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# **Standing Committee on Public Safety and National Security**

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**EVIDENCE**

**Tuesday, October 17, 2017**

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**Chair**

**The Honourable John McKay**



## Standing Committee on Public Safety and National Security

Tuesday, October 17, 2017

• (0845)

[English]

**The Chair (Hon. John McKay (Scarborough—Guildwood, Lib.)):** Good morning, everyone.

I will bring to order the 77th meeting of the Standing Committee on Public Safety and National Security. We have for the first hour two witnesses. We have the Office of the Privacy Commissioner of Canada, represented by Mr. Daniel Therrien—I'll leave you to introduce your colleagues—and the Customs and Immigration Union, with Jean-Pierre Fortin.

Welcome to all of you. You've been instructed on the timelines. I'll let you proceed in the manner that you see as being most expeditious.

Thank you again.

[Translation]

**Mr. Daniel Therrien (Privacy Commissioner of Canada, Office of the Privacy Commissioner of Canada):** Thank you, Mr. Chair.

Today, I am accompanied by Lara Ives, acting director general, audit and review, and by Rebecca Shepherd, legal counsel.

First, thank you for the invitation to talk to you about Bill C-21 and the entry-exit initiative.

The Beyond the Border action plan committed both Canada and the U.S. to the establishment of coordinated entry and exit systems for all travellers crossing the land border, and for Canada to establish an exit system similar to the U.S. in the air mode.

My office has held constructive and ongoing consultations with the Canada Border Services Agency, Public Safety Canada, and other various federal departments implicated in the various phases of the entry-exit initiative.

Since 2013, the Canada Border Services Agency has been collecting biographical data and travel history on non-Canadians and permanent residents principally for the purpose of immigration enforcement and border integrity.

The purpose of the bill before you is to provide lawful authority for the collection of exit information on Canadian citizens as they leave Canada, which will allow the final phases of this initiative to be realized.

The government has indicated that, at full implementation, the entry-exit data will help Canadian officials to better manage our border, combat cross-border crime, including child abductions and human trafficking, respond to national security threats, ensure the integrity of our immigration system, and reduce fraud and abuse of certain federal programs with residency requirements, such as employment insurance or old-age security benefits.

Collection of information in the land mode between Canada and the United States at a customs office is based on an automatic exchange between both countries. The record of entry into one country is considered a record of exit from the other.

In the air mode, Canada will establish a system similar to the U.S., under which airlines will be required to submit passenger manifest information to the Canada Border Services Agency for all outbound international flights.

As provided under the bill, exit information will include, first, the surname and first name, the date of birth, the citizenship or nationality, and the sex of the person. Second, the information will include the type of travel document that identifies the person, the name of the country or organization that issued the travel document and the travel document number. Finally, the information will include the date, time and place of the person's departure from Canada and, if the person arrives in the United States, the date, time and place of their arrival.

[English]

Throughout the earlier phases of this initiative, my office has consistently called on the federal government to be transparent about how it uses personal information collected from travellers and to ensure that the collection and use of this information is justified from a privacy perspective. Based on our discussions with the institutions involved and the information provided to us so far, I am generally convinced that there are important public policy objectives that this initiative is trying to address and that the personal information in question is not particularly sensitive.

That being said, there is a vast range of retention schedules being proposed across the various institutions that intend to use the information. In some cases, the information will be purged immediately where it does not meet a certain threshold. I understand this to be the case with employment insurance, for example. The biographical exit data will be shared with Employment and Social Development Canada, but will be purged immediately in instances where there is no match. However, in other cases the data could be subject to very lengthy retention periods—over 100 years, in some cases—depending on the institution receiving the information and what they are using it for. It has not always been clear to us what the rationales are behind these varying retention periods.

While we accept that collection and sharing is necessary to achieve specific public interest objectives, once these objectives are achieved, the information, in our view, should be destroyed. For that reason, I intend to carefully review retention schedules, and will request that clear justifications be provided by departments.

• (0850)

I am keenly aware that this type of initiative presents challenges for individuals to fully understand who has their personal information, for how long, and for what purpose. So I urge the Government of Canada to remain open and transparent, to limit the use of this information to that which is necessary, and to ensure that information-sharing agreements are in place, that privacy impact assessments, or PIAs, are conducted, and that retention periods are minimized to the extent possible.

All institutions, I'm happy to say, have committed to providing my office with privacy impact assessments 120 days in advance of implementation. We look forward to seeing more complete details of program-specific uses of the data, the safeguards, and the rationales for retention periods proposed. I also ask that we be consulted on the privacy safeguards to be included in information-sharing agreements at the earliest possible opportunity.

In conclusion, since 2013, 20 million exit records have been generated and exchanges between the U.S. and Canada now take place in “near real time”. The underlying purposes for this exchanges are reasonable, in my view, but means to ensure that information collection, sharing, and retention are privacy sensitive is very important. That is why we would expect to be consulted on a timely basis regarding the PIAs and information-sharing agreements.

Thank you for your attention. I look forward to answering your questions.

[*Translation*]

**The Chair:** Thank you, Mr. Therrien.

Mr. Fortin, the floor is yours.

[*English*]

**Mr. Jean-Pierre Fortin (National President, Customs and Immigration Union):** Thank you, Mr. Chair.

Mr. Chair and members of the committee, thank you for the opportunity to appear before you today as your committee reviews Bill C-21, an act to amend the Customs Act.

My name is Jean-Pierre Fortin. I am the national president of the Customs and Immigration Union.

Our union represents Canada's front-line customs and immigration officers, investigations, intelligence, and trade customs officers and hearing officers, as well as support staff who work at the Canada Border Services Agency.

CIU has a long history of involvement in border security and immigration enforcement issues on behalf of its members. We seek to offer our members' operational insights to identify areas of concern and, where possible, to offer what we believe to be informed improvements.

Over the past decade and more, CIU has offered these concerns and suggestions to CBSA management and government ministers, and in appearances before both House and Senate committees. It is in that context that CIU is pleased to appear before the House of Commons Standing Committee on Public Safety and National Security with respect to Bill C-21.

As committee members are aware, Bill C-21 is the legislation that will complete the implementation of the Canada-U.S. entry/exit initiative, which was itself part of the original 2011 Beyond the Border agreement and action plan.

At the outset, it should be noted that as the national union representing front-line operational law enforcement officers, we recognize that legislative and policy changes can have an impact on our members and the public we serve. We focus on what the operational impacts will be and whether we can actually deliver what is now being authorized. We also examine proposed policy changes and consider if they support and enhance our dual mandate, which on the one hand covers security, and on the other hand trade and travel facilitation.

Also of interest to us is the clarity provided in the legislation with regard to any new enforcement authority. Our members appreciate that they are enforcing public regulation of defined activities to support the public interest. In our experience, clarity supports public confidence.

Let me turn now to some specific issues that merit examination.

As you know, Bill C-21 will create new sections in part V of the Customs Act that will expressly authorize CBSA officers to gather biographical information from all persons who are leaving Canada, including Canadians. Proposed section 94 will create a legal obligation on persons leaving Canada, in whatever fashion, to present themselves to an officer when requested to do so and to answer truthfully all relevant questions, in accordance with the officer's duties.

The actual details on how that information is collected or provided to the agency is not specific in Bill C-21. Instead, this is to be prescribed by regulation. It is unclear to us why the government has chosen this approach. It appears to mean that these potentially important details will not be subject to the same parliamentary review as Bill C-21. The committee may wish to clarify why this approach has been taken.

Proposed paragraph 92(1)(c) also appears to confine the collection of departing passengers' arrival information to the United States. The committee may wish to confirm this with the new minister and verify if the new paragraph will result in a prohibition on gathering and retaining departing passengers' arrival information to other countries, as this is an issue of enhanced importance in today's security environment.

The committee should also try to determine how—or if—CBSA intends to use the proposed section 94 authority with regard to persons departing Canada at land border crossings. Presumably, the goal is not to create lineups for people leaving Canada. Lineups already exist for those entering or returning to Canada, primarily because of continuing personnel shortages, which is another critical issue for this committee to consider.

• (0855)

We would urge the committee to explore the issue of how CBSA will use the information it gathers and receives under the entry/exit program. As you may recall, a previous report from the Auditor General identified approximately 44,000 outstanding arrest warrants under IRPA for persons who have failed to appear as required. Will this information now be used, as we suggest it should, to identify those persons as having left Canada so the agency does not waste scarce resources looking for people who have already left our country?

Additionally, will this information be used to create a more accurate lookout database for persons who are inadmissible to Canada in the future, especially on past criminality- and security-related grounds? We urge the committee to raise this with CBSA.

The committee should also ask CBSA for details regarding its liaison arrangements with domestic and U.S. law enforcement to ensure that the potentially important intelligence that can be gathered by the entry/exit initiative enacted in Bill C-21 is shared, as authorized under Canadian legislation, including the Privacy Act, to achieve public safety improvements. It is our understanding that the government has committed to requiring privacy impact assessments for all involved departments and agencies, the status of which the committee may wish to confirm.

Another general area of importance in Bill C-21 is what appears to be an expansion of CBSA's authority to examine goods intended for export. Deficiencies in this operational area have also been noted by the Auditor General, and CIU fully supports this enforcement mandate clarification. The committee may wish to query CBSA with respect to what operational changes it foresees undertaking as a result, and how, specifically, these will impact the deficiencies reported by the Auditor General of Canada.

The committee should also be aware of the underlying cause of these and other operational gaps at CBSA, as the issue requires

immediate attention. As a result of the 2011 deficit reduction action plan, DRAP, there has been a loss of over 1,200 positions at CBSA, including those of screening, enforcement, and intelligence officers. These cuts have led to reduced operational capacity, which has resulted in the closing of ports of entry and reduced hours of operation, as well as increased pressure on officers to process more cases. An example of this is taking place in Quebec and Manitoba, where our members are being forced to screen faster the people who are illegally entering Canada between ports of entry, to avoid backlogs.

We are concerned that while Bill C-21 creates appropriate new screening and enforcement tools, the intended result cannot be effectively achieved without restoring the 1,200 positions cut under DRAP. We urge the committee to raise this issue of operational personnel shortages with both CBSA management and the minister.

In conclusion, it is my hope that this presentation will assist the committee in its important work, especially regarding the restoration of the necessary personnel who perform their duties on behalf of Canadians and whom I am proud to represent.

Thank you. I am looking forward to questions.

• (0900)

[*Translation*]

**The Chair:** Thank you, Mr. Fortin.

We now move to questions.

Mr. Picard, the floor is yours for seven minutes.

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

Thank you and welcome, ladies and gentlemen. It is always a pleasure to have you here because you provide us with insight that is very interesting and, above all, very useful.

As I understand it, this is a bill that reflects our developing relationship with the United States, especially in terms of the work we do with them.

Let me start with Mr. Therrien.

One of the fears Canadians have is about the exchange of information obtained at customs. You specifically talked about federal legislation and programs like old-age security and employment insurance. As you understand it, what are the limits on this information exchange, especially with regard to the provinces? How are you placed to assess the guarantee we are looking for, that is, to limit the exchange of information and prevent information being exchanged all over the place?

**Mr. Daniel Therrien:** The purposes for which information is gathered and can be exchanged with other departments or with the provinces are being developed.

In my opening statement, I said that those purposes seem justifiable to me. I was actually talking about the purposes that had been established previously, which, as far as I know, do not yet include an exchange with the provinces, although that may be possible in the future. What I have before me at the moment does not include an exchange with the provinces. Bill C-21 basically includes the purposes I listed: the border, immigration, national security, law enforcement, and some federal social programs.

I am aware that these purposes could evolve. It is important for the government to consult us if and when the purposes become more extensive.

**Mr. Michel Picard:** As I understand it, the information to be exchanged corresponds to the information on page 2 of one's passport, together with details of the travel logistics. Is that enough information, as you see it? Could more information be sought without in any way compromising the privacy that you are concerned with? If not, will the information be extensive enough to allow us to do the work we want to focus on?

**Mr. Daniel Therrien:** When we assess the information items, we do so in order to determine whether the proposals can be justified in terms of privacy. Frankly, we do not really ask ourselves if more information could be exchanged. We have before us a proposal from the government that, relatively speaking, limits the number of items of information to be gathered and exchanged. Our role is to ask whether that goes too far, or whether gathering that information is justified. We did not ask ourselves the question you suggest.

● (0905)

**Mr. Michel Picard:** Okay.

At the moment, at our present stage, is it reasonable to say that the information that has been submitted to you satisfies you in terms of its quality and quantity? Given your concerns about protecting privacy, does this information seem completely justified to you at the moment?

**Mr. Daniel Therrien:** Yes. The information seems to us to be necessary and proportional in terms of protecting privacy.

**Mr. Michel Picard:** Thank you very much.

Mr. Fortin, I have a somewhat peculiar question for you, coming out of left field. How do you define your role in border security?

**Mr. Jean-Pierre Fortin:** We are the country's first line of defence at our points of entry.

One of the elements that Bill C-21 seems to want to add is a role for exits. It makes our role more specific, gives us more powers of intervention, on goods leaving the country. That role is a little fuzzy at the moment.

**Mr. Michel Picard:** Fair enough, let's talk about your activities involving the security of Canada with exits. Do you have any examples of cases or matters where customs agents are already acting in a security role, both with travellers and commercial goods?

**Mr. Jean-Pierre Fortin:** The best example I can give you, Mr. Picard, is about stolen cars. At the moment, we are playing an essential role in the various ports in terms of exports. I must emphasize that the people I represent do excellent work, because they produce a huge amount of results. I actually confirmed that

information yesterday with people from the Port of Montreal. This is an export matter where we are very effective at the moment.

**Mr. Michel Picard:** How would you qualify your exchanges with the Americans about the quality of the information and the speed with which it is exchanged? What is the quality of the relationship between the men and women in the trenches and their American counterparts?

**Mr. Jean-Pierre Fortin:** The exchanges are good. Generally, according to the information that I get from customs officers, American authorities usually collaborate well. I myself have worked in a customs examination office with the Americans. They usually collaborate well with our officers.

One thing is for sure. Bill C-21 can greatly improve the quality of the information that we will be able to obtain. You once worked for the Canada Border Services Agency and you know that we have a lot of difficulty establishing any kind of analysis and profile of people leaving the country. This is going to help our officers a great deal and make their job easier.

**Mr. Michel Picard:** How do customs officers handle AMBER alerts these days?

**Mr. Jean-Pierre Fortin:** We are immediately informed when something like that happens. Once again, both on the American side and the Canadian side, we handle it with quite remarkable efficiency. It is one of our priorities. When an AMBER alert is issued, the information is circulated very quickly, to American police forces and elsewhere. An alert is issued immediately.

**Mr. Michel Picard:** Has the training at Rigaud been tailored to this new reality?

**Mr. Jean-Pierre Fortin:** It could be a little better defined. A good part of the training at Rigaud has been adapted. The program was just revised only a few years ago. However, we could spend a little more time on it, absolutely.

**Mr. Michel Picard:** Is it reasonable to think that Bill C-21 will improve our performance in protecting our citizens and our trade, precisely because we will be able to keep a better eye on what is going across the borders?

**Mr. Jean-Pierre Fortin:** I would say so.

**Mr. Michel Picard:** Thank you.

**The Chair:** Thank you, Mr. Picard and Mr. Fortin.

Now it's Mr. Paul-Hus' turn.

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

Good morning, ladies and gentlemen.

Mr. Fortin, first let me thank you for addressing some points in your opening presentation. You introduced a number of very specific items that will be useful for the committee and that raise some very good questions.

Can you tell me this to start with? For border services, what is the biggest security feature in Bill C-21? What will really happen as a result, in terms of Canada's security?

**Mr. Jean-Pierre Fortin:** Certainly, the ability to obtain more information increases the responsibilities. Earlier, when I was replying to your colleague Mr. Picard, I said that the bill would allow us to have a clearer history on people, to focus on the higher risk people and to let the lower risk people go on their way. As things stand, I can tell you that that is going to help. Given its objective, Bill C-21 is going to allow that information to be collected more efficiently.

• (0910)

**Mr. Pierre Paul-Hus:** But I would still like to have more of the practical details.

For people travelling to the United States by air, Canada border services get information about them after they have crossed the border, when they are already in the United States. Airlines are going to send their passenger manifests. For people travelling by land, the information arrives 15 minutes later. That is what the minister told us. So how will that let you intervene beforehand? It will already be too late.

If you receive information that a person should not have crossed the border, do you have a relationship with the Americans that allows them to find and send that person back as a matter of urgency? How will that work?

**Mr. Jean-Pierre Fortin:** We are not yet clear on the speed of the response after Bill C-21 goes into effect. Will it really happen in real time? That would be the ideal, between you and me.

What is for sure is that, at the moment, it takes a certain amount of time. We have been told that it is also a matter of 15 minutes.

**Mr. Pierre Paul-Hus:** Okay.

Earlier, you talked a little about the lack of resources. This summer, we had a major problem with illegal migrants crossing the border at Saint-Bernard-de-Lacolle and at a spot in Manitoba.

Do you feel that the new rules in Bill C-21 is going to increase your workload considerably? The minister told us that it would actually all be done electronically and that there would be no real impact on the officers' actual work. Do you think that the bill will have a major effect on your work every day?

**Mr. Jean-Pierre Fortin:** Absolutely. In our opinion, just having to start entering more data will affect our work. The critical thing, you know, is to be efficient and not to increase wait times. However, if we have to do more exit processing and pay more specific attention to the goods bound for departure, that clearly cannot be done electronically. We will need more officers.

You mentioned what happened last summer. Clearly, since 2016, front-line officers have been spending their time telling us that they do not have enough resources. It's already the case now, so imagine what will happen if the officers' workload increases.

In my opening presentation, I said that 1,200 of our positions have been eliminated. That is huge. In itself, Bill C-21 will increase security, without doubt. However, it is certain that we will need resources to implement the bill properly. At the moment, I really doubt that we have the resources we need.

**Mr. Pierre Paul-Hus:** Mr. Therrien, when the minister appeared here, I asked a question about the exchange of information,

specifically in terms of employment insurance. I was told that the information would not be sent to those administrating employment insurance.

In your opening comments, you mentioned that, in fact, the information would be used to see if someone was crossing to the United States, when they normally should be looking for a job.

As you see it, or according to what you have been told, will the information be sent to various federal departments? That is what you understood, is it not?

**Mr. Daniel Therrien:** To federal departments, yes.

**Mr. Pierre Paul-Hus:** However, the minister told us that such would not be the case. The committee has to look at that closely. I asked the question and the answer was that the information clearly would not be distributed among departments. I am not against the idea, but I just want to make sure that we have the right information.

So, you are confirming that, in terms of privacy, you are comfortable with that, since it is one of the things that Canada has to be doing.

**Mr. Daniel Therrien:** It is reasonable, especially given the non-sensitive nature of the information being exchanged.

**Mr. Pierre Paul-Hus:** At the start of your presentation, you made two points. You mentioned that, since 2013, the Canada Border Services Agency has been collecting information on non-Canadians and permanent residents. You were careful to emphasize that. You then said that information would now be collected on Canadian citizens.

Can you explain why you were insistent on that?

**Mr. Daniel Therrien:** The entry/exit program needs to be examined from a broader historical perspective.

It is important to remember that in the past, democratic countries did not collect information on the exits of their citizens. This was related to the freedom of movement of citizens, and the government didn't control this kind of activity.

Following the events in September 2001, several countries imposed the collection of information or gathered information for border management and national security purposes. Canada was among the last to do so.

To date, the information collected has focused on non-Canadians for border management and national security purposes. According to the Bill C-21, the gathering of information and the sharing of information will also apply to citizens.

It is important to understand that we are crossing a boundary. Historically, democratic countries did not collect this kind of information about their citizens. However, things have changed as a result of the events in September 2001, and it is now a widespread practice that also aims to ensure the integrity of social programs. We are moving in this direction.

Given the importance of combatting fraud involving these programs, and the relatively limited and non-sensitive nature of the information, this seems reasonable. However, it must be understood that this evolution in the history of democratic countries has occurred.

•(0915)

**Mr. Pierre Paul-Hus:** Thank you.

**The Chair:** Thank you, Mr. Paul-Hus and Mr. Therrien.

Mr. Dubé, you have the floor for seven minutes.

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

Mr. Therrien, based on your interpretation of Bill C-21, does the information-sharing program that was implemented under the former Bill C-51 apply to the data collected at the border?

**Mr. Daniel Therrien:** Yes, the information collected under Bill C-21 on people leaving Canada could very possibly be shared through the measures established under Bill C-51.

**Mr. Matthew Dubé:** It is sometimes dangerous in politics to discuss hypothetical situations. However, let's take a case where the information would go to CSIS, for instance, and there would be programs in place with the Five Eyes allies, including the United States. Would it be possible to have a broader sharing than what is explicitly set out in Bill C-21?

**Mr. Daniel Therrien:** As you know, I have commented on Bill C-51 as to the standard under which information-sharing is permitted. In my opinion, the standard established under Bill C-51 is too permissive when it comes to information sharing. I stand by those comments.

You are asking if there is a risk that the sharing is too broad. That's why I insist on the purposes for which the information is collected and shared. In this case, it's a matter of national security. It's quite possible that the sharing is reasonable for an individual who presents a national security risk. However, when it comes to sharing information on all travellers who leave Canada to go to the United States, there is obviously a question of sharing information about law-abiding citizens, in order to target individuals who may be problematic from a national security perspective. This is a reasonable step. However, as soon as this mass of information shared with CSIS, for example, indicates that people are not posing a risk, it is important that the information be destroyed and not used. That's why I'm talking about a period of data retention.

The gathering of information and the initial sharing of information for national security purposes may be reasonable, but it is important to have retention rules that require the destruction of documents as soon as a person is considered a traveller and not a national security risk.

**Mr. Matthew Dubé:** Perfect.

My next question is about the regulatory changes. Their scope in Bill C-21 is fairly broad.

Proposed subclause 92(2) in clause 2 of Bill C-21 states:

...

- (a) prescribing the sources from which the information may be collected;
- (b) respecting the circumstances in which the information may be collected; and
- (c) respecting the time within which and the manner in which the information may be collected.

A similar proposal is set out in proposed subclause 93(5).

Do you think this is something that would require a little more precision or some kind of protection? These are publicly posted changes, but we know that regulatory changes are not subject to the same kind of debate as bills.

**Mr. Daniel Therrien:** In this regard, the bill itself defines the pieces of information that will be collected and shared. So, this is already a level of transparency that needs to be noted. In terms of whether the bill gives the government too much regulatory power to set the terms for the collection of information, personally, I'm already satisfied that the elements are well-defined at the outset.

Of course, with respect to the content of the regulations, like other terms and conditions of programs, we expect them to be shared with us, because the terms and conditions will be used to determine the impacts on privacy. However, I'm not prepared to say that it's unacceptable to have discretionary power within the regulations, insofar as the bill already specifies what information will be collected.

•(0920)

**Mr. Matthew Dubé:** The program was implemented in 2013 to gather information on non-citizens and permanent residents. Have you received any complaints about the execution of the program since 2013?

**Mr. Daniel Therrien:** Our task at the office has been to conduct the privacy impact assessment. In this respect, we have made a significant and consistent commitment. To my knowledge, there have been no complaints so far, but we can confirm that information.

**Mr. Matthew Dubé:** Thank you.

We asked the representatives of the various departments how citizens can challenge the information. They told us it would be the responsibility of the department involved, such as, Immigration, Refugees and Citizenship Canada or Employment and Social Development Canada. In fact, it would be the responsibility of the department that would open the investigation into the citizen, whether it involved employment insurance or an application for citizenship or permanent residence, for instance.

Do you think it's necessary to provide citizens with a way to challenge so that they can complain directly to the Canada Border Services Agency if they believe that the information gathered about them, such as the time and date of departure, is incorrect?

**Mr. Daniel Therrien:** There are several purposes for which information will be collected and shared. Some of them are related to national security. In these cases, the newly created parliamentary committee and the new National Security and Intelligence Review Agency could be redress for citizens.

And there are purposes for which information will be collected and shared that have nothing to do with national security. In fact, we can ask ourselves whether there should be internal redress to judge the quality of the information.

**Mr. Matthew Dubé:** Thank you.

**The Chair:** Thank you, Mr. Dubé and Mr. Therrien.



[English]

Madam Dabrusin, welcome to the committee.

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

**The Chair:** You have seven minutes, please.

**Ms. Julie Dabrusin:** I'm happy to be here.

Thanks to all of you. I found it interesting to hear what you were talking about.

I was reviewing some of the earlier testimony on this issue, Monsieur Therrien, and Mr. Bolduc from the CBSA mentioned that he had had a recommendation from the Privacy Commissioner of Canada to put up signs at the land borders to inform travellers that information will be shared. I was wondering if you can confirm that. Also, have you made other recommendations in respect of notice to people at land border crossings?

**Mr. Daniel Therrien:** Yes, I can confirm that a number of years ago our office recommended that travellers be advised through this notice. Notices do appear at land borders.

More generally, I would say that we've impressed on government departments and agencies, including CBSA, the need to be transparent in the uses that will be made of the information. There's progress there in the information that was made public by the government, including Minister Goodale, on the uses to which the information would be put.

**Ms. Julie Dabrusin:** Were there any specific types of things? I believe he started listing some of the things that are on the forms people fill out when travelling, for example.

**Ms. Lara Ives (Acting Director General, Audit and Review, Office of the Privacy Commissioner of Canada):** I'll just add that through the PIA process some specific recommendations we made that CBSA was receptive to had to do with the retention of the information. Originally when we were approached, the planned retention period was 75 years for CBSA, but through discussions with them, that has been lowered to 15 years. I will add that we're still unclear as to the necessity for the 15-year retention period. In our opinion, that could also be quite long, but in comparison to the 75 years, it's obviously better.

Also, with regard to information-sharing agreements with the United States, we've been provided copies of those through the PIA, and then, of course, the notices that you have brought up. Throughout all of our discussions on PIAs, we always engage in discussions on the necessity for the information collected and disclosed, as well as the effectiveness, so that while they might not be able to demonstrate it from the outset, they have mechanisms in place to gauge that and they can tailor the program along the way.

• (0925)

**Ms. Julie Dabrusin:** Thank you.

Monsieur Dubé raised the fact that there has actually been a framework in place for information collection since 2013. Reviewing what has been in place since 2013, are you satisfied that the mechanisms already in place are sufficiently robust to protect privacy information?

**Mr. Daniel Therrien:** I would not go that far. I would say that the uses to which the government wants to put the information are important public policy objectives that make the collection and sharing of information reasonable at the level of principle, but it is very important to make sure that the way in which this is done is privacy sensitive, including the issue of retention periods.

That is why we're setting out our expectation to see further PIAs for further elaboration, but also that we see information-sharing agreements, because many safeguards or limits on how to implement this principle will be seen in these detailed documents, agreements, and PIAs, and we want to be engaged with government departments in that process, because these are important documents.

**Ms. Julie Dabrusin:** You've mentioned specifically the retention period, which has come up.

**Mr. Daniel Therrien:** Yes.

**Ms. Julie Dabrusin:** Is that the primary concern or are there others you have as well?

**Mr. Daniel Therrien:** What we call "secondary uses" would be another important consideration.

If CBSA collects this information and transparently sends it to, say, the RCMP for law enforcement or to help in dealing with Amber Alerts, that's the primary purpose, but agreements should then define what other purposes should be contemplated.

On that issue in particular, we think it would be important that we be consulted to make sure that the secondary purposes are privacy sensitive.

**Ms. Julie Dabrusin:** Because I am new to this committee, I'm trying to clarify this. My understanding is that so far you have been consulted, that you have been part of this process as far as being consulted on what these agreements would look like. Is that...?

**Mr. Daniel Therrien:** Have we seen agreements?

**Ms. Lara Ives:** We haven't seen agreements with the institutions that CBSA intends to share the exit information with.

**Ms. Julie Dabrusin:** Okay. Thank you.

**Mr. Daniel Therrien:** We've had some good exchanges, but we're still looking for some details from government departments.

**Ms. Julie Dabrusin:** The other question I had was with respect to the review. You said that you intend to "carefully review retention schedules"—

**Mr. Daniel Therrien:** Yes.

**Ms. Julie Dabrusin:** —and "request that clear justifications be provided". Just to clarify it for me, as part of that review, what will you be doing to ensure that as you're doing the review everything is being done to protect privacy information?

**Mr. Daniel Therrien:** The principle that we will try to apply in that review is that even if it is reasonable to collect the information, the information should only be retained by government so long as it is necessary for the purpose for which it was collected or for other reasonable secondary purposes.

CBSA has told us that they have changed their retention schedule from 75 to 15 years. That's good. We still don't know why it's 15 years. How is that related to the purposes for which they are collecting and potentially sharing the information? It is that kind of detail that is necessary to determine whether the retention period is adequate or not, and that is true for each and every purpose, including the collection of information from all travellers, the vast majority of whom are law abiding, to identify threats to national security or otherwise. It's fine for the assessment to occur, but we will try to make sure in these reviews that the information is only retained by government so long as it is necessary to make the required assessment.

● (0930)

**Ms. Julie Dabrusin:** Thank you.

**The Chair:** Thank you, Madam Dabrusin and Mr. Therrien.

Mr. Motz, you have five minutes, please.

**Mr. Glen Motz (Medicine Hat—Cardston—Warner, CPC):** Thank you, Mr. Chairman, and thank you to everyone for your attendance today.

Mr. Fortin, I have just a couple of questions that I want to get some clarity on. With Bill C-21, there are going to be some adjustments to expectations for people in business. Do you expect there to be any obstacles to or resistance from individuals who are travelling or businesses who are in the business of exporting goods?

**Mr. Jean-Pierre Fortin:** The negative concern is probably for my colleague beside me here, because most of the people I spoke with have concerns with regard to the information that's being shared, but in terms of practicality, on a day-to-day basis, yes. As I mentioned prior to this, right now, I think it's about what our members need to have to do a better job. The level of analysis that their job will require is going to be way more precise, in order for them to spend more time on the people who need their attention than on the others.

**Mr. Glen Motz:** What about with regard to the business side?

**Mr. Jean-Pierre Fortin:** With regard to the business side, we haven't heard any major concerns—not at my level.

**Mr. Glen Motz:** You indicated in your presentation, sir, that you already have some resourcing challenges with respect to what you're doing now in terms of the functions and responsibilities you have now. How do you foresee the inspection of goods leaving our country being conducted by CBSA officials? What logistics have to be adjusted or put in place to make that happen?

**Mr. Jean-Pierre Fortin:** Again, the thing is that if we're not getting the proper level of resources.... It's that balance between the facilitation of the public versus the national security that could be compromised. Again, I think everybody around this table understands the level of importance of what the officers are doing to maintain the integrity of our borders and the security of Canadians.

What we've been saying since 2016, and as a result of the DRAP initiative, is that there are a lot of people who have not been replaced. The way the government had proceeded was that people who were leaving were not automatically being replaced, to the point that, right now, we're flying in people. Because of what happened last summer with the asylum seekers, officers were on travel status from across the country, from B.C. and from the Prairies. We're

saying that the core amount of officers is too low right now to have more duties.

I've been pointing out things like the exports. We don't pay that much attention right now, but if the intent of Bill C-21 is for our officers to spend more time and actually search travellers or even companies that are leaving the country to make sure that the goods in their possession are okay, that's a concern that I have. Even though the minister actually highlighted the fact that this is mostly electronic, I disagree with that. It will be more work for our officers, and the level of officers right now is way too low in Canada.

**Mr. Glen Motz:** Thank you.

My next question is for both of you. Unlike many witnesses who come before committees, neither one of you, really, is answerable to a government department. You're not bureaucrats, necessarily. I'm going to ask you this because I asked the last witnesses and got a very measured response. I'm expecting something different today.

We will be going through Bill C-21. Generally we all support this particular legislation, because we think it has some value for us as Canadians. We will be going through clause-by-clause relatively soon. This is your opportunity to tell us where you would make changes, which is really why you're here. Where should there be clarification? Where would you make adjustments to the language that's here now to help us do the responsibility of this committee well?

● (0935)

**The Chair:** Unfortunately, that will have to be in less than 30 seconds.

**Voices:** Oh, oh!

**Mr. Glen Motz:** Mr. Chair, if we can't get the answer completely, is it possible to get a summation of what that might be in writing?

**Mr. Jean-Pierre Fortin:** We certainly can, but very promptly what I can tell you is that our concern right now is more about the level of staffing and the workload that there will be for our officers. That's where I personally have a huge concern: it's for the officers out in the field. If we have more responsibilities, we need to have more officers. Again, the level of officers is way too low right now.

**The Chair:** I'll have to ask Mr. Therrien to work that response into another question.

[*Translation*]

Mr. Ayoub, welcome to the committee.

You have five minutes.

**Mr. Ramez Ayoub (Thérèse-De Blainville, Lib.):** Thank you, Mr. Chair.

Thank you, everyone, for being here.

Indeed, this is the first time I have been on this committee.

National security and border security is a very interesting and topical subject. Privacy protection is also an important topic. We are faced with two important principles that we must reconcile.

Mr. Therrien, the first two phases of the entry/exit initiative were to exchange information with the United States. These phases began with foreign nationals, permanent residents of Canada, and lawful permanent residents of the United States. In the third and fourth phases, information sharing will be expanded to include all other travellers.

What is the motivation for this kind of approach? Do you think it's appropriate for reducing the risk of the invasion of privacy of Canadians?

**Mr. Daniel Therrien:** The bill allows for the collection and sharing of information for different purposes. In particular, information about Canadians may be used for national security purposes. For example, it is conceivable that radicalized Canadian citizens would want to leave Canada to carry out terrorist activities abroad. I would put that in a category where the public or national interest of Canada is at stake. In that case, the public interest justifies the gathering of information about citizens.

Where the bill crosses a certain boundary is when it permits the collection of information about Canadians for the purpose of the integrity of social programs. Preventing fraud related to these programs is a public policy goal that is important, but may not be at the same level as the goal of national security.

Should Canada collect information on the exits of its citizens to ensure the integrity of its social programs? We have examined this question carefully. The issue is more for social programs than for matters of national security and law enforcement by police. Given the limited amount of information collected and the sensitivity of the information collected, we believe that, even for the purpose of the integrity of social programs, the collection and sharing of information is justified with respect to privacy protection. However, it is less clear in these cases than when national security is at stake.

**Mr. Ramez Ayoub:** The entry/exit initiative has four phases. Now that phases one and two are being implemented, the next steps are to collect information on all Canadians, rather than a limited number of people, including permanent residents. Does this approach better protect the privacy of Canadians?

**Mr. Daniel Therrien:** The primary objectives of the government and the departments were national security and border security. They started by targeting those, which is understandable. Gathering information about Canadian citizens for the purpose of social program integrity is a different story. That is understandable, but it's more difficult than collecting information about Canadians for national security purposes.

As I said earlier, a few decades ago, the government did not collect information on the exit of its citizens to ensure the integrity of social programs. In any event, for the reasons I've explained, such purposes seem justified to me.

• (0940)

**Mr. Ramez Ayoub:** As far as the task is concerned, Mr. Fortin said that a staff shortage is ongoing. Does seeking more information for the purposes of social services or the Canada Revenue Agency add to the burden?

**Mr. Daniel Therrien:** Officials will certainly have to do additional analysis. The question will be whether this additional

work will achieve important public interest objectives. It is up to the hon. members to decide on these issues.

**Mr. Ramez Ayoub:** Thank you.

**The Chair:** Thank you.

[*English*]

Mr. MacKenzie, you have the final question.

**Mr. Dave MacKenzie (Oxford, CPC):** Thank you, Chair, and thank you to the panellists for being here.

Mr. Fortin, you and I go back a long way. I have a great deal of respect for the people who do the job your members do.

Being one of those people who have certain addictions—my wife thinks it's an illness that I collect cars, collector cars—I note that one of the things in here is the export of vehicles, particularly in terms of making sure there are no liens and they're not stolen and so on. I would expect that this would not be an additional workload. You're already doing that.

**Mr. Jean-Pierre Fortin:** We are, but until we get to see the refined details of Bill C-21, I'm not in a position to make more comments.

As I mentioned, I do have concerns about the level of work that it will require. I keep thinking that if we need to actually check not only cars, but everything that may leave Canada, particularly certain goods—drugs could be one of them—we want to make sure that we have enough people to do those inspections. Right now, we don't.

**Mr. Dave MacKenzie:** When I look at the mechanics of crossing the border both ways, which I do frequently, I've never been stopped and asked by Canadian authorities questions about issues such as how much money I am carrying, what is the intent.... It's always at the other side where I'm asked the questions. I see most of this on entering, when I'm coming back into Canada. Do you see that this will now impose more responsibilities on the average person leaving the country?

**Mr. Jean-Pierre Fortin:** The answer, we suspect, is yes. It will be more work for our officers to pay attention to export merchandise.

**Mr. Dave MacKenzie:** But for individuals...? As people leave the country—

**Mr. Jean-Pierre Fortin:** Probably.

**Mr. Dave MacKenzie:** —at the land borders...?

**Mr. Jean-Pierre Fortin:** Probably less for individuals: you're correct.

**Mr. Dave MacKenzie:** Okay. Will the real sharing, then, be what information the Americans collect on their side of the border and gets shared back into Canada?

**Mr. Jean-Pierre Fortin:** That's correct.

**Mr. Dave MacKenzie:** Okay. The reverse is also true: what information we collect will go back to the American side.

**Mr. Jean-Pierre Fortin:** That's correct.

**Mr. Dave MacKenzie:** From that perspective, is that where we would likely see some increase in responsibilities for Canadians returning to the country, as opposed to leaving?

**Mr. Jean-Pierre Fortin:** Well, again, we're unclear about the level of detail. This is something that we put in our brief with regard to the policies. We haven't seen them yet, but we suspect that with the magnitude of this project, which is called entry/exit, there will be more work for our officers, even analysis.

**Mr. Dave MacKenzie:** The devil is in the details...?

**Mr. Jean-Pierre Fortin:** You are correct.

**Mr. Dave MacKenzie:** Okay.

Thank you, Chair.

**The Chair:** Thank you, Mr. MacKenzie, and thank you for bringing out the devil in those details.

Thank you again to both witnesses. We're going to suspend for two or three minutes in order to re-impanel.

• (0940) \_\_\_\_\_ (Pause) \_\_\_\_\_

• (0945)

**The Chair:** We're now back in session.

We have new witnesses. Mr. Abram Benedict from the Mohawk Council of Akwesasne is here.

I'll assume you will introduce Mr. Bero, Mr. Benedict.

For the ordering of the meeting—Monsieur Picard in particular—I'm going to cut us five minutes short because we have to do a little business on budgeting for this panel. I'll suspend at 10:40 and we'll go in camera and discuss very briefly the anticipated witness schedule for the next meeting.

Without any other commentary, we'll hear from Mr. Benedict, please.

**Grand Chief Abram Benedict (Grand Chief, Mohawk Government, Mohawk Council of Akwesasne):** Good morning.

Thank you very much for the opportunity to meet with you and to present this morning. I am Abram Benedict, the Grand Chief of the Mohawk Council of Akwesasne, which is a community about an hour southeast of here, right on the Canada-United States/Quebec-Ontario/upstate New York border. I felt that it was important that we request to meet with you. I want to thank the secretary and the chairman for the quick response and the opportunity to present to you on an issue that I believe is very impactful for our community.

I'm joined this morning by Dwight Bero. He is one of our researchers at the aboriginal rights and research office, the office that assists my office, the community, and the organization of the Mohawk Council with border issues, research issues relating to land claims, and other such issues. I'm glad that he's able to join me today.

I have some speaking notes, which we've circulated. I'm not sure if they've gotten to you. I will use those as a bit of a reference, but I'm also interested in dialoguing a bit or answering some of the questions the members may have.

The community of Akwesasne is greatly impacted by the international border and, more specifically, by the legislative impacts

of the Customs Act, as well as some of the proposed amendments that are being considered in regard to this act.

Our community is unique, as I described earlier. It's a community in Canada, the United States, Ontario, and Quebec. The Mohawk Council of Akwesasne is the federally recognized first nation governing body on the Canadian portion of Akwesasne, with a membership of about 12,500 people.

We are geographically landlocked by the St. Lawrence River, as illustrated by the map we have here. Two parts of our community, shown as the yellow portions on the map, are landlocked by the United States border. In order to transit to those two parts of our community, we must go through the United States and then come back into the two portions. The two portions are part of Quebec. The orange portion shown is part of the province of Ontario, and the green portion is part of New York state.

As we move about our daily lives, our community members transit across the border several times a day. From personal experience, the amount of times that I have to transit... I live in the orange portion and daily I have to go through the green portion and back up into my office, which is in the yellow portion. For those two yellow portions, there are no border inspection stations, simply because those portions of our community are landlocked by the St. Lawrence River and the United States. There's nowhere you can go; you can go in, but you can't go any further into the mainland of Canada.

Specifically, as I was mentioning, when I cross daily, I provide a piece of identification to the Canada or U.S. border inspection stations to be able to be processed and go. Several years ago, when I took my daughter, who is 16 years old now, to one of the other border crossings down in the Windsor-Detroit area, I presented at that time my passport to the U.S. inspections officer. He swiped it and, with a blank look in his eyes, asked, "Why is it that you cross the border so many times?" In the few moments that I had to speak with him, I explained to him that I live in Ontario and work in Quebec but have to go through New York state every day to get to my office. As you know, the systems that are in place track how many times you cross the border. As somebody who wasn't accustomed to seeing people crossing so frequently, he was stunned by the fact that, according to the system, I had crossed probably three times daily, at least five to six times a week. That is the reality of the community.

The amendments that are being considered today in proposed paragraphs 92(1)(a), (b), and (c) fail to consider the unique geographical challenges our community faces, especially in regard to being a border community like Akwesasne, whose residents must cross the border on a regular basis for work, school, and/or recreational events.

The Cornwall port of entry is the 10th busiest entry point in Canada, with approximately 2 million vehicles crossing annually, but 70% of the people who cross that border are Akwesasne members. Seventy per cent of those who cross at the 10th busiest border crossing in Canada are Mohawks of Akwesasne, indigenous people of Canada.

●(0950)

In the two districts I've outlined, it equates to 1.4 million trips through the Cornwall port of entry, most times represented, again, by Akwesasne people. Take the two districts in which Akwesasne communities are considered. That represents three million crossings if we take the number of times you have to cross into the United States, back into Quebec to be in the office, back again into the United States, and then back into Ontario as a regular day of being in Akwesasne.

We have worked diligently to minimize the impacts of the international border. For example, we have students who cross the border every day—from the yellow portion going to the orange portion, and vice versa. We've been able to work with the local ports of entry on exemptions with regard to providing identification every day. A bus full of little children carrying certificates of Indian status or passports is something that's very difficult to manage. These buses cross at a minimum twice a day, and hold about 30 children. About 600 children move across the international border line daily.

Emergency vehicles—police, ambulance, and fire—have been able to come to an agreement that upon entering one of those districts for emergency purposes, they do not have to report forthwith, as prescribed under the act. The reason is that they must be able to provide the services needed by the persons in distress. They respond first to the emergency situation and later to the requirements.

The Mohawk Council as an employer has nine departments, with upwards of 1,000 employees. As well, 80% of the people who work for the Mohawk Council and deliver services daily are Mohawks of Akwesasne.

Regulations that are developed must consider the unique geographical location of our community. Akwesasne continues to experience the negative consequences of being the only community designed in a mixed-traffic corridor. Because of the unideal location of Canada Customs on the mainland, in the city of Cornwall, people entering into our community—coming from the green portion, which is the United States—must report to the city of Cornwall port of entry. As they go through there, they enter through the mixed-traffic corridor. The legislation has resulted in Akwesasne being one of only four border crossing pilot programs in Canada. We have been pushing for alternative reporting from the Canada Border Services Agency.

The reason I bring up the mixed-traffic corridor, which is not being considered in these amendments but is a piece of the legislation that you fine people deal with, is that we are the only community that is greatly impacted by the mixed-traffic corridor. What this means is that any traffic that has not actually left the country of Canada, but that goes through Canada Customs because they have to go through that to get to the city of Cornwall, can be subject to inspection through the powers derived from the Customs Act itself. Specifically, paragraph 99(1)(f) gives a border officer the power to search vehicles. It also is a piece of the legislation that allows for examination of domestic travellers when most border crossings across Canada process only international traffic. The Cornwall border processes domestic and international traffic, and in large numbers.

One of the things I can't stress more is that there are many border communities across the country. There is no doubt about that. But this one is compounded by, first, being indigenous, and second, 70% of the users being Mohawk people. As well, two million cars cross there daily. It's not a small, slow border crossing.

The Mohawks of Akwesasne must be specifically consulted on the U.S.-Canada border legislation that adversely affects our rights and existing agreements. That's one of the reasons we're here today—to actually present to you the impacts that entry/exit information will have on our community.

●(0955)

We completely understand that there is a reason these amendments are being considered, but because two parts of our community are not processed by a border agent or customs, theoretically you could leave Akwesasne, Ontario, the orange island shown on our map, go back around to my office in the Quebec portion, which is shown in yellow on the map, and never be processed by the Canada Border Services Agency for months on end. You could simply choose to go into the United States to do your daily business, whether it be shopping, services, or anything else, without being processed by a CBSA station.

This means that if these amendments are considered, the system would tag you as leaving the country and not coming back for a long time, when in fact you could be residing continuously in the Canadian portion of Akwesasne, which is landlocked.

**The Chair:** Thank you, Mr. Benedict.

Mr. Fragiskatos.

**Mr. Peter Fragiskatos (London North Centre, Lib.):** Thank you very much, Mr. Chair.

Thank you very much for being here today, Chief Benedict. I do want to ask you about Bill C-21, but I read in Cornwall's main daily newspaper something you said in early 2017 that I thought was very interesting and important. You said:

We had the Minister of Indigenous Affairs visit our territory not only once, but twice in 2016. We've built a number of relationships with the government we want to maintain. It improves the profile of our community not only to the federal government, but to the communities around us. These are opportunities that will continue to be a priority to myself and our council moving forward.

Can you expand on that comment? I think it's very important.

●(1000)

**Grand Chief Abram Benedict:** One of the things I have done since I became Grand Chief two and a half years ago is try to raise the image and positive profile of our community while creating stronger relationships with our stakeholders and partners, whether it be the City of Cornwall, private entities, or the Government of Canada.

Specifically, under the Minister of Indigenous Affairs, who now is the Minister of Crown-Indigenous Relations and Northern Affairs, Carolyn Bennett, our council and our community forged forward in creating a more positive relationship with the department. I believe that by continuing to work toward a positive relationship we have seen many results in collaboration with the Government of Canada.

**Mr. Peter Fragiskatos:** You said, “positive relationship”, so it has been positive...? With two visits in 2016, there seems to be engagement.

**Grand Chief Abram Benedict:** Yes, for the most part, it is a positive relationship.

**Mr. Peter Fragiskatos:** Okay.

Are there things in Bill C-21 that you can get behind? You have touched on some of your concerns with the bill, and I'm glad to go into that further, but there are things in the bill that I think are a net positive for everyone.

We've heard that for Amber Alerts, for instance, when a child goes missing for whatever reason—such as abductions—Bill C-21 would help in the tracking of that child. Can you touch on that?

**Grand Chief Abram Benedict:** Well, I think that border security and national security are of the utmost importance to our community as well, because we are greatly impacted by any negative or positive events that occur around the border. On the information sharing, absolutely, that's positive, but there must be some serious consideration given to the realities in our community. We're not talking about five people who may cross the border and enter back into a part of our community that doesn't have a processing station; we're talking about literally hundreds if not thousands of people.

**Mr. Peter Fragiskatos:** I understand that, but I want to focus on Bill C-21 as a whole. You would agree that Bill C-21 does provide important guards against things like a child going missing, and that's a benefit for everyone, correct?

**Grand Chief Abram Benedict:** Yes, the intentions and principles of the information sharing are a positive aspect.

**Mr. Peter Fragiskatos:** You mentioned this in your remarks, but I think it's worth looking at again. If we recognize the unique situation of your community and the position of the port of entry in Cornwall, as I certainly do, can you speak more broadly about your concerns for indigenous border communities, bearing in mind that Bill C-21's changes will not be felt by the traveller? For instance, there are going to be changes within CBSA and with information sharing.

**Grand Chief Abram Benedict:** I'm not sure if I entirely understand your question. I can only speak for my community. I can't speak broadly for other communities that may be impacted by border legislation or just regular border business, but—

**Mr. Peter Fragiskatos:** The question is, if I can rephrase it... There are other indigenous border communities that find themselves in perhaps not the exact same situation as your community, but the issue is not limited to your particular situation. Also, we have to keep in mind that the changes are not going to be felt by the traveller. There are changes within CBSA and changes that are applicable to information sharing.

**Grand Chief Abram Benedict:** Yes. A number of the communities—

**Mr. Peter Fragiskatos:** It's not meant to impact or make things more complicated for the traveller.

**Grand Chief Abram Benedict:** A number of indigenous communities are impacted by situations similar to what our community faces, but I will reiterate that it's not to the magnitude

that we are. There's not another indigenous community that is in two countries and two provinces.

When we talk about the impacts of the legislation on regular travellers, again I have to reiterate that regular travellers do not travel across the border to the magnitude that the members of Mohawks of Akwesasne do. Don't get me wrong. There are a number of border communities across the country, but there are not 12,500 Mohawks who live on both sides of that border. I can't stress enough that we are greatly impacted, to a large level.

●(1005)

**Mr. Peter Fragiskatos:** Okay. Understood, certainly.

Can I ask you a question of clarification? You were quoted in August 2016 in an interview in an American publication. They asked you about native Americans coming into Canada and the complications that might pose at the crossing. You said with regard to native Americans entering Canada that it “happens a few times a year” that there are issues of delays and people being held back. The word “few” caught my attention. It implies that it's not happening very much.

**Grand Chief Abram Benedict:** No. In fact, it actually happens quite a bit.

I'll tell you that, being on a border community, our people are prepared to understand what is required. If a Seminole Indian comes from the far south of the United States and winds up at a border crossing in Canada, they probably won't be well versed in what is needed and what is required of them. If they were to provide their Seminole identification card, it would not be recognized by the Canada Border Services Agency as a document that recognizes them as an Indian.

For Mohawks born in the United States who may not be registered as Indians under the Indian Act, they will end up showing up and providing a piece of identification that is acceptable—against what they believe in, though—the reason being that they probably want to get into the country without problems.

**Mr. Peter Fragiskatos:** I think you're touching on the Jay Treaty, which I don't want to get into right now.

**The Chair:** Thank you, Mr. Fragiskatos, for not getting into the Jay Treaty.

**Mr. Peter Fragiskatos:** Okay.

**The Chair:** It was good of you to do that.

Thank you, Grand Chief.

[*Translation*]

Mr. Paul-Hus, you have seven minutes.

**Mr. Pierre Paul-Hus:** Thank you, Mr. Chair.

Mr. Benedict, thank you for being here.

You mentioned in the letter you sent to the committee that the special representative, Fred Caron, worked on a report that he submitted to Minister Bennett.

Is this report directly tied to Bill C-21 or does it stem from a previous request? If the report had nothing to do with Bill C-21, I would like to know if the government consulted you on this.

[English]

**Grand Chief Abram Benedict:** With respect to Fred Caron and what his mandate was—because now it has been completed—it was not specific to Bill C-21. Fred Caron's mandate, from what I understand in speaking with him and from his visits to our community, was specifically around the challenges that indigenous people faced with border crossing issues.

With respect to Bill C-21 and being consulted, no. Also, I don't construe this as being consultation for that bill.

[Translation]

**Mr. Pierre Paul-Hus:** You cross the border regularly to move around your community, which is located partly in Canada and partly in the United States. You mentioned that Bill C-21 would have an impact on you. Since you already have to go through a border point when you cross the border, what will change for you with Bill C-21? You are already subject to some control.

[English]

**Grand Chief Abram Benedict:** When you come back from the United States into the two yellow portions to the centre and to the right on our map, those parts are unmanned. There is no border inspection station. Therefore, when you leave from the orange portion and go down—let me quickly illustrate this—you are processed by a U.S. inspection station there.

When you transit back around and you come to the yellow portion, there is no inspection station. Therefore, systemically, there is no way to tag that you have returned into Canada. People can remain in this portion for long periods of time and can do things such as accessing services or groceries and things like that in the United States, and can cross back into there without being processed.

Therefore, if this bill is implemented, if you choose not to come back through an inspection station, whether it's as shown here or another one, you will systemically be shown to have never come back.

My apologies for not speaking into the mike.

• (1010)

**Mr. Pierre Paul-Hus:** It's okay.

[Translation]

Can you suggest any solutions? All things considered, we understand the integrity aspect of the Mohawk community very well. However, our overall approach is focused on the security of North America and the security of the Canada-US border.

Your community is important, but we must ensure global security. Can you recommend any solutions to the committee so that we can work together?

[English]

**Grand Chief Abram Benedict:** I don't have one specifically, but I do know that a number of pieces of legislation pertain to Akwesasne in a wide variety of areas and recognize the uniqueness of Akwesasne, one being the St. Regis Islands Act, and one being the Akwesasne Residents Remission Order, which is specific to bringing goods into Canada. As well, there is the Akwesasne bridge workers remission order. These are examples of...I wouldn't say

exemptions, but legislative recognition of the uniqueness of Akwesasne.

[Translation]

**Mr. Pierre Paul-Hus:** We fully agree on the unique character of Akwesasne. That being said, we are trying to see how we can work together to ensure the security of the Canada-US border, while maintaining the unique character of Akwesasne.

The problem is that when you leave Ontario and go to the United States, you have to give your identity when you arrive at the US border crossing, of course. However, when you return to Canada on the Quebec side, no check is carried out.

Should there be a check to ensure the transfer of information? So the community, Canadians, and Americans would all have the same information.

[English]

**Grand Chief Abram Benedict:** We have a number of enforcement agencies in our community: specifically, the Akwesasne Mohawk police and the Saint Regis Mohawk Tribe police, which are both indigenous policing agencies. One is based in Canada and one in the United States. Community safety and national safety are of utmost importance to us as well, including the safety of our nation.

We are concerned that the information sharing with respect to this bill will impact other benefits that Canadians enjoy, such as employment insurance, child tax benefits, or health insurance benefits. Those things are the concern, because members who may choose to not be processed by customs, but who still reside in Canada for their entire life or for long periods of time, will be the ones that this bill will be a detriment for.

[Translation]

**Mr. Pierre Paul-Hus:** Thank you.

**The Chair:** Thank you, Mr. Paul-Hus.

Mr. Dubé, you have the floor for seven minutes.

[English]

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

First of all, I thank you for being here. After hearing that last comment and reading your letter, that's the real issue, then, isn't it? It's the fact that one of the stated objectives is the enforcement of different government programs and, given the uniqueness of this situation, much of that exit information can be very much misconstrued given this reality that you've been explaining for the last number of minutes.

As we look beyond the problem and towards solutions, perhaps we could get your thoughts on some of the potential solutions to the problems created by this. For example, would having more formal redress systems be a good example of something to look at as a way to alleviate this? Here's what I mean by that. Let's say there's no entry information when you return to Quebec. The information might be erroneous or mistakes can be made. We see this in our constituency offices all the time. A well-intentioned public servant might tag a certain piece of exit information and not look at the whole picture of the patterns that are there in terms of your exit.

Would being able to contest that formally be one mechanism that you envisage as something to alleviate the problem you're highlighting today?

**Grand Chief Abram Benedict:** We have experienced a number of problems with respect to some of these services that already exist. We had to take the minister responsible for old age security to court a number of years ago. Our elders' benefits were being reviewed and a large number of them were being cut off, simply because when the people who process these applications in the public service looked at some of the real dynamics of Akwesasne, automatically a red flag flew up. This would be the same concern.

We would be prepared to enter into discussions on how we can find solutions, but I will tell you that the area in the yellow portion of our map, which is in Quebec, actually has an area code that is an Ontario area code—613—when the rest of the region has a 514 number. When people are on the outside looking in, they see an Ontario area code and a Quebec mailing address. Also, in some cases their bank statements may be from an Ontario bank, because there's no bank—there are very few services—in the Quebec portion. As well, in some cases, these people may possess ironworkers' cards or may work in the United States for periods of time and may have a health benefit because they're an ironworker.

When they look at some documentation at a high level, it gets flagged from the systemic processing of benefits in terms of “do they really reside there?”, and that would be concern. It's that this could happen in mass numbers with respect to—

• (1015)

**Mr. Matthew Dubé:** Pardon me, but in other words, it's already an issue.

**Grand Chief Abram Benedict:** Yes.

**Mr. Matthew Dubé:** Also, given the stated objectives—

**Grand Chief Abram Benedict:** Yes, absolutely.

**Mr. Matthew Dubé:** —of this legislation, it would probably be exacerbated.

**Grand Chief Abram Benedict:** Yes.

**Mr. Matthew Dubé:** To go back to solutions, then, do you have any specific solutions, or is the objective today to flag this as an issue for your community?

**Grand Chief Abram Benedict:** Today's main objective is to flag this as an issue. I think one of the solutions would be to engage with some of the responsible agencies, but there needs to be a commitment that the agencies will work with us to find solutions, because I know that the Customs Act really has nothing to do with the social benefits that the different agencies administer. There needs to be a commitment to find those solutions specifically for us.

**Mr. Matthew Dubé:** If I may ask you, what has been the outcome of some of this litigation, such as, for example, the benefits for the elders you mentioned?

**Grand Chief Abram Benedict:** For the elders, we didn't want to litigate. We ended up doing a judicial review because there was no response from the internal review process. Then, with all the letters at the time—this was eight years ago—there was no response from the minister, so we had to engage in the legal process. Since then, we now have a final agreement on these issues, but it still continues to

be a struggle, because that only includes the benefits for elders. As well, there are the benefits for low-income families that we have to deal with in Quebec and Ontario.

**Mr. Matthew Dubé:** We talk a lot about how this program works with regard to provincial governments. We're told there's no information sharing, but nonetheless there are certain things that line up, for example, when it comes to where you work and things like that. Has there ever been a domino effect in that regard?

**Grand Chief Abram Benedict:** Yes, absolutely. The State of New York passed legislation about 20 years ago recognizing that Akwesasne is one community with respect to education, so children who live in Akwesasne can attend a New York state school without having to pay any tuition or worrying about where they live.

In some of these reviews, what happens is that if it's a mother being reviewed for her child tax credits and her child actually attends a New York state school, the State of New York recognizes that, but again, when you go to a review, you see that the mother lives in Ontario and has a child's school records from a New York state school. As well, sometimes in those cases the child actually may have been born in a New York hospital. When you take all this documentation and put it to a reviewer in one of the systems, it looks like they're not entitled, right? Also, that's for one person. Remember: there are 12,500 Mohawks on every side of the border here.

**Mr. Matthew Dubé:** Despite your efforts, this remains an issue even before—

**Grand Chief Abram Benedict:** It continues to be. We continue to work with the government and respective agencies to find solutions, but it's not always easy. It's like calling a 1-800 number and getting “press three, press four” and then waiting four hours.

**Mr. Matthew Dubé:** We all know what that's like.

**Grand Chief Abram Benedict:** That's a bit extreme, but that's the reality of trying to get some of these things issued. I know that when you talk to somebody and give them these factors, they can't understand it.

**Mr. Matthew Dubé:** I appreciate that. Thanks very much.

**The Chair:** Thank you, Grand Chief.

Mr. Fragiskatos.

• (1020)

**Mr. Peter Fragiskatos:** Thank you very much.



We heard just a few minutes ago about how Amber Alerts—I'll use that example—can be a benefit to your community. I want to continue asking about Bill C-21 in general terms. We've heard a great deal about concerns related to port-of-entry issues. I don't dismiss those concerns for a moment, but I do want to get to a broader focus on Bill C-21.

You've touched on some issues. Do you have any other concerns about the bill?

**Grand Chief Abram Benedict:** Other than the information sharing, I think the principles of Bill C-21 are there. It's more about the implementation and the reality of the impacts that are going to happen.

**Mr. Peter Fragiskatos:** Can you expand on the principles of Bill C-21 or their meaning?

**Grand Chief Abram Benedict:** I think the information sharing, the Amber Alerts, and ensuring that people who are perhaps a threat to either Canada or the United States are absolutely important. There is reason to share this information, but I'm concerned about the residue effect that sometimes has.

**Mr. Peter Fragiskatos:** Do you have concerns about establishing residency in one country or another?

**Grand Chief Abram Benedict:** Well, the Mohawks existed prior to any residence requirements. In fact, we're a nation inside a nation. Absolutely I have concerns about that, because it's the Mohawk nation and it existed prior to any of those lines being drawn anywhere.

**Mr. Peter Fragiskatos:** Is there anything else that you think the committee should know about Bill C-21 as a whole?

**Grand Chief Abram Benedict:** No, I think those are the main areas. If you want to talk about the Customs Act, we could go on for hours.

**Mr. Peter Fragiskatos:** I want to focus on Bill C-21. Thank you.

**Voices:** Oh, oh!

**Mr. Peter Fragiskatos:** I'm through, Mr. Chair.

**The Chair:** That was a very short seven minutes, Mr. Fragiskatos.

Mr. Motz.

**Mr. Glen Motz:** Thank you very much for being here today, gentlemen.

In your role, Chief, you need to deal with a lot of issues. As we know, there is one that has been an ongoing concern of yours, your people, and other Canadians: cross-border and integrity issues with respect to the transport of contraband into your reserve, off your reserve, and through your reserve and your nation, along with weapons and other illegal contraband and drugs, etc.

I'm sure you would want the measures of this particular act, Bill C-21, to help you and your people deal with those illegal activities on your land. Do you feel that these measures might help you deal with some of these concerns that you have raised?

**Grand Chief Abram Benedict:** Specifically with regard to this, to Bill C-21, I don't believe they would. There's the information sharing for people purposes—

**Mr. Glen Motz:** It's also about goods.

**Grand Chief Abram Benedict:** Yes, but the goods you've described don't generally go through the regular means of being processed, so I'm not sure that...

**Mr. Glen Motz:** That's true, and thank you for that, because it's a great segue to where I wanted to go.

Your concerns are obviously legitimate. Solutions are difficult. You haven't really thought of what could work. The government has a responsibility to be respectful of your nation's individuality, but it also has a responsibility to ensure that, in the broader scope of things, the intent of this legislation is followed for your benefit as well.

There is no secondary border port, as you mentioned. Do you see value in potentially moving in that direction to help follow the regulations with respect to Bill C-21, as well as to maybe help your own nation and the tracking of people? You've already identified some of the challenges, including how they don't know they're back in Quebec and think they're in the U.S. Could that alleviate some of those things you've already experienced as well as trying to follow the intent of Bill C-21?

●(1025)

**Grand Chief Abram Benedict:** I can assure you that there's no Mohawk who doesn't know where the border exists. As for the people who wouldn't know where they are, they're the people who are administering such programs, or the government. People know where the international borderline is—

**Mr. Glen Motz:** I appreciate that.

**Grand Chief Abram Benedict:** —so it's not that we would need a border inspection station there to help identify it.

I can assure you that we face enough challenges with the one that is in our community. To imply that we should perhaps put others there would not be something that would be beneficial. In fact, the only people they would be processing at that point would probably be 99% Mohawks, so—

**Mr. Glen Motz:** You yourself said, sir, that one of the challenges your own people face is that they come through Cornwall, go through New York, and go back into Quebec, and it may impact their ability to get health services and many other programs that are Canadian-administered. It would seem reasonable that if there were some way to ensure that the Canadian authorities knew that people from your nation were back in Canada, it would be beneficial to your people.

**Grand Chief Abram Benedict:** The people would never agree to be tracked like that.

Again, the imposition of the Canada-United States border is not something that we asked for as a people. To say now that in order to keep the benefits that every other Canadian enjoys, they now must be able to register in some sort of system will not be received very well by our people.

**Mr. Glen Motz:** Thank you.

**The Chair:** Thank you.

[*Translation*]

Mr. Picard, you have the floor for five minutes.

[*English*]

**Mr. Michel Picard:** I'll start with an apology, not knowing what is on the field, so bear with me and, with all respect, understand my sometimes naive questions. Do I understand that being able to go from orange to yellow and back and forth is part of the problem?

**Grand Chief Abram Benedict:** It's not a problem. The problem, though, would be if this legislation were implemented, because then you're tracking when people leave and when they return, and in those two parts you have no way to track when they return.

**Mr. Michel Picard:** I understand that many people who live in the orange sector have to go into the yellow sector—

**Grand Chief Abram Benedict:** Yes.

**Mr. Michel Picard:** —and the other way around. Do I understand that it's not possible to travel between those islands and the land by different ways other than by road?

**Grand Chief Abram Benedict:** Those means would be by boat

**Mr. Michel Picard:** Yes.

**Grand Chief Abram Benedict:** —but we'd need to have boats that could carry 50 to 100 people at a time.

**Mr. Michel Picard:** A system of transportation by water—

**Grand Chief Abram Benedict:** By river, yes.

**Mr. Michel Picard:** —is not developed enough to have a constant back-and-forth?

**Grand Chief Abram Benedict:** It's not financially feasible because the location is quite close. I probably don't have to tell all of you, but people don't generally like to have user fees, and if they do, it's always a negotiation. As well, the shipping channel that runs through there poses some challenges. The navigable waters there, whether they be in the shipping channel or outside of it, freeze in the winter, so then we would be—

**Mr. Michel Picard:** Okay. Therefore, other infrastructure projects such as bridges would also be very expensive and may not be possible because it's too wide. Again, I don't see the land—

**Grand Chief Abram Benedict:** Yes. Between Île Saint-Régis and Cornwall Island would be the closest point here, as shown on the map.

**Mr. Michel Picard:** Yes.

**Grand Chief Abram Benedict:** That shipping channel goes right between those two islands. Theoretically, if there were to be some sort of infrastructure, we would need to have a high-level bridge, and

that would only bring you to one more island. You'd have to join a couple of islands.

**Mr. Michel Picard:** Therefore, we are stuck with one bridge from yellow to green...?

**Grand Chief Abram Benedict:** Yes.

**Mr. Michel Picard:** Okay.

Let's say that we're not disregarding those options, but we understand that they are expensive and complicated.

Now we have to find ways to be comfortable balancing our way of living together, and you, in collaboration with us, have to find ways to avoid abuse from non-indigenous people who may want to take advantage of your recognized privilege, knowing that by going through those regions they might exceed what is reasonable.

It's not a new issue. You've had those concerns in the past. What were your reflections—this is mainly commercial-wise—on the illegal intent in transactions in the business community? What were your reflections on how to avoid always being hit or targeted as being either involved in or subject to those outside ill-intentioned groups of people?

• (1030)

**Grand Chief Abram Benedict:** The Mohawk Council of Akwesasne has a police force: the Akwesasne Mohawk Police Service. As well, the Saint Regis Mohawk Tribe has a police force: the Saint Regis Mohawk Tribal Police. They are both part of international enforcement teams within the United States and Canada. They share information regularly, so this enforcement and the lookout for threats already exist within our community, although we do struggle with resourcing.

I know that first nation policing is an issue across the country, as well as in our community. I think there needs to be a recognition that we need additional resources in the partnerships that exist now to be able to capture those continued threats that exist. It is happening as we speak.

**Mr. Michel Picard:** Do they have those limitations on the U.S. side as well in terms of the lack of resources and budgets and all of that? On both sides of the border?

**Grand Chief Abram Benedict:** Yes.

**Mr. Michel Picard:** This means that our issue is mainly how to manage your daily lives when you're going through the border with a solution that may enforce the privileges you have that are all recognized, without jeopardizing or putting at risk our whole community as Canadians, including first nations, to make sure that the security is well managed.

**Grand Chief Abram Benedict:** Yes, absolutely. We're prepared to enter into discussions with the agencies that administer a number of programs to find how we can best ensure that we're meeting the safety and security concerns of all of our nations.

**Mr. Michel Picard:** Thank you.

Thank you, Chair.

**The Chair:** That appears to bring us to the end of our questioning.

I want to thank you, Grand Chief Benedict, and your colleague Mr. Bero, for reaching out to us and elucidating on these unintended consequences, if you will, of Bill C-21. I can tell from the questioning that we're all kind of saying "hmm"—we could see your point.

**Grand Chief Abram Benedict:** Yes.

**The Chair:** Again, on behalf of the committee, I want to thank you for your effort to reach out and to be here this morning.

**Grand Chief Abram Benedict:** Thanks to you and the committee members for allowing us to be here.

I extend an invitation to the committee to visit our community, as a whole or individually, and see the reality.

Thank you very much.

**The Chair:** Thank you.

I'm going to suspend for a couple of minutes while we go in camera. Then we'll deal with the budget issue, and that will be it.

*[Proceedings continue in camera]*

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