend: Since the introduction of the bill, there has been.

In fact, as recently as Friday of last week, Superintendent O'Rielly and Chief MacMillan presented to our caucus of 42. We have caucus meetings going on right now. Prior to that, shortly after the bill was introduced, we met with Superintendent O'Rielly and scoped out a process and a pattern of consultation as we look forward to new regulations.

There was no consultation on Bill C-42, but we all recognize that once the bill is out in the public venue, there will be regulations, rules, and policies that will actually make this bill operational. As recently as this morning we had discussions with the commissioner, and he again committed to the consultation. In fact, he said this won't work unless we work together.

Mr. Randall Garrison: I'm glad to hear that looking forward there is consultation. It seems to me that it leaves a little gap here, because you brought some suggestions to us of improvements that need to be made in the bill itself. There have been no discussions like that with you. It's taking the bill for granted and doing consultations moving forward from, let's say, royal assent. They're talking about developing things with you but still not discussing the bill with you.

S/Sgt Abraham Townsend: We believe it's very important that the bill is now with this body.

Mr. Randall Garrison: Okay. We'll take it very seriously.

I thought one of the other statements you made was very interesting, because it was about something I've run across before in my experience with policing. You said that the rank and file have an interest in good external review.

S/Sgt Abraham Townsend: Yes.

Mr. Randall Garrison: We've had all the controversy over sexual harassment in the RCMP. Would it be fair to say that the rank-and-file members have that same interest in coming up with an effective policy for dealing with sexual harassment? Is that something you hear from them?

S/Sgt Abraham Townsend: Yes.

As a representative who has represented direct clients for several years, and from speaking with my colleagues who are representatives.... Our current harassment prevention investigative policy...it's been a failure since it was authored some nine years ago. There has been nobody who is satisfied with living through the process as an alleged victim of harassment or as an alleged accused of harassing.... The process was terribly, terribly broken.

Mr. Randall Garrison: Have you been involved in any reviews of the process or asked for your input on the process?

S/Sgt Abraham Townsend: Our caucus has made submissions time and time again in relation to the process: criticism of the process, suggested amendment of the process.... For me, this goes back to...I believe the first working group that I personally attended was six months after the policy was introduced—a meeting in Winnipeg. I said, this is not going to work for our members because there is the absence of participation without prejudice, if I can put it this way. They were worried about it. They said, if I participate and look for a resolve, then the gorilla is going to come into the room with the code of conduct and whack me, so I'm just going to sit back and protect my interests.

Now, that wasn't always the case, but that was always the elephant in the room. How do we deal with that? There was a collision of two policies: ours in relation to the code of conduct and Treasury Board's in relation to resolution.

Hopefully we will be able to sit down once there is royal assent and the commissioner decides to build—and he will have to build—a policy around harassment. In our organizational response to it, we'll be able to sit down and develop something that's meaningful given the uniqueness of our organization and the context of the broader public service. One thing that we'll take into consideration is our organizational needs. That would include training: awareness training—a meaningful awareness training program.

We live in an environment in policing where there are dark moments that you don't necessarily see in other clinical environments. There has to be an awareness created of harassment, of the sensitivities of others. That's all something positive that we look forward to, because we haven't been satisfied with what was there in the past.

•(1715)

Mr. Randall Garrison: In the materials that didn't get circulated today, is there any material on sexual harassment and your experience with it that we might have the benefit of?

S/Sgt Abraham Townsend: There is no material, but if it's the will of the committee, we can make a separate submission in that regard.

Mr. Randall Garrison: If you feel comfortable doing that, I think the committee would benefit from hearing what you have to say about that process, as the representatives.

S/Sgt Abraham Townsend: If that's....

The Chair: Thank you.

Thank you, Mr. Garrison.

We'll move back to Mr. Hawn, please.

Hon. Laurie Hawn: Thank you, Mr. Chair.

Thanks to the witnesses.

Just carrying on from that, we've done a little bit of looking back, but now I think we need to look forward. Are you comfortable with the prospect of the consultation in the follow-on? I mean, it's going to get passed in some form, and obviously, as we've heard before, there's going to be some follow-on activity of consultation. Are you satisfied or encouraged by that?

Also, you talked about tools. Can you give us an idea of some examples of specific tools that you're talking about to make it work?

S/Sgt Abraham Townsend: I am satisfied that there will be meaningful consultation. Nothing that has taken place since the bill was tabled would indicate otherwise. At the end of the day, the proof would be in the pudding, but so far I base a lot of what I do on goodwill and the honest and spoken word.

As for the development of the tools that will operationalize this entire act, it will be the rules around our probationary members, the rules around conduct, the rules around learning requirements, and the rules around discharge requirements, like loss of basic requirements. All these things have yet to be developed. We went through the list. There were 16 broad areas of development that we're looking forward to meaningful consultation on to make this bill operational within our working environment.

Hon. Laurie Hawn: You asked a rhetorical question. You talked about a couple of cases, and you talked about the sexual assault that dragged on for years—the guy was ruined, and so on.

You asked what would have happened under Bill C-42. Let me ask what you think would have happened under Bill C-42.

S/Sgt Abraham Townsend: My concern in that regard—and I think I made reference to a similar concern when I talked about the female member who was suspended for 10 years—is that under the current act, the board's decision, the appeal process through the external review committee, and then the final decision of the commissioner are all internal processes. The current act serves to stay the board's decision to allow the appeal to take place, and then the commissioner makes a final decision.

Under the current act, that member does stay on the books, and I think you heard the commissioner mention something along the lines that somebody was on the books for seven years and how does that benefit Canadians.

Hon. Laurie Hawn: I'm asking you what would have happened under Bill C-42.

S/Sgt Abraham Townsend: Under Bill C-42, that stay provision is eliminated, so that person would have to fight their appeal as an outsider. They would no longer be a member of the force, based on the first decision, and they would have to fight their appeal from the outside. The appeal is an internal process and the RCMP controls the timelines of the appeal.

I listened to Chief MacMillan talk about these timelines—a year to do an investigation, two years for the ERC—and I was thinking that once the allegation is made, the member controls none of these timelines. They're all internal to the RCMP.

• (1720)

Hon. Laurie Hawn: You are suggesting that nothing would effectively change for the member under Bill C-42.

S/Sgt Abraham Townsend: Under Bill C-42, with the stay provision gone, the member would be an outsider.

Hon. Laurie Hawn: I understand.

S/Sgt Abraham Townsend: They'd be out of the force, and all the internal appeal process would happen, and meanwhile....

We take young Canadian men and women and move them from one end of the country to the other. They have one core skill, and that's in policing. They can't go to the next town and say, "Well, I'm going to get a job as a policeman here and await my appeal." It's huge, in our eyes.

I hope we can front-load the process so that the investigation doesn't take a year and the conduct authority doesn't take another year. Front-load the process, front-load the appeal, because it serves nobody's interest to leave somebody dangling, whether they're paid or unpaid, for an excessive length of time.

Hon. Laurie Hawn: What we heard earlier is that the aim of this is to in fact shorten that process.

S/Sgt Abraham Townsend: If they front-load the process, then I believe there's no reason that the stay provision couldn't remain. They've said here that they want to get it done as quickly and as fairly and as judiciously as possible.

Front-load the process; keep the stay provision, given that we're taking young Canadian men and women and putting them into policing environments from coast to coast to coast. They will get to the end of the road of internal processes without being an outsider.

Staff Sergeant Michael Casault (National Executive, Staff Relations Representative Program, Royal Canadian Mounted Police): If I could add to that, I think that's part of the scenario with the 1988 act: the process was never looked at as what we have today. But it has been abused. I'm not saying there were built-in delays, but there were no expedited measures or timelines, and we're now stuck with a seven-year process.

With regard to this act, if we stay the person's wages and stuff, we may not have that ability to say, yes, today it's going to be two years or two months; in 10 years, it might be delayed to seven years again.

There have to be some timelines, as Abe said, built into the process, so that it's effective and timely.

Hon. Laurie Hawn: Okay.

I'd give you half a minute, Rick, but you probably couldn't do much with it, so I'll take the half a minute and ask the question that was stated earlier—if I'm remembering it correctly. Under Bill C-42, the feeling was that 98% of the grievance cases and so on would be dealt with more quickly.

Would you share that assessment?

S/Sgt Abraham Townsend: Under Bill C-42, they anticipate that when the regulation is finally built they'll be able to deal with 98% of the grievances. I won't disagree with that.

Our current grievance system has an early resolution phase that encourages alternative dispute resolution. Unfortunately, it only encourages that; it doesn't mandate it. We have paid little attention to alternative dispute resolution. That said, we have attained some really huge and good results, timeline-wise, on grievances under what we have presently.

Under Bill C-42, I believe we'll work at building a regulation that will mandate alternative dispute resolutions and facilitate a reasonable answer that will improve on what we have now.

The Chair: Thank you very much.

For the final questioning of the day, we will go to Madame St-Denis.

[Translation]

Ms. Lise St-Denis: You ended by referring to categories of staff. Could you tell us a bit more about that? You did not seem to be in favour of them, but you did not say much about it.

[English]

S/Sgt Abraham Townsend: In the RCMP, in today's world, there are three categories of employees: public servants, civilian members hired under the RCMP Act, and regular members hired under the RCMP Act. It is our position that an employee of the RCMP is responsible for policing in the broadest context. Our position is that all employed by the RCMP would be employed under and accountable to the RCMP Act. The category of employee issue has been divisive within our organization, our different categories. If we had all of our employees responsible and accountable to the RCMP Act, and employed given the uniqueness of the service we provide Canadians, I believe it would take our organization to a place of contentment on the category issue.

• (1725)

[Translation]

Ms. Lise St-Denis: I would like to get back to the grievance process. You did not seem to support decisions being made by the commissioner. You seemed not to want to have the commissioner making the ultimate decisions on grievance-related matters. Can you expand on that?

[English]

S/Sgt Abraham Townsend: Under the current RCMP Act and under Bill C-42, the commissioner is the final decision-maker. It has always been a frustration for our members that the external review committee only makes recommendations. Our members quite honestly have concern with that much power in one office. It has been the feedback from our members that they see that power being dispersed more broadly into an external board that would be able to make compelling recommendations as opposed to simple recommendations.

The challenge beyond the commissioner is Federal Court, judicial review. While individuals have the ability to do that, it's a limited ability. Quite honestly, in my opinion, it's not a good way to operate a human resource aspect of any organization. If you rely on judicial review as your only external point of resolution, it's a difficult way to get along as people within an organization. If in fact the legislation, Bill C-42, is amended in such a way so that some of the power the commissioner has, which is uniquely his, is dispersed to a board that is focused and unique to the RCMP, it may go a long way to serve the best interests of the organization, of Canadian people, and of the members.

[Translation]

Ms. Lise St-Denis: Thank you.

[English]

The Chair: Thank you, Madame St-Denis. You still have two or three minutes, if you have another question. We will take it right to the end. Otherwise, we will come back to the NDP.

[Translation]

Ms. Lise St-Denis: I am done.

[English]

The Chair: Mr. Garrison, you don't have any?

Madame Doré Lefebvre, for one minute.

[Translation]

Ms. Rosane Doré Lefebvre: Thank you very much for your attendance here today. It is good to hear your comments, those of members on Bill C-42 and potential impacts.

You said that under current legislation, it was very difficult to manage sexual harassment issues within the RCMP. What changes would you bring to this bill to make it easier to manage the situation? Can we get there through legislation? Is the solution not rather an internal culture change within the RCMP?

[English]

The Chair: Thank you, Madame Doré Lefebvre.

S/Sgt Abraham Townsend: With regard to the management of workplace conflict, you referred to sexual harassment, but be it same-gender harassment or simple bullying, it's unacceptable behaviour. One instance of it is one too many.

To manage it, in the first instance, would be to create a learning culture within the organization, with a positive knowledge base and an awareness. That would be the first step. If that can be built into the harassment awareness and the policy that will follow this legislation, it would go a long way toward creating the awareness that would serve to move our culture—and I'll use the word "culture" because that's what's commonly used—in a positive direction: managers well equipped with the knowledge, skills, and ability to recognize potentially harassing or insensitive behaviour and with the ability and the awareness to put a stop to it in the very first instance, as opposed to avoidance or delay or inaction. Inaction, in that regard, probably does as much harm as action. The issue must be dealt with up front.

You have to create that awareness, and you have to teach people to create learning opportunities so that they will actually take the management tools that they already have, that they're already empowered with, and use them.

● (1730)

The Chair: Thank you.

I say that sincerely. We want to thank all those who have appeared on both panels today. We have some from the RCMP who want to see a better bill, a better way of dealing with complaints, and they believe they have it, but they also say it may be a work in progress. From your aspect, you say, yes, we want to see the RCMP stronger, but we want to make sure that all our members are protected and aware and that the culture changes. Everyone here, including the committee, wants to see a piece of legislation that will accomplish what we want, and I think some of the suggestions you have made are very good.

In the process here today, a number of people have been asked to submit more, if they think of things that perhaps they wish they had said or that they could have said differently. Please feel free to make that presentation and even just e-mail it to our committee. We would love to hear it, as well as the other group earlier.

Thank you for being here today as witnesses to the committee.

Thank you, committee members.

We are now adjourned.

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