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# Standing Committee on National Defence

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Chair: Mrs. Karen McCrimmon





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Wednesday, March 3, 2021

• (1430)

[*English*]

**The Chair (Mrs. Karen McCrimmon (Kanata—Carleton, Lib.)):** I call this meeting to order.

[*Translation*]

Good afternoon, everyone.

[*English*]

Welcome to meeting number 18 of the House of Commons Standing Committee on National Defence.

[*Translation*]

Today's meeting is taking place in a hybrid format, pursuant to the House Order of January 25, 2021. Members are attending either in person in the room or remotely using the Zoom application. The proceedings will be made available via the House of Commons website. So you are aware, the webcast will always show the person speaking, rather than the entirety of the committee.

[*English*]

For those participating virtually, I would like to outline a few rules to follow. You may speak in the official language of your choice. Interpretation services are available. If interpretation is lost, please inform me immediately. We will ensure that the interpretation is properly restored before resuming the proceedings.

Before speaking, please wait until I recognize you by name. All comments by members should be addressed through the chair. Please speak slowly and clearly. With the help of the clerk, I will do the best I can to maintain a consolidated order of speaking for all members.

Pursuant to Standing Order 108(2) and the motion adopted by the committee on Tuesday, February 9, 2021, the committee is resuming its study of addressing sexual misconduct issues in the Canadian Forces, including the allegations against the former chief of the defence staff, Jonathan Vance. I hope you all had a chance to read the letter from the law clerk that was sent out to all committee members.

Today I would like to welcome our witness by video conference—Mr. Gary Walbourne, the former ombudsman for National Defence and the Canadian Armed Forces. Mr. Walbourne may be assisted by counsel. That permission was granted by the committee. However, please be advised that counsel will be restricted to an advisory role and may neither ask questions nor reply on the witness's

behalf. Up to six minutes will be given for opening remarks, after which we will proceed with rounds of questions.

Welcome, Mr. Gary Walbourne. I now invite you to make an opening statement of up to six minutes.

**Mr. Gary Walbourne (Former Ombudsman, National Defence and Canadian Armed Forces, As an Individual):** Good afternoon, Madam Chair and committee members.

I have appeared in front of 13 committees; however, this is the first time under summons.

I am joined today by my legal counsel Mr. Jordan Lester, partner of the law firm Cheadles in Thunder Bay, Ontario.

As you are aware, I am the former ombudsman of the Department of National Defence and the Canadian Armed Forces. As ombudsman, I played a vital role for the 120,000 members of the Department of National Defence and the Canadian Armed Forces, veterans, their families and all those who served.

Among many other things, the office of the ombudsperson helps individuals and families with complaints or concerns, and can investigate any report and publicly release such a report on any issues that affect the well-being of those who have served or who are serving.

In 2011, I joined the Office of the Veterans Ombudsman as executive director of operations and deputy ombudsman. Prior to that, I was director general to the executive secretariat at Fisheries and Oceans Canada, where I was accountable for the coordination of parliamentary affairs, access to information and privacy, and ministerial correspondence. Before joining the Department of Fisheries and Oceans, I was the director of strategic initiatives at the Department of National Defence for several years.

My last day on the job as ombudsperson at DND was October 31, 2018. I left the job early on the advice of my doctors and my own realization that no reasonable person could possibly be expected to continue in the hostile circumstances created by the Department of National Defence.

The hostility from DND started around March of 2017, when I prepared and released a report called "The Case for a Permanent and Independent Ombudsman Office", which I will call the "governance report". The governance report concluded that the current governance structure, with its delegations and administrative arrangements, has negatively affected the operational effectiveness of the ombudsman's office.

My primary concern, as was expressed in the report, was that the ombudsman, who reports to and is accountable to the Minister of National Defence, falls under the legislative responsibilities of the deputy head. This, I concluded, affected the independence of the office.

The governance report recommended that the Minister of National Defence support the enactment of legislation aimed at giving the office permanence and independence from National Defence with respect to all functional authorities.

On March 18, 2017, Minister Sajjan rejected the report and its recommendation. In his letter informing me of the same, the minister, quite ironically, stated the following:

If you ever feel that your ability to carry out your duties is being constrained by the Department of National Defence or the Canadian Armed Forces, I would encourage you to make full use of your direct reporting relationship to make the situation known to me.

I publicly spoke out against Minister Sajjan's decision to reject this recommendation, and as some of you may know, my concerns were widely reported by national media.

Several months later, on July 17, 2017, I met with then deputy minister John Forster to discuss governance issues, specifically the department's administrative order and directive number 7024-1, which sets out internal procedures for disclosure of wrongdoing in the workplace. I've been trying to address these issues with the minister and then deputy minister since 2015.

During this meeting, I directly expressed my frustration with DND's lack of interest in improving its governance structures, and threatened to make my concerns public. One week later, on or about July 24, 2017, I was advised by then deputy minister Forster that a senior officer in the Department of National Defence had made allegations of wrongdoing against me and my staff, under the Public Servants Disclosure Protection Act, PSDPA.

The precise allegations being made were not disclosed; rather, vague and cryptic descriptions such as inappropriate contracting and discriminating hiring practices were provided. These allegations were meritless, and I knew it was a hit job.

On July 27, 2017, I wrote to then deputy minister Forster advising him that I intended to co-operate with the investigation. Further, I asked that I be consulted on the selection of a third party investigator. I was never consulted on the selection of a third party investigator.

For three months nothing happened with this investigation, until October 27, 2017, when I was advised by Deputy Minister Jody Thomas that the allegations against me would proceed to formal investigation. This was odd, because, once again, I was not provided the specifics of the allegations.

• (1435)

The timing of advising me of this investigation was, in my opinion, suspicious. It was conveyed to me just before I was scheduled to appear before the Standing Committee on Veterans Affairs, where I would be providing an update to the committee on DND's implementation, or lack thereof, of my recommendations. There is no reason why it would take three months to determine whether a formal investigation was necessary. It was obvious this process was being used as a means of intimidation to me prior to my testimony before committee.

I appeared before the committee, and wouldn't you know it, there was radio silence regarding the investigation. On January 12, 2018, I wrote directly to Minister Sajjan to express concerns about the fairness of the investigation, notably, the length of time in advancing the investigation and the secrecy surrounding the specific allegations being made against me.

Minister Sajjan responded more than one month later with no substance other than to thank me for co-operation in the matter. The investigation process inexplicably moved at a snail's pace until March 2018, which just so happened to be the time when I personally met with Minister Sajjan to address an allegation of inappropriate sexual behaviour within the senior ranks of the Canadian Armed Forces, specifically, against the chief of the defence staff, and to discuss my concerns about this allegation.

This meeting happened on March 1, 2018. I explained to Minister Sajjan that the complainant had approached me only after the assurance of confidentiality. As to what I will say here today, it will only be restricted by the oath I took as ombudsman, and more specifically, I will not reveal the name of the complainant or the details of the complaint, for this is their story to tell, not mine.

Minister Sajjan was told the complaint was not formal and my request of the minister was for him to get back to me with some advice on how we could potentially proceed. Now, I understand that there have been several requests to see the calendar of meetings between myself and the minister. This has now been made available to the clerk for distribution to the committee.

It will show that I met with the minister at the following pace: once in 2015, twice in 2016, three times in 2017 and once in 2018, specifically, March 1, 2018. After this meeting, there were over a dozen requests from myself to the minister to meet. All were rejected, and I never spoke to Minister Sajjan again. This meeting was very hostile and ended bitterly.

Wouldn't you know it? Suddenly, the investigation processes were being pushed forward again. Shortly after the tumultuous March 1 meeting with the minister, and without any warning consultation, my financial authority and my HR delegations were altered, changed and truncated. This decision directly impacted the independence of my organization.

On March 2, 2018, I informed Minister Sajjan of my intention to resign from my position. My letter to the minister stated, “There is absolutely no trust in the environment and more effort is focussed on isolating this Office rather than listening to evidence-based reporting. As mentioned this has become a toxic workplace and has had grave impact on my health and well-being and thus has pushed me to this decision.”

Despite delivering my resignation letter directly to Minister Sajjan, and despite the very serious allegations being made against the Department of National Defence, the minister did not acknowledge the resignation letter until August 15 of 2018, a delay of five months. In this response, he did not address the serious allegations, nor did he address my concerns regarding a toxic workplace.

Meanwhile, the investigation continued, and others were launched against members of my team who defended me. Several innocent victims were caught up in the investigation, some who still suffer in situation to this day, and those of us who left early.

One of the people vexatiously charged went to Federal Court for a judicial review. Here's a quote from that review. On July 23, 2019, the Honourable Mr. Justice Zinn said:

She was denied procedural fairness in the investigation and in the decision-making process. The decision to accept the investigator's findings that she engaged in wrongdoing must be set aside.

● (1440)

To add further injury, after I had met with the minister on March 1, I was contacted by the Privy Council Office the very next day for a meeting. I thought it had to do with the investigation that I was under, but I was completely floored when they asked me about the details of the complaint and the allegation against the chief of the defence staff when I had specifically told the minister that I did not have the complainant's permission to investigate, and it was to be held in confidence.

Much has been said about the independence of both the ombudsman's office and the sexual misconduct response centre. The fact is neither is independent. Even though I am no longer an ombudsman, while I'm here I would like to use this platform of the committee to advocate.

There is no construct that allows for independence when both financial and staffing delegations are controlled by the very entity you are reporting on. I liken it to sending young adults off to university; they live independently while their parents pay the rent. That's close. I published two reports regarding independence that are as applicable today as they were when they were published.

I'll give you a little history. In 1998 the ombudsman's office was created, and, yes, dealing with sexual assault and harassment were the responsibility of the ombudsman's office. What was missing was the support and resources to fully implement a program. I suggested that the sexual misconduct response centre be rolled into the ombudsman's office and that this entity be made to report to Parliament.

It irritates me as I hear the continued rhetoric of yes, we're all here for you, but in reality not much changes.

The time has come to get these organizations out from under the boot heel of the department. You will hear opposing points of view, I'm sure, but I will ask you this: how is it working for you now? Changing the name on the door and flashing advertising is not going to fix this, as we have seen.

I'm aware of the allotted time given to me by the committee to make an opening statement, and I don't doubt there are some questions. To conclude my statement, I will say that, yes, I did meet with on March 1, 2018, and, yes, I did directly tell him about an allegation of inappropriate sexual behaviour made against the chief of the defence staff.

Very shortly after that meeting, as I have said before, the autonomy and financial independence of my office were gutted yet again, and despite the fact that I was the ombudsman of the department I oversaw, that was the last time I ever spoke to the minister.

I now stand ready to take questions from the committee, but I do ask that if anyone comes to committee to refute what I have said here today, please invite me back so that I can provide evidence to support my testimony.

I stand ready for your questions, Madam Chair.

Thank you.

● (1445)

**The Chair:** Thank you very much, Mr. Walbourne.

I will now open the floor for questions.

Mr. Bezan, go ahead, please.

**Mr. James Bezan (Selkirk—Interlake—Eastman, CPC):** Thank you, Madam Chair.

Thank you, Mr. Walbourne, for appearing today and for setting the record straight.

When you met with Minister Sajjan at that March 1, 2018, meeting, were you accompanied by anyone or was there anyone else in the room at that time?

**Mr. Gary Walbourne:** The meeting was a scheduled meeting. There was an agenda for the meeting. There were several items. There were both departmental staff and ombudsman staff in the room at the time.

**Mr. James Bezan:** Can that be collaborated by other witnesses as well?

**Mr. Gary Walbourne:** Excuse me, but can what be collaborated?

**Mr. James Bezan:** Can the fact that a meeting took place regarding the allegations of sexual misconduct that you presented about the chief of defence staff?

**Mr. Gary Walbourne:** Excuse me. No.

I can send the agenda over to the committee. You will see that at the end of the agenda there's a confidential item on which everyone else was asked to leave the room. The meeting was between me and the minister when the discussion about the sexual allegation was brought forward. He and I were the only ones in the room.

**Mr. James Bezan:** Only the two of you were in the room. I appreciate that.

When Minister Sajjan said that he learned from the media only a few weeks ago about the allegations against General Vance, how would you qualify that?

Is he telling the truth or is he fudging what actually happened?

**Mr. Gary Walbourne:** Madam Chair, I don't think it's my position to qualify anything. All I can do is tell you the truth.

I've told you what I know. I was there in the meeting.

**Mr. James Bezan:** Okay.

You told the minister back on March 1, 2018, that there were serious allegations of sexual misconduct by General Vance. What was the minister's mood and how did he reply in response to this report that you were presenting to him?

**Mr. Gary Walbourne:** The meeting kind of ended right around that point in time.

I did tell the minister what the allegation was. I reached into my pocket to show him the evidence I was holding, and he pushed back from the table and said, "No." I don't think we exchanged another word.

I did offer to shake his hand at the end of the meeting and I asked him to get back to me with some advice as to what I should do with this. That's how it ended.

**Mr. James Bezan:** So he wouldn't even look at the physical evidence that you had?

**Mr. Gary Walbourne:** No.

**Mr. James Bezan:** When Mr. Sajjan says that he then reported to appropriate authorities, which we all assume is to the Privy Council Office, was there any follow-up from PCO with you about these allegations?

**Mr. Gary Walbourne:** As I said in my opening statement, I was contacted by PCO, but I thought it had something to do with me personally and with the investigation that I was under. When I went over to meet with PCO, I was asked for the evidence regarding the allegation.

**Mr. James Bezan:** Was that with the Clerk of the Privy Council at that time?

**Mr. Gary Walbourne:** No, that was with Janine Sherman.

**Mr. James Bezan:** I think we are all aware that you weren't obligated to provide that evidence to them, as per the ministerial directives and the confidentiality that you have to keep for the complainant.

When you went to the minister with this evidence, what were you expecting Minister Sajjan to do under his responsibilities as set out in the National Defence Act?

**Mr. Gary Walbourne:** I think we've heard other witnesses say that there were several options available to the minister. I did not go in with any preconceived notion of what he would, could, or couldn't do. As his direct report on the organizational chart, I was looking for some advice and guidance on what I should do.

My first concern is, always has been, and always will be the victim. I made sure that person was in the right place, where they needed to be, and then my job was to see how we could get this issue raised to the surface. I was looking for advice and guidance.

**Mr. James Bezan:** As we know, General Vance continued on in this position for another three years, and the minister refused to investigate or fulfill his responsibilities and duties under the National Defence Act.

Who else is aware of the information that you have and that you tried to present to Minister Sajjan?

**Mr. Gary Walbourne:** As far as I know, the person who has made the allegation and I are the only two people who have seen that evidence. As I said, the minister didn't want to see the evidence.

• (1450)

**Mr. James Bezan:** Do you believe that the investigation into your office, and into you in particular, by the Department of National Defence was directed by Minister Sajjan as a way to force you out? Or, was it directed by Jody Thomas or other people within National Defence? Or, was it all of the above?

**Mr. Gary Walbourne:** I'll go with "all of the above".

It's funny. If you look back at the cyclical approach of things that have happened—my appearances, the release of a report, a media interview—things would stop, they would start, they would become one thing and something else would happen.

Is it all anomalies? It seems very bizarre to me, but it seems that every time I had something of concern to say, there seemed to be some sort of push-back and, for the most part, I do firmly believe it came back through this investigation.

**Mr. James Bezan:** Would you characterize that pushing you out and investigating your office and staff was an attempt at a cover-up?

**Mr. Gary Walbourne:** I don't know if it was an attempt at a cover-up, but I know it was a full-court press to get rid of me.

**Mr. James Bezan:** Do you believe that Minister Sajjan should face the music, so to say, for his lack of action, because of what you told him in 2018 and leaving this ride until 2021, and for three years doing nothing and actually even recommending General Vance for a major raise from the Privy Council Office?

**Mr. Gary Walbourne:** I don't have an opinion on that one way or the other. The only thing I ever wanted the minister to do was his job.

**Mr. James Bezan:** In your work with the minister, were there any other concerns that ever came up about the chain of command, and particularly about General Vance and the way he was fulfilling his duties, as it would fall under your responsibility as ombudsman?

**Mr. Gary Walbourne:** Again, anything that has come to my office, I hold in confidence. I will not release the names of any individuals or any types of complaints that have come to this office.

**Mr. James Bezan:** I'm not asking for names. I'm just asking if there were other concerns that you had about General Vance, aside from the one allegation that you presented to Minister Sajjan.

**Mr. Gary Walbourne:** One moment, please.

No.

**Mr. James Bezan:** Okay.

How much time do I have left?

**The Chair:** Thank you very much. Your time is up, Mr. Bezan.

We'll go on to Mr. Baker, please.

**Mr. Yvan Baker (Etobicoke Centre, Lib.):** Thank you very much, Chair.

Mr. Walbourne, was it your understanding when you were the ombudsman that DAOD 5047-1, Office of the Ombudsman, Annex A, the ministerial directive, outlined the authorities and responsibilities of the ombudsman?

**Mr. Gary Walbourne:** Yes. That's correct.

**Mr. Yvan Baker:** Okay.

You received a complaint regarding concerns over the conduct of the former chief of the defence staff, correct?

**Mr. Gary Walbourne:** That's correct.

**Mr. Yvan Baker:** You apparently took it as a serious matter, correct?

**Mr. Gary Walbourne:** That's correct.

**Mr. Yvan Baker:** Okay.

As per section 20.(1) of the directives related to the ombudsman's activities pursuant to complaints, did you thoroughly investigate the complaint? As we know, section 20.(1) states, and I quote:

20.(1) If an investigation is necessary to carry out the Ombudsman's mandate in connection with a complaint received by the Ombudsman, the Ombudsman shall thoroughly investigate the complaint.

**Mr. Gary Walbourne:** Yes, that's correct.

**Mr. Yvan Baker:** Okay. Just to clarify, did you thoroughly investigate the complaint?

**Mr. Gary Walbourne:** I can only investigate the complaint with the complainant's authorization to do so, and I did not have their authorization to investigate, so no, I could not have done an investigation, but this particular allegation was made. I've heard many allegations across my time as ombudsperson as I went across this

country, but this allegation was made, and I was given concrete evidence, irrefutable concrete evidence, that the allegation....

**Mr. Yvan Baker:** Okay. I guess, then, I can.... Is it fair to say that you did not start an official thorough investigation?

**Mr. Gary Walbourne:** I took the investigation as far as I could with the complainant's authority.

• (1455)

**Mr. Yvan Baker:** Okay, but there was not an official, thorough investigation. Is that right?

**Mr. Gary Walbourne:** I'll have to repeat the same answer. Sorry. I took the investigation as far as I could with the complainant's authority.

**Mr. Yvan Baker:** Okay. Given that a thorough investigation could not be done by you alone, who else in your office looked into the complaint? I ask this because, as we know, in section 7:

Any of the powers, duties or functions of the Ombudsman under these directives, other than the power of delegation and the duty or power of submitting or publishing reports under section 38, may be delegated by the Ombudsman to any member of the Ombudsman's staff.

**Mr. Gary Walbourne:** Mm-hmm.

**Mr. Yvan Baker:** So is there anyone else in your office who looked into this complaint?

**Mr. Gary Walbourne:** No. When I met with the complainant, the first thing they demanded was an assurance of confidentiality, which I granted to the person. When I met with them and had the conversation, it was very apparent to me that this victim was looking for some protection, so I did not share the allegations or the evidence with anyone else in the office.

**Mr. Yvan Baker:** Did you take the complaint and allegations to the military police?

**Mr. Gary Walbourne:** No, I did not.

**Mr. Yvan Baker:** Why didn't you go to the police? Isn't that the normal flow of events?

**Mr. Gary Walbourne:** It is not at all.

As I've said, the ombudsman's office was created to handle exactly this, and sexual assault and sexual harassment and are two different things, though in the same vein. Sexual harassment was handled by our office—we found many ways to deal with sexual harassment. Sexual assault I had a duty to report. Those things would have been taken to other authorities.

This particular complaint came to me under my assurance of confidentiality. One thing I do when someone presents himself or herself is to make sure I ask them “what does your future look like?” I'm a firm believer that victims of this type of behaviour should be allowed to self-actualize what their future is going to be.

This person asked—not only asked but demanded—that I respect the confidentiality, and I did just that.

**Mr. Yvan Baker:** Okay.

Why would you take this complaint to someone who does not do investigations? Surely it's understood that a political office does not do investigations.

**Mr. Gary Walbourne:** The minister holds many powers under the National Defence Act and has levers he can pull far, far above my pay grade. I went to the minister, as his direct report, looking for advice and guidance on what to do next. I felt that this was a very major issue.

When we're talking about the chief of the defence staff, who other than the minister should I speak to? He has the powers, under the National Defence Act, to take many actions. I was looking for advice and guidance.

I wanted to go back to this complainant and say, "You have been heard. I've taken your complaint to the highest levels of the organization." That's what I was hoping to be able to do.

**Mr. Yvan Baker:** Did you take the complaint and allegations to the CFNIS?

**Mr. Gary Walbourne:** No, I did not take the complaint to anyone other than the minister because of the confidentiality that I promised that complainant.

**Mr. Yvan Baker:** I presume, then, that you didn't talk to anyone else about the allegations. Is that fair?

**Mr. Gary Walbourne:** That's fair.

**The Chair:** Thank you. Your time is up, Mr. Baker.

[Translation]

Mr. Brunelle-Duceppe, the floor is yours.

**Mr. Alexis Brunelle-Duceppe (Lac-Saint-Jean, BQ):** Thank you very much for joining us today, Mr. Walbourne.

Is there a procedure to be followed when one is in the situation that you found yourself in, when you learned of the complainant's allegations?

[English]

**Mr. Gary Walbourne:** I didn't get the first part of your question. I'm sorry. As for—

[Translation]

**Mr. Alexis Brunelle-Duceppe:** Is there a procedure to be followed when one is in the situation that you found yourself in?

[English]

**Mr. Gary Walbourne:** Yes, and that depends on the type of complaint you get.

You may get a formal complaint—someone will come to you with an allegation of something and they will present their evidence. That would cause an investigation process to commence. Then again, people may come to you with an informal complaint. That is something completely different. That is something we try—as I tried to do with this particular complaint—to go to the minister to seek further advice on.

The key here is to protect the complainant—to protect the victim, in this circumstance. That was the goal. But, yes, if a formal allegation has been lodged, there is a formal process to be followed.

• (1500)

[Translation]

**Mr. Alexis Brunelle-Duceppe:** So you went to see the Minister, basically for advice. As I understand it, he gave you none. He did not even want to see the evidence. Is that correct?

[English]

**Mr. Gary Walbourne:** That's correct.

[Translation]

**Mr. Alexis Brunelle-Duceppe:** You say that, thereafter, your life in the ombudsman's office was much more difficult. Is that also correct?

[English]

**Mr. Gary Walbourne:** That's correct.

[Translation]

**Mr. Alexis Brunelle-Duceppe:** I am going to ask a question that you may not want to answer.

Do you believe that the Minister or the Privy Council Office tried to prevent you from investigating, or tried to make it impossible for you to investigate, in the event that the complainant had been ready to call for an investigation?

[English]

**Mr. Gary Walbourne:** That would be a lot of supposition on my part. If the complainant had come to me with a formal allegation and was willing to give me the authority to investigate, it wouldn't have been the minister or PCO who stopped me. I have been known to take these investigations through to their completion. That's my *raison d'être*. It's what I have done. Unfortunately, this was an informal complaint, and my hands were kind of tied.

[Translation]

**Mr. Alexis Brunelle-Duceppe:** You mentioned earlier that you were expecting the Minister to do his job.

What should he have done, in your opinion?

[English]

**Mr. Gary Walbourne:** I think the minister has certain latitudes afforded to him under the National Defence Act. He could have done his own motion investigation. There are certain different things he could have done. I wasn't looking for any of that. The only ask I had of the minister was to please come back to me with some advice on how we could potentially proceed with the allegation.

[Translation]

**Mr. Alexis Brunelle-Duceppe:** Let me go back to one point.

The Minister appeared before this committee and told us how surprised he was to learn the news in the paper. He said that he found out at the same time as all other Canadians.

What do you think of that statement by the Minister?



[English]

**Mr. Gary Walbourne:** I can't put myself in the minister's shoes. I don't know what he has said or what he hasn't said. I know what happened in the meeting on March 1, 2018. I have stated that clearly here in front of committee.

[Translation]

**Mr. Alexis Brunelle-Duceppe:** Let me change the subject. You receive many complaints. There were reports on that when you were in office.

What kind of harassment is most frequent in the Canadian Armed Forces?

[English]

**Mr. Gary Walbourne:** I have been a few years out of the chair, so I will be a little rusty in my stats and categories. The biggest complaint we would get would be inappropriate behaviour—misogynistic comments, inappropriate jokes and that type of thing. We would handle that type of inappropriate behaviour at the ground level. With a formal allegation of that, there was a process we would follow involving the various chains of command across the country, depending on where the issue was. Inappropriate behaviour, misogynistic types of behaviour, inappropriate jokes and those types of things were a large part of what we would receive.

[Translation]

**Mr. Alexis Brunelle-Duceppe:** The office's 2019-2020 annual report indicates 106 cases of harassment in 2019-2020, but the data on the matter is not broken down. So we do not know the numbers and the ratio of sexual harassment cases.

Why do we not make the data public and break it down according to the harassment complaints filed in your former office?

[English]

**Mr. Gary Walbourne:** I really can't speak to the operational footprint of the ombudsman's office now. When I was in the chair, I twice annually reported those exact statistics to the department. They were posted on our website. I don't know if the practice continues to this day or not.

● (1505)

[Translation]

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

[English]

It's time for Mr. Garrison, please.

**Mr. Randall Garrison (Esquimalt—Saanich—Sooke, NDP):** Thank you very much, Madam Chair.

I first want to thank Mr. Walbourne for being with us today. I know there was a reluctance on his part, because what he has had to say to us today is I think disturbing for all Canadians on a number of grounds.

I have always known you, Mr. Walbourne, to be frank-speaking, direct and someone who could be trusted to do his job. I want to ask you a question just to set a little context here, because I was a little disturbed by some of the earlier questions. My experience

with your office was that when I referred constituents, they always received excellent service and excellent follow-up.

What was the date of the report that you did on grievance, asking for more independence? When was that report? Can you remind me, please?

**Mr. Gary Walbourne:** That was March 2017, I think. Just a quick second here.

Yes, it was March 2017.

**Mr. Randall Garrison:** Before that time, had there been any expressions of concern from the minister or the deputy minister about your job performance, the way you did your job or anything related to the service you were providing as ombudsman?

**Mr. Gary Walbourne:** Absolutely not.

**Mr. Randall Garrison:** You see where I'm going with this. It seems to me—I'll put it colloquially—mighty peculiar that only after you raised concerns about the governance and the ability of an independent ombudsman to fully investigate complaints and to do a job on behalf of those who serve in the Canadian Forces or the Department of Defence did we see what can only be described as vindictive moves against you as the ombudsman.

I know that now I'm testifying rather than you, but I think you must have been very frustrated from that time forward in your abilities to deal with the minister and the deputy minister.

How do you feel, after that report, that the working relationship continued?

**Mr. Gary Walbourne:** I'm of somewhat the same mindset that it seems mighty peculiar. As to the relationship, I'm a very straightforward guy. We have a job to do; let's get it done. I shoot from the hip. I speak frankly, openly and honestly. I think reluctantly they accepted my work, but things got difficult in terms of trying to find out what my financial delegation was one day versus the next and whether I could staff or couldn't staff. It was so bad that if I wanted to travel across the country, I had to get permission from the deputy minister, which goes against the independence of the organization. Why do they need to know where the ombudsman is going and what he's doing?

It just got to be like pushing a rock uphill.

**Mr. Randall Garrison:** Thank you for that.

You've been very clear and straightforward about what happened in the meeting on March 1, 2018, and I thank you for that very forthright testimony.

Can you see any reason why the minister would not be able to be as forthright about what happened in that meeting as you've been? Are there any constraints on the minister's telling us about that meeting and his perception of that meeting?

**Mr. Gary Walbourne:** I don't think anything I've said here today is shocking. We have different renditions of our memories, but I don't think that anything I've said here is shocking. This is straightforward. It is what it is.

**Mr. Randall Garrison:** The minister appeared before us and said that he could not talk to us about the meeting he had with you. He wouldn't even, really, confirm that the meeting took place, let alone the content of that meeting.

Are you aware of any legal constraints on him as defence minister talking to this committee about what happened in that meeting?

**Mr. Gary Walbourne:** There are none that I am aware of.

**Mr. Randall Garrison:** I think you've been very clear with us. You didn't provide details about the individual complainant and you said that the minister actually refused to look at the evidence that you were going to present to him, so again, it is passing strange to me that the minister felt he couldn't comment on these.

You said that the Privy Council Office later contacted you and asked for details of the complaint. I may have missed it, but when was that contact made by the Privy Council Office? How much time passed before you heard from them?

**Mr. Gary Walbourne:** I think it was the next day.

**Mr. Randall Garrison:** It was the next day, so it was very immediate.

In those conversations, when you did what I think all of us would recognize as the right thing and said that you could not, without the permission of the complainant, pass along the personal information, did the Privy Council Office ask you to contact the complainant and offer their services in dealing with the complaint, or did they simply let the matter drop?

• (1510)

**Mr. Gary Walbourne:** They let the matter drop.

**Mr. Randall Garrison:** Did they give you any assurance that they would be reporting back to the minister about their action or inaction on this file?

**Mr. Gary Walbourne:** No. I left the conversation after I told her that I was surprised she knew about that. I had asked the minister to keep it in confidence, and I told her the same thing I said to this committee, that I wasn't going to give her the name of the complainant or the details of the allegation because the complainant had asked me to respect that confidentiality, and that's exactly what I did.

**Mr. Randall Garrison:** In the little time I have remaining, I want to ask, in your experience as the ombudsman, do you feel that Operation Honour, as a way of responding to sexual misconduct, was being effective and that there was confidence in the commitment of those in leadership positions to actually tackle the problem of sexual misconduct?

**Mr. Gary Walbourne:** Effective? I'm not sure. I don't see the outcome of the investigations when they happen. Was there a concentrated, collaborative effort that everyone was going to try to do the right thing? I'm not sure.

The problem is basically the same thing that I've been complaining about for years. It comes down to the independence. The sexual misconduct response centre reports administratively to the deputy minister of the department, and organizationally and operationally into the chief's office. There is no independence there.

While I was in situ I heard from a lot of people who came to me and said, "I'll never go to that centre. Why would I do that? That's a short circuit for my career." That is out there, and I believe it's still in the environment. Though I've removed myself from this seat, I still have a lot of friends and acquaintances in the environment, and I keep current on the issues.

The same sentiment that was there when it was created is there today. Why is this reporting into the deputy minister administratively, and organizationally into the chief's office? It's—

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

We will move on to Ms. Alleslev, please.

**Ms. Leona Alleslev (Aurora—Oak Ridges—Richmond Hill, CPC):** Thank you.

I'd like to continue on with my colleague's previous question, but I also want to express our deepest thanks to you, because if we don't have honourable men and women like you to take on this auspicious responsibility and do the very best to protect the institution and the victims, then we have no hope. Your contribution here today is furthering that a great deal. Thank you very much.

I'd like to talk to you a bit about the comment you made when you said that you wanted the minister to do his job. When you took the complaint, or the allegation, about General Vance to the minister, what were the options available to the minister to do his job with the information you gave him?

**Mr. Gary Walbourne:** Well, I don't know if this falls in the framework of a minister or a manager or a supervisor, but I was his direct report. I went to him with a confidential issue and asked him specifically, please keep this confidential and please get back to me with some advice. As part of doing his job.... I think that if he had done that, that would have been part of doing his job.

**Ms. Leona Alleslev:** Absolutely.

Could he have taken further action, independent of giving you advice, to get to the bottom of this allegation?

**Mr. Gary Walbourne:** Well, I think that's been very apparent with the latest move we've made at the top of the Canadian Armed Forces, so there were actions available. I'm not going to sit here and try to skirt around that question. Yes, I believe he had, like I said, other levers at his disposal.

**Ms. Leona Alleslev:** The evidence you provided him, had he taken it, would have furthered that end...?

**Mr. Gary Walbourne:** It would have proven beyond a doubt that the allegation had merit, and it may have given him an option to look into it in a different way. I have no idea.

• (1515)

**Ms. Leona Alleslev:** Because these allegations were against the chief of the defence staff, who is above—in a reporting authority—the chief of the defence staff?

**Mr. Gary Walbourne:** I think that would be the minister.

**Ms. Leona Alleslev:** It could have been viewed as being his job to make sure that the CDS was in fact doing the job that he was in, and to look at the information you had provided for him to be able to do that.

**Mr. Gary Walbourne:** That's correct.

**Ms. Leona Alleslev:** Could you also tell us a bit about...? I think you mentioned that you met with the deputy secretary to cabinet. Is that correct?

**Mr. Gary Walbourne:** No, that—

**Ms. Leona Alleslev:** Or it was the PCO. Was it your understanding when speaking with the members from the PCO that they would take it to cabinet?

**Mr. Gary Walbourne:** As I stated earlier, I was shocked that they even knew about it. I'm sure the PCO could have offered a different lane of service, I think. I was absolutely shocked that they knew about it, so I was put on my back heel when I went into the room and that was what was asked of me.

As I said, you find yourself in a position where you're kind of caught in the framework where I report to the minister for one thing, but I had to go to the deputy for a handout on something else. It's asinine.

On PCO, there's another group that we could have a whole other committee meeting on. To go to that office looking for help and assistance in the predicament I was in.... I didn't get any. I'm sorry, but I don't have great faith in.... From what I've received, I don't have great faith in PCO.

**Ms. Leona Alleslev:** We've talked about the allegations specifically around the chief of the defence staff—not what they were, but how it progressed—and we've discussed what the minister could have done. But you also brought up some very discouraging information around the process. Sometimes we have bosses who are ignorant and negligent of the process and therefore undermine doing stuff because of it. Sometimes they're wilful and deliberate in their interference in the process. And then sometimes it's what you've described: They escalate to using the process as a means of intimidation and against ensuring a positive outcome.

Could you give us some idea of how we've arrived at that and how we can possibly regain the trust and confidence and fix the processes so that it is no longer within the purview of the people to do such a thing?

**Mr. Gary Walbourne:** Well, I think getting out of it.... Others who've come before me have said that it's a cultural change. It will take time. But until the Government of Canada makes a decision to get this right, we'll have this conversation again in six months. Take—

**Ms. Leona Alleslev:** So the buck stops with the minister and the Prime Minister.

**Mr. Gary Walbourne:** I'm—

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

**Ms. Leona Alleslev:** Thank you.

**The Chair:** We'll move on to Mr. Spengemann, please.

**Mr. Sven Spengemann (Mississauga—Lakeshore, Lib.):** Madam Chair, thank you very much.

Mr. Walbourne, thank you for being with us.

I'd like to take you to some committee appearances back in 2014 and 2015 and to what you said on the record. In an appearance you

made to this same committee in 2014, you were asked this by then member of Parliament Joyce Murray:

If not the ombudsman's office, then where in the armed forces do people have a safe place to go with these kinds of concerns when it seems like, even in civil society, nine out of ten people don't step forward when there's been a sexual assault. It surprises me that it's really not your jurisdiction. Whose jurisdiction is it?

This was your response at the time: “it would be turned over to the military police or in some cases civilian authorities.”

Again, Mr. Walbourne, why did you go to the minister with these issues when you were on the record as stating that the correct organization to investigate these types of claims was the military police?

**Mr. Gary Walbourne:** I do believe my reference to the military police or civilian police services was to do with sexual assault.

**Mr. Sven Spengemann:** Okay.

**Mr. Gary Walbourne:** That was the way we handled those complaints when they came to the office.

**Mr. Sven Spengemann:** Okay. Thank you for that.

Let me take you to the same appearance, Mr. Walbourne, in 2014. Our colleague Mr. Bezan asked you this at the time:

I understand and I appreciate that sexual assault is a criminal investigation that has to be left to the police officials and authorities, and then ultimately the judicial system to sort out.

You also mentioned the concern that some people don't come forward on sexual assault or harassment because of revictimization.

What about those victims? What role does your office have in dealing with the victims after an assault has taken place, especially as a member of the Canadian Armed Forces?

You responded at the time with this: “those types of cases are not handled by our office. They are handed off to the proper authorities.”

Again, the phrase “sexual harassment” has been added here.

Would you agree that the evidence shows that you knew that the correct investigative body for these types of allegations was not the minister?

• (1520)

**Mr. Gary Walbourne:** I'm not sure I understand the context of your question.

**Mr. Sven Spengemann:** Well, on an allegation of “sexual assault or harassment”—I'm quoting our colleague who's present with us here—you said that those cases were not handled by your office but handed off to “the proper authorities”. So why would you go to the minister with an allegation of this sort?

**Mr. Gary Walbourne:** It goes to the type of complaint you receive. This was an informal allegation against the chief of the defence staff, which I was given evidence to corroborate that the allegation did have merit. I was not given authority by the victim to do an investigation. They only came to speak to me after an assurance of confidentiality, which was exactly the same thing I asked of the minister.

I think your reading of my testimony in 2014 is a little myopic. I think the conversation was much bigger in that committee meeting. It went on through many, many things. I think that question may have been an end run.

**Mr. Sven Spengemann:** I appreciate that, Mr. Walbourne.

Let me take you to 2015 and a news release from your office:

...the Department of National Defence and the government of the day negotiated a mandate that excluded the powers necessary to look into individual sexual harassment and assault cases.

That's directly from your office.

I ask you the same question.

**Mr. Gary Walbourne:** Again, can you give me some context?

**Mr. Sven Spengemann:** Well, sir, it's your news release. It seems fairly broad. It's a mandate negotiated with the government of the day, the Department of National Defence, to give "a mandate that excluded the powers necessary to look into...sexual harassment or assault", and you went to the minister. We would like to know why.

**Mr. Gary Walbourne:** I went to the minister in 2014 or 2018? Which period do you mean?

**Mr. Sven Spengemann:** I mean with respect to 2018.

**Mr. Gary Walbourne:** With respect to 2018, I think I have explained it, but let me try one more time. I was approached by a member of the Canadian Armed Forces on an allegation of inappropriate sexual behaviour against the chief of the defence staff. They asked me for confidentiality, so once that is asked for and granted, it limits what I can or can't do.

I think my comment of 2014 was much broader than one particular case. It talked about a mandate and the right resources and tools to do a job. I'd have to go back to read the article to get the right context.

However, these investigations are determined by the victim who comes forward. If someone asks for confidentiality and does not want to be revictimized, then I don't let that happen.

**Mr. Sven Spengemann:** I appreciate that, Mr. Walbourne.

Let me just briefly take you back to a comment you made earlier in this session. You said you wanted to be able to tell the complainant that she has been heard. Under subsection 21(1), which was raised by my colleague earlier, is it your assessment that the case that was brought to you would require a thorough investigation to do it justice, irrespective of the preference of the complainant?

**Mr. Gary Walbourne:** I don't think we can have a conversation irrespective of the complainant. That is the problem. We sometimes forget about who the victims are in these circumstances. I don't think I can even answer that question, because we don't make decisions irrespective of the victim.

**Mr. Sven Spengemann:** No, but what I'm getting at, Mr. Walbourne—

**The Chair:** All right. I'm sorry, but your time is up, Mr. Spengemann.

Thank you very much.

**Mr. Sven Spengemann:** Okay. Thank you, Madam Chair.

[Translation]

**The Chair:** Mr. Brunelle-Duceppe, the floor is yours.

**Mr. Alexis Brunelle-Duceppe:** Thank you, Madam Chair.

Once more, Mr. Walbourne, thank you for joining us today.

You told us that you were shocked to learn that the Privy Council had been made aware.

Given that you had told the Minister that this complaint was confidential and informal, did you expect more discretion from him?

[English]

**Mr. Gary Walbourne:** Well, as a direct report to the minister and also as someone classified as a special adviser to the minister, I went to him. I told him that what I had received was in confidence. I asked him for the same thing. I assumed, maybe naively, that I would receive the same type of respect that I had afforded to the victim who had come forward.

• (1525)

[Translation]

**Mr. Alexis Brunelle-Duceppe:** As I understand it, you believe that you did not get that respect. Is that correct?

[English]

**Mr. Gary Walbourne:** First of all, I wasn't looking for respect. I was looking for confidentiality, and no, I did not receive the confidentiality I requested.

[Translation]

**Mr. Alexis Brunelle-Duceppe:** When the Minister appeared, he told us that he could not confirm the exact moment when he learned of these allegations because it would have an impact on the current investigation into the allegations against Mr. Vance.

In your opinion, if the Minister told us when he became aware of the allegations against General Vance, what would the impact on the current investigation be?

[English]

**Mr. Gary Walbourne:** I really have no answer for that. I don't see how they would impact it.

[Translation]

**Mr. Alexis Brunelle-Duceppe:** Thank you.

What did you do after the Privy Council's call about the allegations?

[English]

**Mr. Gary Walbourne:** There wasn't much I could do. I did reach out to the complainant with some minor assurances and just wished the best to that person for the future, but there wasn't much I could do.

[Translation]

**Mr. Alexis Brunelle-Duceppe:** How did the complainant feel then?

[English]

**Mr. Gary Walbourne:** You know, we sit and talk about this a lot, but I believe that in order to fully understand, you almost need to be a victim. Someone comes to a place of authority looking for help, guidance and assistance, and they are told, “Sorry, we don't have any for you.” It is kind of heartbreaking to have to go back to that individual and say, “I didn't get the reception I was looking for.” That is kind of hard information and detail to take back to a complainant, to a victim in this type of circumstance.

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

Your time is up.

We'll move on to Mr. Garrison, please.

**Mr. Randall Garrison:** Thanks very much, Madam Chair.

Again, I'm a little disturbed that some of the questioning takes the form of “Why did the complainant knock on the wrong door?” instead of “Why was there no one who took the action that was necessary in this case?”

My question, Mr. Walbourne, again, is this: In going to the minister, was part of the reason for doing that because the chief of the defence staff also reports to the minister? You've been emphasizing that you had a direct reporting relationship. Would that have been a factor in why it was appropriate for you to go directly to the minister with this allegation?

**Mr. Gary Walbourne:** For sure, that was one of the leading factors. I'm given an informal complaint. I'm locked under the confidentiality. Where do I go?

I report to the same person that the chief reports to, fortunately or unfortunately, and I went looking for advice. There was no book. There was no manual of what to do with an allegation against the chief of the defence staff. I was in a difficult position. I believed it was the right place to go. For example, had I received a complaint about a lieutenant colonel who works for a colonel on a base, well, then, I'd go to that colonel to have that conversation.

In the hierarchy of things, it seems to be the right and natural place to go to look for advice and guidance. Who else would I go to?

**Mr. Randall Garrison:** Thank you very much.

Madam Chair, I'd like to give the remaining minute or so I have to Ms. May.

**The Chair:** All right.

Go ahead, Ms. May.

**Ms. Elizabeth May (Saanich—Gulf Islands, GP):** I want to thank you so very much, Randall.

I want to thank you, Mr. Walbourne, for your service to this country and for standing up for the rights of victims.

I wonder if I can get your help to understand something. From your evidence, I understand that what you brought to your March 1 meeting was, in your words, incontrovertible evidence of wrongdoing by the chief of the defence staff. The minister didn't want to

look at it, but you were also preserving the confidentiality of the victim.

I'm racking my brain to figure out what kind of physical evidence you could have with you that both protected the confidentiality that you had sworn to the victim and provided proof. Can you describe that evidence for the committee?

**Mr. Gary Walbourne:** This is getting very close to giving the details of the allegation, but let me see if I can try this for you.

As a supposition, if it were a written document, names could be redacted, dates could be redacted, and just the line of the evidence could be presented—as an example.

**Ms. Elizabeth May:** Mr. Walbourne, I don't want to push you into anything that would reveal identities or anything like that, but I'm trying to understand. If the evidence were of the nature of inappropriate expressions of sexual interest and was in a written document, might that be the kind of thing you had in your possession?

● (1530)

**Mr. Gary Walbourne:** I've gone about as far as I'm going to go in talking about that allegation.

**Ms. Elizabeth May:** Okay. Thank you, Mr. Walbourne.

I also noted your reference to the decision of Mr. Justice Zinn. That was the case that involved Melanie Chapman, wasn't it? Mr. Justice Zinn went through a description of a lack of procedural fairness, which included that she was not given details of the charges that were against her and that she was not able to properly defend herself.

Would you say that the findings of Mr. Zinn in that case paralleled your own experience of what you described as “a hit job”, the effort to undermine you with various vindictive complaints of your conduct?

**Mr. Gary Walbourne:** That is correct.

**Ms. Elizabeth May:** Thank you.

I appreciate the time. I'm sure I'm up.

Thank you very much, Randall.

Thank you, Mr. Walbourne.

**The Chair:** Yes, you are.

Madame Gallant, go ahead, please.

**Mrs. Cheryl Gallant (Renfrew—Nipissing—Pembroke, CPC):** Thank you.

Through you, Madam Chair, to the witness, was this the first time you'd heard or seen concerns related to General Vance?

**Mr. Gary Walbourne:** This was the first time I was given evidence of inappropriate sexual behaviour.

**Mrs. Cheryl Gallant:** Evidence...but you'd heard things.

**Mr. Gary Walbourne:** As I've travelled across this country, I've heard a lot of things.

I'll give you a quick example. I met with a 32-year serving member, an NCO in the Canadian Armed Forces, who told me a story about the first 10 years of her time in the Canadian Armed Forces. It was absolutely brutal, but that person found a way to fix themselves. This is what I talk about with victims and self-actualization. They found the tools and resources they needed.

To answer your question, I've heard everything across this country.

**Mrs. Cheryl Gallant:** Thank you for that.

The PCO met with you the day after you met with Minister Sajjan. How much did they seem to know?

**Mr. Gary Walbourne:** They knew as much as the minister knew.

**Mrs. Cheryl Gallant:** Okay.

It has been reported that the evidence of this is an email chain that has been made public. Would you confirm the public reporting?

**Mr. Gary Walbourne:** I am not going to confirm or deny anything about that allegation.

**Mrs. Cheryl Gallant:** Janine Sherman told this committee that PCO did not have information that would have allowed any action to be taken in regard to your March 1 meeting with Minister Sajjan. Is this accurate?

**Mr. Gary Walbourne:** They would have gotten no evidence from me, because, again, I did not have the complainant's authorization to share that evidence.

**Mrs. Cheryl Gallant:** She also told this committee that there were no conversations between PCO and any member of the cabinet on this topic. Given that you said only you, the alleged and the minister knew, can this be accurate?

**Mr. Gary Walbourne:** I can't respond to that. I have no idea.

**Mrs. Cheryl Gallant:** Did Minister Sajjan ever characterize his relationship with General Vance to you before he became minister or during his tenure?

**Mr. Gary Walbourne:** I think in a brief conversation when I first met him, he talked about how he knew General Vance. They had been in Afghanistan together, battle buddies. It was the very first time I met him. We were introducing ourselves. I told him a little bit about my background. He told me a little bit about his. That would be the only mention I can think of.

**Mrs. Cheryl Gallant:** In your March 1 meeting with the minister, did he in any way ask or suggest that you resign?

**Mr. Gary Walbourne:** No, he did not.

**Mrs. Cheryl Gallant:** You refused our first invitation on the advice of your lawyer. Can you tell us why you felt you needed a lawyer present in the first place?

**Mr. Gary Walbourne:** One moment, please.

Given what's happening, the state of affairs we find ourselves in.... I've gone through the wringer once with this department, let me tell you. There's a whole other committee meeting we could have. I thought it best to have some protection.

**Mrs. Cheryl Gallant:** With respect to going through the wringer, would you say that this, in general, characterizes the experience of people who do lodge complaints against the military through the chain of command?

**Mr. Gary Walbourne:** I would in no way compare myself with victims who come forward with these types of allegations. Mine was an administrative nightmare. It was absolutely an impossible situation to work in, but I wouldn't put myself in any category close to that of these victims who come forward.

**Mrs. Cheryl Gallant:** With the victims that you've dealt with, had any of the types of administrative restrictions and postings, anything related to their being unable to perform the normal duties of their job, been done to them?

• (1535)

**Mr. Gary Walbourne:** I'm not sure I got the question.

**Mrs. Cheryl Gallant:** For the outgoing and incoming CDS who have stepped aside, the cases are, for obvious reasons, being investigated independent of the chain of command. Enlisted women have complained that their reports of sexual assault were buried by the chain of command. Are there separate systems in place for investigating complaints based on rank?

**Mr. Gary Walbourne:** There are none that I'm aware of.

**Mrs. Cheryl Gallant:** You've written a couple of opinion pieces and statements on your website that would lead us to believe that you could go no further as ombudsman, that you had pushed as hard as you could. Could you elaborate on that for us, please?

**Mr. Gary Walbourne:** Well, this goes back to transitioning members. I was the deputy ombudsman at Veterans Affairs before I came over to the Canadian Armed Forces, and I've seen the tail end of what transition looks like. When I came into the position of the Canadian Armed Forces ombudsman, I took that on with the idea that if we could fix the front end, maybe we could have a better result at the back end.

I went out publicly and spoke in and around the Desmond inquiry at the time. That caused me grief. The governance report, when it was released, caused me grief. When I spoke to the media, things would change. Each time before I went before committee, there would be some nuance of change somewhere coming down the pipe.

Look, it was a full-court press, start to finish. When I first came into this, I sat in front of committee and they asked me, "Gary, do you have the tools you need to do the job?" Being the naive new guy on the street, I said, "Yes, I think with the right people, the right mindset and working collaboratively, we can accomplish much." That was my first—

**Mrs. Cheryl Gallant:** Did you ever go to PCO about the—

**The Chair:** All right. Thank you very much. The time is up.

Right now we will go to Mr. Robillard.

Go ahead, please.

[Translation]

**Mr. Yves Robillard (Marc-Aurèle-Fortin, Lib.):** Thank you, Madam Chair.

Mr. Walbourne, after that meeting, did you conduct an official investigation, as prescribed in the Defence Administrative Orders and Directives, the DAOD, given that you clearly considered the matter to be serious.

Section 4(b) stipulates that, subject to these directives:

4(b) [The ombudsman] may, on the ombudsman's own motion after advising the Minister, investigate any matter concerning the DND or CF.

If that is the case, what happened to the report of that investigation?

[English]

**Mr. Gary Walbourne:** That which you're reading, sir, has to do with systemic reviews, when you look at policy, procedure or a clump or group of complaints coming out of a similar area. I can, on my own motion, investigate any policy or procedure.

When I have individual victims approach me, the rules are different. I've said it a few times in front of committee, but let me say it one more time. When the victim comes to me, I ask whether they want this held in confidence or whether they want it investigated. This particular victim said they wanted it held in confidence, so I had no powers, rights or motions that I could bring to bear to start an investigation.

[Translation]

**Mr. Yves Robillard:** The DAOD Respecting the Ombudsman for the Department of National Defence stipulates that the office of the ombudsman shall be operated in a confidential and secure manner so as to protect the information received by the office in the course of its operations.

Why did you speak to the Minister about your cases?

[English]

**Mr. Gary Walbourne:** As a special adviser to the minister, I thought it prudent on my behalf to let him know that this allegation was there and it was substantiated. I thought it was the right thing to do. He is the person who oversees the chief of the defence staff and has direct control over the position. I don't know if there's someone else in government I should have gone to, but I thought that was the right point of contact.

[Translation]

**Mr. Yves Robillard:** Why did you go to the Minister and try to tell him something, when the ombudsman is clearly expected to keep information on cases confidential?

[English]

**Mr. Gary Walbourne:** What is assured in confidentiality is the protection of the victim's identity. I did not give the minister the details of the allegation. I tried to show him some evidence. He refused to look at it.

[Translation]

**Mr. Yves Robillard:** Section 14 of the departmental directive stipulates that the ombudsman shall not investigate any complaint

or matter relating to a military judge, court martial or summary trial.

I may have misinterpreted that, but why did you go to see the Minister?

• (1540)

[English]

**Mr. Gary Walbourne:** I have absolutely no idea what connection you're making between the military justice system and me.

[Translation]

**Mr. Yves Robillard:** As I understand the situation, there could well be a court martial. You and I agree that the Minister of National Defence should not be involved in that process, do we not?

[English]

**Mr. Gary Walbourne:** Not at all; I believed my role was to advise the minister, which I did. As to what he could have done, you say that this would have ended up in a court martial. That's a supposition. No one knows that. We don't know the degree of the penalty that would have been imposed for this. Apparently, from what I understand, the penalties are not that great, so it may not have been a court martial.

I just think this is apples and oranges.

**Mr. Yves Robillard:** Do I still have time, Madam Chair?

**The Chair:** You have one more minute.

[Translation]

**Mr. Yves Robillard:** Why did you go to see the Minister about this matter?

[English]

**Mr. Gary Walbourne:** Well, let me put it out there: Wouldn't you think it would be prudent that I go to the supervisor of the person in question when I have an allegation? My job as a special adviser to the minister is to do just that—advise him—and I thought this was of enough magnitude that it should have been brought to his attention. That's what I did.

[Translation]

**Mr. Yves Robillard:** Thank you.

**The Chair:** Thank you very much, Mr. Robillard.

[English]

We will move on to Mr. Benzen, please.

**Mr. Bob Benzen (Calgary Heritage, CPC):** Thank you, Madam Chair.

Thank you, Mr. Walbourne, for being here today.

Mr. Walbourne, after March 1, 2018, you had seven meetings cancelled with the minister. In those seven meetings, were you trying to follow up on this allegation? Were you going back to follow up and see if you could get advice as to how to proceed on this matter?

**Mr. Gary Walbourne:** No, that wasn't the request for the meetings. That wasn't the purpose. I knew after PCO contacted me that the minister wasn't going to do anything. I had many other hot cases that required ministerial exposure and feedback. That's the reason for the meetings. The office wasn't stagnant on just one file. I mean, we deal with 2,000 complaints a year and with the systemic review. I needed to speak to the minister on multiple issues.

**Mr. Bob Benzen:** Besides having a major allegation against the CDS, did you receive any other allegations of sexual misconduct against any other senior military leaders?

**Mr. Gary Walbourne:** No.

**Mr. Bob Benzen:** Did you have a sense, in your job, while Operation Honour was going on—and obviously it was there for a reason—that there was a major systemic problem in the armed forces with sexual misconduct? Were you seeing that one way or another through your office?

**Mr. Gary Walbourne:** Well, I think it's apparent. We see what's in the environment. As the sexual misconduct response centre was being stood up, I was still receiving these calls and complaints.

I'd have to go back to verify the numbers, but even though the sexual misconduct response centre was open, we did over 100 in the first year they were open. It dropped down to 60 in the second year, but we continued to get complaints, even with the volume that was going into the SMRC.

**Mr. Bob Benzen:** Basically, after you told the minister on March 1 that there was this allegation, which you had evidence of, and he had appointed General Vance to be in charge of Operation Honour, were you worried about how that was going to affect members of the CAF, given that allegations against the very person who was in charge were being investigated?

**Mr. Gary Walbourne:** My worries about the sexual misconduct response centre started long before that. I thought it was ill-conceived. I thought it was improperly rolled out. I don't think it had the right mandate, policies or procedures in place when it opened its doors. There were restrictions. Certain levels were allowed inside, and then they weren't allowed. Reservists couldn't come in. Then civilians couldn't, but now they can.

My concerns go back to long before I received that allegation.

• (1545)

**Mr. Bob Benzen:** Do you find it interesting the way the charges against you were investigated and how lax they were in investigating and following up on the allegations against General Vance?

**Mr. Gary Walbourne:** I won't speak about General Vance, but I will tell you my feelings and sentiment about the investigation that went on against me. I wish we had time to sit and talk about unethical, nefarious and insidious behaviours, because I have a story that maybe someday will be told.

I just think it's a hard ride. If you go into this position and do the right thing.... You have to agitate at times. They say calm seas don't fill many sails. We need change. We keep talking about change. It just doesn't happen.

What happened to me, I think, was an exercise and a lesson for others. If you do the right thing, be prepared. But I just think it was

a farce. It was a dog-and-pony show. Their allegations were meritless. The findings, even though they were against me, can be disproved—every one of them.

**Mr. Bob Benzen:** Thank you.

Clearly the system is broken. You have an obligation to listen to these allegations, and yet when you take them to your superior, they are not even dealt with.

Can you talk a little bit about why you need to have independence and why this has to be changed immediately, and how that could affect the trust and the morale of all members of CAF?

**Mr. Gary Walbourne:** This is a no-brainer, in my opinion. As long as that structure stays where it is—administratively reporting to the deputy, and organizationally reporting to the chief—we are never going to get those people who need to come forward to come forward. In my office, it's the same thing.

You want to talk about administrative freedom. Let's just, perchance, in a new fantasy world we could live in, say that if this SMRC were combined with the ombudsman's office and reported to Parliament, when that type of complaint came in, it would not be going to the minister. It would be going to Parliament. If one person can't act, can we hope that 338 can?

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

Madame Vandenbeld, go ahead, please.

**Ms. Anita Vandenbeld (Ottawa West—Nepean, Lib.):** Thank you very much, Madam Chair.

I would like to get a little bit of clarification.

Mr. Walbourne, in an answer to one of the previous questions, you said that it wouldn't have necessarily been a court martial type of offence. We don't actually know what it was. You said that you had brought certain evidence with you on paper when you went to speak to the minister. Was that evidence something that you would have normally been required to go to the CFNIS or to the provost marshal with? Or was this something, for instance, on the same level as what you said you usually deal with—a joke, an offensive comment, an email or something like that?

**Mr. Gary Walbourne:** Well, two things....

First of all, in response to whether it would be a court martial, I am not a judge advocate general. I don't know how the judicial system inside the Canadian Armed Forces works in detail, so I don't know what the outcome of any type of trial that would have considered that allegation could have been. It may have been everything.



As to the second part, I am not going to comment any further about the allegations or the details of the allegation I received. If I receive evidence against a member of the Canadian Armed Forces, depending on what the complaint is or what the evidence is, that will determine what resource we go to. If it is a sexual assault, it's taken to the military police, and we provide the evidence that was given to us; the complainant is notified that will happen prior to it happening.

If it's sexual harassment, and the complainant has given us the authority, we'll go back to the chain of command and deal with the—

**Ms. Anita Vandenberg:** I understand, Mr. Walbourne, but in this case you have said that you didn't think it would be something to go to the provost marshal. You didn't think it was something to take to the SMRCs, which were there specifically to counsel some of the survivors, with or without an investigation.

You have said that this was something the survivor wanted to keep confidential. You don't think that PCO was the right place to go, and yet when you brought it to the minister, the very next day you got a call from PCO, which obviously shows that the minister took immediate action, within a day, to that authority. Yet then you say that the minister should not have broken that confidentiality by going to PCO.

What exactly is it that you wanted from the minister when you did go to see the minister, if you didn't want to take it to any of the appropriate authorities that would normally deal with this?

• (1550)

**Mr. Gary Walbourne:** Okay, first thing, let's talk about "appropriate authorities". Without the victim's permission to investigate, there are no proper authorities. I had an allegation against the chief of the defence staff. He reports to the minister. I report to the minister.

I went to the minister in confidence. You say that the minister took action and ran to PCO. It's not what was asked of him. He is supposed to understand the confidence of these victims when they come forward. I'm sure he does. I asked him to come back to me with advice on what I could potentially do. I did not ask him to go to PCO, and I did not tell him to go and share it with anyone.

**Ms. Anita Vandenberg:** Mr. Walbourne, it's clear from the parliamentary committee in 2014, and also from a letter in your office, that you knew very well what the different avenues are. You didn't need to go to the minister to ask him "What should I do?" in a particular case. This is something where you could have gone to CF-NIS, you could have gone to the SMRCs.... You could have referred the survivors anywhere, and yet you went to the minister saying "This is confidential and don't do anything about it."

Of course, this is a GIC appointment, presuming that it is the CDS you were referring to. A GIC appointment is under PCO, so when the minister went to PCO, would that not have been the appropriate thing? He did it within a day. The minister did take action. He took the appropriate action, yet you're saying you went to him with something just to keep it confidential.

What exactly...? You have avenues you could have gone. Why, then, did you take it to the minister, knowing that a minister's of-

ice, a political office, is not the appropriate place to do this kind of investigation?

**Mr. Gary Walbourne:** I don't know if you're trying to infer something, but let me go back one more time, because apparently I'm not being clear.

I had no avenues available to me, because the complainant asked for confidentiality, which I provided. I went to the minister because I thought we had a problem inside the Canadian Armed Forces. The people who were heading up the sexual misconduct response centre, who have run Op Honour...and now there's an allegation against them.

I needed advice on what I should do with it. What should I say to this complainant? How do I put that person's mind at ease? I went to the minister for advice.

**Ms. Anita Vandenberg:** In your view, Mr. Walbourne, would you say that what you had in your hand that day was something that would have been actionable at that time?

**Mr. Gary Walbourne:** No, because I did not have the permission of the complainant.

**Ms. Anita Vandenberg:** In cases where there is a confidentiality issue, what exactly would you do in your office in other cases and what have you done when it comes to confidentiality? What does the directive say that you need to do on confidentiality?

**Mr. Gary Walbourne:** One of the cornerstones of ombudsing is confidentiality. It is the cornerstone. It is the lifeblood of the organization.

What I did for confidentiality.... For everyone who came into the ombudsman's office, after they signed their public service declaration, there was another oath they had to sign. I asked for increased scrutiny and protection of these files and these people who came to our office.

Confidentiality—

**Ms. Anita Vandenberg:** Did the survivor—

**The Chair:** I'm sorry—

**Ms. Anita Vandenberg:** —ask you to go to the minister or give you permission to go to the minister in this case?

**Mr. Gary Walbourne:** The survivor—

**The Chair:** We have run out of time.

**Ms. Anita Vandenberg:** I'm sorry. I'm out of time.

[Translation]

**The Chair:** Mr. Brunelle-Duceppe, the floor is yours.

**Mr. Alexis Brunelle-Duceppe:** Thank you, Madam Chair.

I will be brief, because I really want Ms. May to be able to speak, since I am sharing my time with her.

Mr. Walbourne, at the March 2018 meeting, about how long did your closed-door discussion with the Minister last?

[English]

**Mr. Gary Walbourne:** Maybe 10 to 15 minutes—maybe—for that portion of the meeting.

[Translation]

**Mr. Alexis Brunelle-Duceppe:** On the following day, how long did your discussions with the Privy Council Office about those allegations last?

[English]

**Mr. Gary Walbourne:** I didn't share the allegations with the PCO. I was there for another reason, I thought. They asked me for the allegation against the chief and I was shocked that they knew. I didn't give them anything. I told them they shouldn't know and that I had asked the minister for confidence.

• (1555)

[Translation]

**Mr. Alexis Brunelle-Duceppe:** That's amazing. Thank you.

Go ahead, Ms. May.

[English]

**Ms. Elizabeth May:** With your permission, Madam Chair. Thank you, Alexis.

Mr. Walbourne, I want to go back to when you described what you went through in the period of time when you were facing—you've used the word "nefarious" at various points—attacks on your credibility. You mentioned it was taking a toll on your health.

I just wanted to pause and ask you how your health is, and I hope that this process today does not bring on, again, a sense that your health is at risk. How are you doing, sir?

**Mr. Gary Walbourne:** I'm doing okay. I have a good support group. I have good family and good friends. I have a large group of people in the veterans community, and those who are serving, who have reached out to me and offered me support, and I'm very appreciative of that. So, I'm okay.

**Ms. Elizabeth May:** Given that you were four years in the position as ombudsman with National Defence and hearing thousands of complaints of harassment and abuse, I appreciate, as a woman, how much you clearly protect a victim.

If you had a younger female relative who wanted to join the Canadian Armed Forces, what would you tell her she could expect?

**Mr. Gary Walbourne:** Well, here comes the optimist in the room again.

The Canadian Armed Forces is an entity unlike any other on the planet. There's a group of good people who do good work every day. They get up, they come in, they do their jobs and they go above and beyond for Canadians every single solitary day.

I hope, through all of this, that because of the actions of a few, we don't paint everyone with one brush. I have met lieutenant-colonels and brigadiers-general across this country who are young,

upcoming whippersnappers who are going to get it right. What we need to do is get some of the dinosaurs off the table.

I believe this organization is viable. I have two grandsons and if someone asked me if they could join the military, I would say yes, go into it with your eyes open. There are good people trying to do good things every day.

**The Chair:** Thank you very much, Mr. Walbourne.

**Ms. Elizabeth May:** Thank you.

**The Chair:** We will go on to you, Mr. Garrison.

**Mr. Randall Garrison:** Thank you very much, Madam Chair.

I guess my concern here is somewhat similar to Elizabeth's, in that we seem to have gotten focused in the committee on what Mr. Walbourne did or didn't do. He's been very frank with us about what he did and how that fit with his view of his responsibilities. The person who obviously was not frank with us in his appearance before the committee was the minister.

I will have a couple more questions for Mr. Walbourne, but I just want to note that, as I said in the last meeting, I think we do need to invite the minister back so that he can—now, taking into account Mr. Walbourne's testimony—see if he wishes to change anything that he had to say to us.

We now have a second chief of the defence staff. The current chief of the defence staff has stepped aside, as it's being characterized, because of an allegation of sexual misconduct.

Mr. Walbourne, would you have seen this as a possible outcome of the information that you took to the minister?

**Mr. Gary Walbourne:** I think it's quite apparent that it could have been. If this is what we've done in the current situation, I don't see much different.

**Mr. Randall Garrison:** Do you feel that the information that you brought to the minister, which he refused to look at, was serious enough that it might have had the same outcome?

**Mr. Gary Walbourne:** I'm not going to talk any more about that allegation.

**Mr. Randall Garrison:** Okay. Fair enough.

Another peculiar thing about some of the questioning today is...if we didn't have ministerial responsibility in Parliament. When people talk about a court martial, you don't have to be a military justice to know that there's some question about whether you can actually court-martial the chief of the defence staff, since a court martial requires an officer of the same rank or higher to conduct proceedings. There are some real problems there.

I'll go back to something you said to us that I think was very important—that is, that you and the chief of the defence staff both reported to the minister. Would you have expected that the minister might have asked the chief of the defence staff if he had anything he wanted to talk about as a result of your meeting?

**Mr. Gary Walbourne:** That sounds like a logical response to me.

**Mr. Randall Garrison:** Again, I'm back to where as a committee member I actually need to be able to ask these questions to the minister. When PCO did not take any further action....

I just want to go back to this, because I've kind of lost the thread here. The minister never contacted you again for any follow-up, and in fact refused meetings with you repeatedly after that. One would presume it was out of fear that you might ask him the same question or present him with the same evidence. I can't impute motive, but the point is that the minister never got back to you with any advice or any suggestion that he'd done anything about this matter.

• (1600)

**Mr. Gary Walbourne:** That's correct.

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

Mr. Bezan, go ahead, please.

**Mr. James Bezan:** Thank you, Madam Chair.

I again want to thank Mr. Walbourne for his candour, his service for so many years to Canada and especially his time as defence ombudsman.

There's no question that, with your testimony today, it's clear that Minister Sajjan failed to take actions on these allegations of sexual misconduct by former chief of the defence staff General Vance. Your testimony proves that the minister failed to live up to his own standard of zero tolerance for sexual misconduct in the armed forces. Really, the question now comes down to the Prime Minister having to answer how this is acceptable conduct by a member of his own cabinet.

I am disappointed with the attacks coming from Liberal MPs here, trying to muddy the waters, trying to attack your credibility on decisions you made and how you handled these allegations.

I just want to remind everyone that under the National Defence Act, it says right in section 4 that the minister "has the management and direction of the Canadian Forces". That's all the Canadian Forces. He has four people who report directly to him: the chief of the defence staff, the deputy minister, the judge advocate general and the ombudsman. As long as the CDS is in position—I know the Liberal colleagues know this—there's no way anyone is going to seriously investigate the CDS as long as they're sitting in the chair. We know that there was going to be some cover-up.

Mr. Walbourne, you said that you met with Janine Sherman from PCO. Did she ever tell you how the Privy Council Office was informed a day later? Did it come directly from Minister Sajjan, or did it come from somebody else in his office?

**Mr. Gary Walbourne:** No, I never got that detail from Ms. Sherman, other than that she knew about the allegation.

To the other point you were making, I would go the other way, Mr. Bezan. I would say thanks to the Liberal members for finally reading the mandate of the ombudsman's office.

**Mr. James Bezan:** Okay. I appreciate that.

With regard to the seven meetings you requested with the minister after March 1, 2018, you said you had various issues you want-

ed to bring forward. Do you think he was saying no because he was afraid you would again bring up the issue of the allegations against General Vance?

**Mr. Gary Walbourne:** Well, that's a distinct possibility. I would suspect it would have been in the back of his mind.

**Mr. James Bezan:** Just to change gears a bit, you know that I've long supported the idea of having the office of the military ombudsman as independent, as well as making the sexual misconduct response centre independent. You have proposed bringing those two offices under one umbrella and reporting directly to Parliament.

How do you visualize it working with, say, an allegation you were dealing with, an allegation against the chief of the defence staff? If it came into your office as an independent ombudsman, would you then be free to take that to the sexual misconduct response centre, or would you have to take it to committee, through an in camera process, to get action?

**Mr. Gary Walbourne:** Again, it would depend on the type of allegation that was made: informal, formal, systemic or whatever it was. I suspect there would have to be structures created just above as a reporting-in for that entity, but I would assume that's where it would go, either to committee or to cabinet, one way or the other.

**Mr. James Bezan:** As you start looking at independence and being able to do investigations beyond what you do, can you just clarify for us—because Liberal members were somewhat confused—what powers the ombudsman has to investigate, whether it's misconduct, harassment or sexual assault? What are the limitations currently, and where do we need to go to make it better so that we can start stomping out sexual misconduct in the armed forces?

**Mr. Gary Walbourne:** As I said earlier, sexual harassment, in the same vein, is handled in a different way. There are resources you bring to get the person the right counselling and to get them into a good place and to deal with what's happening in that particular environment, either through the chain of command or through mediated conversations. There are many approaches to that.

As for the second part, for me it just comes back to the basics. What are we going to do? How do we give assurances? The structure has to be such that it is separated enough so that those coming forward know that there is not going to be blowback because they've come forward. It has to be such that there is an entity other than the minister or the chief where it stops completely.

I just think we have to stop talking about this. It does not take World War III to get this to happen. The ombudsman's office was set up to handle sexual assault and harassment. The SMRC, I think, has come a long way. Dr. Preston and her group are doing good work over there. God bless them. I think now's the time. I think we're at the right time, the right place and in the right time in history to get this right.

• (1605)

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

**Mr. James Bezan:** Thank you.

**The Chair:** We go now to Mr. Baker.

Go ahead, please.

**Mr. Yvan Baker:** Thank you very much, Chair.

Mr. Walbourne, I'd like to go back to some of your testimony today. You've spoken about how you approached the minister with allegations, but you have also spoken about how you were obliged to protect the confidentiality of the person coming forward.

Help me understand this a little bit better. You needed to protect confidentiality, but you went to the minister and you have said that you would have wanted him to act. What, reasonably, could he have done under those constraints? What's your advice in that regard?

**Mr. Gary Walbourne:** My advice would be to do something. Again, as I said, there are many levers inside the NDA that the minister has available. I don't have visibility on all of them. There are actions that could have been taken. We've seen some recent action taken.

There are many things I think could have happened, but doing nothing wasn't the response I was looking for. Throwing it over to PCO and not coming back to me with advice on what I was supposed to do with this.... I'm sitting with the allegation. I am trying to protect the complainant who has come forward to me, but I have an allegation against a chief. What do I do with that? Who do I go to? My only reporting structure was to the minister.

**Mr. Yvan Baker:** I'm trying to understand better. You said there were a number of levers or a number of things that the minister could have done. Could you give us an example of what that could have been? In this case, what he apparently did—this is your testimony, so correct me if I'm wrong—was raise this with PCO. Within a day, you got a call from PCO, as you've indicated.

He did act. He raised it with PCO, but you suggest that there were other levers at his disposal. I'm curious about what those other levers are. What are those other actions that you believe he should, or could, have taken?

**Mr. Gary Walbourne:** Retired Colonel Drapeau was in front of the committee a little while back, and I think he clearly outlined what some of those levers were. He could have called an own motion investigation. He has that authority. There were other things he could do.

What kind of chafes me a little is that he did the exact opposite of what I asked him to do, which was to come back to me with advice. Instead, he punted it over to PCO and I was caught flat-footed when I arrived in their office.

**Mr. Yvan Baker:** You made a suggestion that he could have done what Mr. Drapeau recently suggested and initiated an investigation but, again, you said you have to protect the confidentiality of the witness and you cannot share the identity and at least some of the information necessary to pursue that investigation. You, yourself, said you couldn't pursue an investigation and have said that you couldn't go to the police or any other authorities that are available.

Again, how would the minister be able to initiate that investigation? Help me understand that.

**Mr. Gary Walbourne:** Well, let's talk about visibility. Let's just say that the minister took it and said, "I'm going to call my own motion investigation." He could have called that victim and had a conversation, and maybe he'd have found other things in the environment.

You're asking me to suppose what the minister could have done and what he should have done. There are many levers inside the NDA and other levers inside of cabinet that he can pull and bring to bear. His decision was to punt it over to the PCO, and that's where we find ourselves today.

• (1610)

**Mr. Yvan Baker:** How would he call that person if you need to protect that person's identity to protect their confidentiality?

**Mr. Gary Walbourne:** With any lead back from the minister, I would have reached back to the victim, told her what I was in the process of doing and where I was. I would ask her at that time whether I would be able to release their name to the minister. I probably would have gotten a yes, knowing that they had that type of top coverage. That's what would have happened.

Even though I say informal/formal investigations, we don't get an informal complaint and just drop it. We deal with the person. We make sure they're where they need to be, that they have the resources, that they're feeling okay. We follow up for self-help and those types of things.

Many things could have happened.

**Mr. Yvan Baker:** Chair, how much time do I have left?

**The Chair:** Not enough, I'm afraid.

We'll go on to Ms. Alleslev.

**Ms. Leona Alleslev:** Thank you very much.

I'd like to continue on that line, if I could.

Could I ask you this? You were not obligated to bring absolutely everything to the Minister of National Defence. Is that correct?

**Mr. Gary Walbourne:** That's correct.

**Ms. Leona Alleslev:** Therefore, we would be correct in saying that you used your discretion in terms of what you brought forward to the Minister of National Defence.

**Mr. Gary Walbourne:** Where I had the opportunity to use discretion, I did.

**Ms. Leona Alleslev:** That discretion would be around the severity or the seriousness that you felt, in your own opinion, was therefore worthy and something that the minister should know.

**Mr. Gary Walbourne:** That's correct.

**Ms. Leona Alleslev:** By bringing this particular allegation to the minister, one could infer that you interpreted it as serious enough that the minister needed to know.

**Mr. Gary Walbourne:** That's correct.

**Ms. Leona Alleslev:** You and the minister do not have the same authority. Is that a fair statement?

**Mr. Gary Walbourne:** For sure.

**Ms. Leona Alleslev:** Also, the abilities, authorities and responsibilities that you have are different from those of the Minister of National Defence.

**Mr. Gary Walbourne:** Yes.

**Ms. Leona Alleslev:** The CDS is not the same level, but you have no authority over the chief of the defence staff.

**Mr. Gary Walbourne:** That's correct.

**Ms. Leona Alleslev:** The only person between you, the CDS, the JAG and the deputy minister who has authority over the CDS is the Minister of National Defence. Is that correct?

**Mr. Gary Walbourne:** That's correct.

**Ms. Leona Alleslev:** What you could do with the information is far different from what the minister could do with the information.

**Mr. Gary Walbourne:** That's correct.

**Ms. Leona Alleslev:** In your opinion, would the minister need a reason, as the minister, to do his own...“investigate” sometimes is a clinical definition term, but just to look into the matter?

**Mr. Gary Walbourne:** I believe he could have.

**Ms. Leona Alleslev:** He could have looked into the matter even if he had just heard a whisper on the street. He could have decided that this was a whisper about the highest officer in the Canadian Forces, and he could have said, “I think I need to make sure that I have the right person with the right honour, integrity, code of service and discipline in that position.”

Would that be a fair statement?

**Mr. Gary Walbourne:** Yes. I consider that a fair statement.

**Ms. Leona Alleslev:** In terms of options, he could have spoken directly to the CDS about the allegations. He could have spoken to other senior members. He could have perhaps convened a board of inquiry. He could have employed a third party. He had many more options at his disposal in this particular instance than you did. Is that to your understanding?

**Mr. Gary Walbourne:** That's correct.

**Ms. Leona Alleslev:** So to say that he should treat the chief of the defence staff like he would treat any other corporal or major is probably not a fair statement, and we shouldn't be interpreting how the minister behaves towards the chief of the defence staff in the same manner as perhaps all other members of the Canadian Forces.

• (1615)

**Mr. Gary Walbourne:** Agreed.

**The Chair:** I'm afraid the time is up.

**Ms. Leona Alleslev:** Thank you very much.

**The Chair:** We will go to Mr. Spengemann, please.

**Mr. Sven Spengemann:** Madam Chair, thank you very much.

I have one question for Mr. Walbourne, and I will split the remainder of my time with Mr. Bagnell.

Mr. Walbourne, just to go back to our exchange on the rights and preferences of victims, which you very rightfully said are front and centre, in this particular case the instructions were really not to pursue an investigation. You also mentioned earlier in testimony that

you wanted to convey to the victim, and I'm quoting you here, “You have been heard.”

I just wanted to circle back to the preference that you stated with respect to the victim and the fact that you went to the minister. Did you have instructions or did you see it as consent being given to approach the minister on this question? The adjunct to that is that you said you wanted to get top cover from the minister. You speculated that, in that case, there may well have been a change of opinion on the part of the victim to go forward more publicly into an investigation. It could just as easily have been the case that top cover—in this particular case, two men against presumably a female victim, although I'm not stating that for the record—could have been seen as pressure to change the victim's mind.

I just wanted to get your response on that, and then pass it on to my colleague Mr. Bagnell.

**Mr. Gary Walbourne:** I didn't have just one conversation with the victim. There were several conversations over a period of time. There were things I said I had to do, ease their mind, get them some resources and those types of things.

One of the comments was, “It doesn't matter, because it goes to the top. No one will ever do anything.” My thought process was that I report to the minister and he reports to the minister. I think this is of national concern. Let me talk to the minister and he'll get me some advice. That didn't happen.

When I talked about.... I didn't say I went to the minister looking for top cover, but it would have been nice to be able to go back to the victim and say, “I've got you some top cover.” That's what I was looking for, that type of advice to come back, the guidance, to let me know he's going to do something. That's what I was referring to when I said top cover.

I didn't just have one conversation with this victim and walk away. That's not how it worked. There were many conversations. During the first one, I heard the allegation and watched the emotion. I then tried to bring resources to bear. Then we allowed the person to speak on what their future looked like. One of the things she was looking for was, “If only there was someone you could talk to who would give you the assurance you need.” I thought, in this particular case, looking at the allegation and who it was made against, the minister was the guy for that.

**Mr. Sven Spengemann:** Thank you, Mr. Walbourne.

I'll pass it to my colleague Mr. Bagnell.

**Hon. Larry Bagnell (Yukon, Lib.):** I just want to go back to where Mr. Bezan was on the last line of questioning because I have the very same interest related to independence.

Thank you very much for being here.

**The Chair:** I'm sorry. You'll have to put on your headset, Mr. Bagnell.

**Hon. Larry Bagnell:** I'm sorry. I've been in enough meetings that I should have this right by now.

I just want to go back to what Mr. Bezan was talking about. Thank you very much for being here. It's very helpful, Mr. Walbourne. It's great that Elizabeth is here too.

I want to go back to what Mr. Bezan was talking about at the end of his last intervention, because I have the same interest that's related to independence. I think the biggest benefit of the committee is making the armed forces safer. We had three or four experts all tell us it's the culture in the military. You mentioned that earlier, Mr. Walbourne.

I'm just wondering if you can explain that to us. This would be a big help, because it's a huge task to change that culture. In making your office independent, how would that help tackle this problem of the culture, which is such a big job to tackle?

**Mr. Gary Walbourne:** I think there are two pieces to that, if I may say so.

The first is I think—and I have said it before—there are good people inside the Canadian Armed Forces doing good work, and I think if they had enough time and distance they might get there at some point in time.

If we want to change culture, we can't just say we're going to change culture, walk through a new doorway, and have that culture be changed. I think the Government of Canada has a role to play in instituting this change of culture.

Let's say, for example, that those who are the subject of sexual assault or harassment will now have their case heard by an entity that reports to Parliament. There would be no more hiding behind the chain of command, no more negotiating these things away before they come forward.

I think you will find that if the victims—mostly female in this particular instance, though this impacts every gender across the Department of National Defence—had assurance that there was someone above the chain of command who could listen to them and could take action, that would start a cultural shift and change, because now those left in the chain of command and those who are working in the environment would know there was no escape route. There will be no negotiation, and we will not bury this. It will be dealt with. And I think—

• (1620)

**The Chair:** I'm sorry to interrupt. Thank you very much.

[*Translation*]

Mr. Brunelle-Duceppe, the floor is yours.

**Mr. Alexis Brunelle-Duceppe:** Thank you, Madam Chair.

Mr. Walbourne, these will be my final comments for today. Once again, I would like to thank you for joining us today. We are very grateful to you.

I was thinking over the last question I asked you, and I would like some clarification.

When the Privy Council Office called you, did you go in person or was it done by telephone?

[*English*]

**Mr. Gary Walbourne:** I went to their office.

[*Translation*]

**Mr. Alexis Brunelle-Duceppe:** Did they call you about any particular topic when they asked you to go to their office?

[*English*]

**Mr. Gary Walbourne:** No, we were hot back and forth under this investigation that I was under. There had been a lot of communication. It's the only thing I ever reached out to the PCO for, so I was under the assumption—wrongly, apparently—that I was going over to talk about where we were in that investigation process.

We had called over a couple of days prior to my meeting with the minister and asked for a meeting. By the time I got back from the meeting with the minister, I had received, that morning, a response to come over to PCO, so I was under the assumption it had to do with something totally different.

[*Translation*]

**Mr. Alexis Brunelle-Duceppe:** At that point, did they not tell you about the specific topic that would be discussed?

[*English*]

**Mr. Gary Walbourne:** No, again, I thought it was a response to a request I had made for a meeting. I was going over under the premise that we were talking about a different subject.

[*Translation*]

**Mr. Alexis Brunelle-Duceppe:** When you got to the office and realized that this was not the reason you were there, things did not take long because you left immediately. Is that correct?

[*English*]

**Mr. Gary Walbourne:** It was very short.

[*Translation*]

**Mr. Alexis Brunelle-Duceppe:** Thank you, Mr. Walbourne.

Ms. May, would you like to ask one last question? You are one of the few women to be able to do so today.

[*English*]

**Ms. Elizabeth May:** Yes.

**The Chair:** I'm afraid not. I'm sorry. We're running out of time.

[*Translation*]

**Mr. Alexis Brunelle-Duceppe:** I am sorry, Ms. May.

**Ms. Elizabeth May:** Thank you, Mr. Brunelle-Duceppe.

[*English*]

**The Chair:** Mr. Garrison, go ahead, please.

**Mr. Randall Garrison:** Thank you very much, Madam Chair.

I, too, once again, as we're nearing the end of this, want to express my great thanks to Mr. Walbourne, both for his previous service and for his forthrightness and frankness today.

I want to ask you to state something that may be very obvious, but it just occurred to me. Since you took along the evidence in written form to your meeting with the minister, did it ever occur to you that he might refuse to look at that evidence? Was that an expected behaviour from the minister?

**Mr. Gary Walbourne:** No, I wasn't expecting that. That was a surprise.

**Mr. Randall Garrison:** Did the minister cite any reason for not looking at that evidence, or can you think of any reason that he could have cited for not looking at that evidence?

**Mr. Gary Walbourne:** No, he didn't, and no, I can't.

**Mr. Randall Garrison:** Thank you for that.

In your work with those who brought forward complaints of sexual misconduct to your office—again, I'm probably asking you to state the obvious—is the reaction from this victim much the same as from others, that they are reluctant at the beginning to risk further damage, further reprisals in their military careers, until they have some assurances about the process?

**Mr. Gary Walbourne:** That is one of the underlying fears, and probably the one that's most predominant. It's not only.... I would say that running neck and neck to that are the family consequences that come from it. Being a victim, you get victimized again in many places, and some of those are on the home front, sadly.

Yes, that is a major concern. The transparency and having it outside the chain of command is a real bone of contention.

• (1625)

**Mr. Randall Garrison:** This complainant, if I understand you correctly, never said to you “I will never consent to letting my identity be known”, but said “I need some assurances about process.” Would that be a fair characterization of the position that this complainant was taking?

**Mr. Gary Walbourne:** Yes, and it's the same characterization we get from most who approach. They want to talk first about the assurances of what is going to protect them.

**Mr. Randall Garrison:** Then again, that makes good sense to me about why you're talking to the minister, among all of the other reasons to be talking to the minister, who is responsible for the discipline and good conduct of the Canadian Forces.

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

**Mr. Randall Garrison:** Madam Chair, I'm going to stop there.

Thank you.

**The Chair:** Your time is up.

We will go on to Madame Gallant, please.

**Mrs. Cheryl Gallant:** Thank you, Madam Chair.

Did anyone other than the PCO ask you for the physical evidence?

**Mr. Gary Walbourne:** No.

**Mrs. Cheryl Gallant:** Not Jody Thomas...?

**Mr. Gary Walbourne:** No.

**Mrs. Cheryl Gallant:** As far as you know, were there any indications to the victim that the defence minister did relay the information to the CDS?

**Mr. Gary Walbourne:** As far as I know, no.

**Mrs. Cheryl Gallant:** When the minister refused to look at the evidence that you tried to present at that meeting on March 1, did you get the impression that he already knew?

**Mr. Gary Walbourne:** I don't think so. I think he was taken aback that I had it. I don't know if he was surprised because I had it, or surprised because it came forward. I can't answer that.

**Mrs. Cheryl Gallant:** You said that seven meetings were cancelled. What were the issues that were ignored and that would have been addressed in those seven meetings?

**Mr. Gary Walbourne:** There were many issues. There was compensation for retired members. There was movement on various programs and policies. There was software I had developed for the department and we were looking for some headway and a lead on. It was a smorgasbord of issues.

**Mrs. Cheryl Gallant:** Were there any about inappropriate behaviour?

**Mr. Gary Walbourne:** No.

**Mrs. Cheryl Gallant:** Minister Sajjan put General Vance in charge of Operation Honour and kept him there even after he had learned of the allegations that you brought to him. Did you fear for the well-being of the Canadian Armed Forces members and the future of Op Honour?

**Mr. Gary Walbourne:** I feared for both at the same time. My fear was that I think we have a concept of Op Honour.... We didn't set it up right, but we have a good concept. I was afraid that the trust in it was going to be eroded further. Yes, I always have the other concern.

**Mrs. Cheryl Gallant:** Would you be willing to commit here today that you would answer additional questions we may have or submit additional documentation to us on request?

**Mr. Gary Walbourne:** Depending on what you're asking for, if it's within my power to give it to you, you're more than welcome to it, if it's within the parameters that have been placed upon me and the confidentiality I hold and the confidentiality agreement that I've signed. As long as we stay within those parameters, you can have whatever I have.

**Mrs. Cheryl Gallant:** On the minister himself, could he not have done any type of investigation on his own? Could he have asked people about it? Was there anything stopping him? After all, he was a police officer himself.

**Mr. Gary Walbourne:** Well, I don't know of any barriers that stop the minister. No, there are many things that I think could have been done. Throwing it to the PCO and never speaking to me again I don't think was the most adult response.

**Mrs. Cheryl Gallant:** Was there anyone else you could have relayed this to and expected some type of action, other than the minister?

**Mr. Gary Walbourne:** No, I don't think there's anyone else you can go to. I mean, it is the chain of command. He is the person who is responsible. I couldn't think of anyone else inside of government I could have gone to.

**Mrs. Cheryl Gallant:** Should the CDS, in your opinion, have been asked to step aside while an investigation...? Given that the charges or allegations were even brought to the minister, would that have been the correct course of action?

**Mr. Gary Walbourne:** I can't say what the correct course of action should have been from the minister. All I look at is recent behaviour and what has happened—sauce for the goose, sauce for the gander.

**Mrs. Cheryl Gallant:** On Op Honour, insofar as you're concerned, is it pretty well destined to failure? Or are there any hopes that something positive can continue out of it?

**Mr. Gary Walbourne:** Again, I'll go back to Dr. Preston. I think she has done good work from her level down. I think they have a structure in place, but as long as it sits where it sits, it's going to be an underutilized organization. It will not get us to where we need to be.

It's an ombudsman-plus. We've called it a different name. It has the same duty, mandate and functions that I carry; I think it's just lipstick.

• (1630)

**Mrs. Cheryl Gallant:** You mentioned that we have to get rid of the dinosaurs. Where do we start? Would you suggest that there's no problem at all, for example, at the Royal Military College? Do we need to start at the very beginning there, with officers?

**Mr. Gary Walbourne:** I've said it and I'll say it again: I think what needs to happen is that members of the Canadian Armed Forces, those who get up every morning to serve this country, need to know that there is an entity outside the chain of command that can deal with their issues.

We can talk about the Royal Military College. I've spent time there and heard the stories from that place also. Until we change the opportunities for the victim, we're not going to make any headway.

**Mrs. Cheryl Gallant:** Thank you, Mr. Walbourne.

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

We move now to Mr. Baker.

Go ahead, please.

**Mr. Yvan Baker:** Thanks very much, Chair.

Mr. Walbourne, I want to go back to the conversation that you and I were having in a previous round of questioning and explore that further and understand better, if I can. We were talking about the fact that you indicated that you had met with the minister to share with him allegations of sexual harassment, and that the next day you heard from the Privy Council Office. It appears that the minister took action to refer it to the Privy Council Office.

I asked you what action the minister could have reasonably taken, and you suggested that one option would be to undertake an investigation. You also talked in your testimony—and we've heard this not only from you but also from others who've presented to this

committee—about the need to not just protect confidentiality, which you and I have already discussed, but also protect the victims. Those people coming forward need to be protected over the long term and be assured that their concerns are addressed. Part of doing that would involve an independent and impartial investigation.

I'm just wondering whether it would be seen as independent and impartial if the minister undertook an investigation in that circumstance.

**Mr. Gary Walbourne:** Well, you know, I'm sure if the minister went away and thought about it, and called back and said, "You know, Gary, I think you've given me enough. I'm going to launch an investigation", then, as I said earlier to the other member, I would have gone back to the complainant and seen what was in the realm of the possible and how far forward that person was willing to come.

We're making dead-end statements, but it would have been a process. There would have been multiple people involved. I'm sure there would have been negotiations. I would have expected a reasonable conversation: "Gary, I thought about this last night and I think we could probably try this or this." That's not what happened. This was tossed like a hot potato.

I think there were a multitude of options available. There could have been a discussion. The minister could have met with the victim. That might have been a possibility. The victim might have filed a formal complaint. I don't know what could have happened had the top cover been in place. He, I'm sure, had more options than I had.

**Mr. Yvan Baker:** I hear you, and you said that previously in your testimony today. What I'm trying to get at is how we address these types of situations. What I'm trying to get at a little bit is, under the system we have and under the circumstances you've presented.... You've testified that you brought the concern to the minister. I guess what I'm trying to think through is whether there's a process that a minister—this minister, another minister, a future minister, whatever the case may be—could use to undertake an investigation, which you suggested might be a reasonable next step, and still protect the people coming forward, protect the victim. That's what I'm trying to figure out. I'm trying to figure out how that could work.

To my thinking, you'd want an independent body running the investigation, a body that is professional and has experience in running investigations appropriately. I'm just wondering whether the minister—not just this minister but a future minister or past minister—could undertake an investigation and still protect the folks we're trying to protect here, who are the victims.

**Mr. Gary Walbourne:** It is always difficult to strike that right balance to protect the victim and advance the program. I think it will go back.... The only way I can respond to your question is by saying that as long as it stays in its current structure, I just don't think it's going to get us there. If it was a separate entity that reported to Parliament, then it would also be an entity that the minister could reach over to use, to say, "I have this allegation. I want you to do an investigation."



There are many different ways this could be set up, but I'll go back to this point: I believe there were other things that could have happened. I had exhausted what I thought I had in my arsenal. That's where we find ourselves.

• (1635)

**Mr. Yvan Baker:** I guess one of the challenges I see here, if I'm not mistaken—and you've spoken to it—is that in this particular case, with the chief of the defence staff being a GIC appointment, a Governor in Council appointment, I don't know but I suspect that would be why the minister might go to the Privy Council Office.

I'm wondering whether this minister or another minister... I'm sort of asking for your advice here, right, because for me, at the end of the day, personally what I want to walk away with from this conversation and other conversations we've had with witnesses is to understand how we can do better, how we can resolve this problem.

Again, I'm wondering what steps a minister could take to undertake that investigation that you're talking about and still do right by the people who are coming forward, and who, as you pointed out, want their confidentiality respected and want to make sure they're protected. How would that work? I guess I'm just asking you for your advice.

**Mr. Gary Walbourne:** Well, you're asking me to do an organizational structure on Zoom.

There are many ways it can go. I firmly believe that until we get the entity out from under the boot-heel of the department, nothing

is going to change. Once that's done—and who that entity reports in to—maybe there's a schematic that's built there that allows a minister to engage or not engage, to give that entity the authority to do certain things.

We're talking about “maybe, maybe, it might be”, but it all depends on where we end up as an organization. If we leave it the way it is today, I don't think much is ever going to change. What lever did the minister have to use and what did he use? What will happen to a new minister and what lever will they use? That leaves it all wide open to the interpretation of the person who sits in the seat.

**The Chair:** All right—

**Mr. Yvan Baker:** It sounds like the levers don't exist today for the minister to undertake that investigation you're talking about.

**Mr. Gary Walbourne:** They do.

**The Chair:** All right. Thank you very much. That's the end of our time today.

I would like to thank the witness for his very valuable testimony today and for appearing for our study.

Thank you to the committee members and our IT and translation team.

**An hon. member:** Point of order, Madam Chair—

**The Chair:** The meeting is adjourned.

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