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Chair: Mr. Pat Kelly



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• (1105)

[Translation]

The Chair (Mr. Pat Kelly (Calgary Rocky Ridge, CPC)): I call this meeting to order.

Welcome to meeting number 20 of the House of Commons Standing Committee on Access to Information, Privacy and Ethics.

Pursuant to Standing Order 108(3)(h) and the motion adopted by the committee on Monday, December 13, 2021, the committee is resuming its study of the use and impact of facial recognition technology.

[English]

Today's meeting is taking place in a hybrid format, pursuant to the House order of November 25, 2021. Members are attending in person in the room and remotely by using the Zoom application.

I think everyone here is probably fairly familiar with how this works, so I won't go into more detail. If you're on Zoom, please be sure to unmute yourself when you begin to speak, and certainly select the official language that you wish to receive or simply the floor feed, if that is what you wish.

This is a resumption of the testimony we were receiving from the RCMP and the Toronto police that was cut very short due to votes both before and after our committee meeting began a week ago last Thursday.

With that, I'm going to dispense with opening remarks and go straight to our questioning. We are also monitoring what is going on in the House. There is a notice of time allocation. If it is moved and we end up having a vote this morning, then we will deal with that when it happens. I think we'll have quite a bit of time for questions to resume with these witnesses.

With that, Mr. Kurek will be going first.

Mr. Kurek, you have six minutes.

Mr. Damien Kurek (Battle River—Crowfoot, CPC): Thank you very much, Mr. Chair.

Thank you to the witnesses for agreeing to appear again before this committee.

To the RCMP, is the RCMP, via contractors or itself or any peripheral organization that's involved with the RCMP and its law enforcement duties, currently using FRT?

Chief Superintendent Gordon Sage (Director General, Sensitive and Specialized Investigative Services, Royal Canadian Mounted Police): Good morning, Mr. Chair.

No. There is not any FRT technology being used by the RCMP at this time that I'm aware of.

Mr. Damien Kurek: Thank you very much.

Again to the RCMP, do you have any numbers on how many individuals were tried and/or convicted because of the RCMP's use of Clearview AI specifically or any other facial recognition technology?

C/Supt Gordon Sage: Yes, I can comment on that.

Facial recognition technology has been used on only three occasions. On two occasions it was with the child exploitation centre that I'm in charge of, where they were able to identify victims of this horrible crime and create safeguard measures to protect the victims who were located in Canada. On a third occasion it was utilized to track an offender, a fugitive, who was internationally abroad.

There have been no prosecutions using this technology. It's simply been used for identification on two different files with our child exploitation centre. One was when a person from outside the country was trying to exploit two children in Canada to perform sexual acts. We were able to identify the victims and provide safeguards to protect the victims from the person who was trying to offend.

Another situation in which it was used was on an international case. There was a file from 2011 on a victim who was not able to be identified through traditional means. We were able to use facial recognition technology within our scope to identify this victim, who actually was in the States. The entire international community was trying to find this victim for a series of about nine to 10 years and were unsuccessful. We were able to use facial recognition to identify this victim who was situated in the States. We reached out to the Americans, and they were able to confirm that in fact this person was charged and convicted in the States from their information on their charges.

I guess the importance of the facial recognition is that the international community had continued to look for this victim for a series of nine to 10 years and were unable to do so. We were able to use facial recognition to identify this victim. In fact, a court process had completed in the United States of America, and he was convicted on that American charge. It had nothing to do with what we did in Canada.

Mr. Damien Kurek: Do you mind going through the process that the RCMP has used in the past to allow for the use of FRT during the course of an investigation?

C/Supt Gordon Sage: When it was initially rolled out, our members started to utilize it on those three cases only.

A lot of members were testing the technology to see if it worked. They were using a lot of searches on their own pictures, on their own profiles, to see if this technology worked. They also used media searches. They took photographs of celebrities and ran them through Clearview to see if it worked.

In fact, by testing this technology, we realized that it wasn't always effective. There were certainly some identification problems, and that's why we use it only as a tool in the tool box and do not rely on it, because you do need that human intervention to identify who the victim is. It is not always correct. It was absolutely critical that we did have that human intervention when we utilized it.

Many of the queries were testing the program. The only three cases were the three cases that I just spoke of.

Mr. Damien Kurek: Thank you very much.

For the Toronto Police Service, during testimony on April 28, you acknowledged that the Toronto Police Service uses FRT in limited circumstances. Is the use of facial recognition technology in an investigation disclosed to either the court or the individual over the course of an investigation after an arrest?

• (1110)

Mr. Colin Stairs (Chief Information Officer, Toronto Police Service): I believe it is. I'm not an expert on the procedural aspects, but I believe it is shared.

Mr. Damien Kurek: Okay. Thank you very much.

I know I'm starting to run out of time, but generally, how does the Toronto Police Service assess new technologies to determine whether or not they would be an effective tool for use by the service?

Mr. Colin Stairs: Part of the Clearview AI issue was that we didn't have a proper assessment process, so we're in the process of putting that in place. We've had consultations on the board policy that looks at AIML, and we're in the process of drafting the procedure that will sit underneath that.

Essentially, it starts by a determination of what the benefit of the technology might be that would drive us to even look at it. Then there's a set of flags, which would increase the risk around a set of various risk factors that we determine through the consultation that we ran on the public policy, and those risk factors would flag it into a separate process, ultimately to go through public consultation around that specific technology and a risk assessment to determine whether it needs to go forward.

The Chair: Thank you, Mr. Stairs.

We ended up going a fair bit over the time with Mr. Kurek's round.

Go ahead now, Ms. Saks.

Ms. Ya'ara Saks (York Centre, Lib.): Thank you, Mr. Chair.

Thanks to my colleague, Mr. Kurek.

I'm actually going to continue with that line of questioning about risk and levels through you, Mr. Chair, to Mr. Stairs and the Toronto Police Service.

What are the levels of risk when making that evaluation? Can you outline them?

Mr. Colin Stairs: Sure. There is extreme risk, which is something that we would not do. It would be banned. There's high risk, and medium, low and very low. The reason we needed more strata was to account for AIML applications we're getting that are baked into existing and sort of very simple and non-controversial types of applications.

Ms. Ya'ara Saks: Thank you.

Just to follow on that, in a real-time scenario, what would qualify as "risk" in justifying the use of that technology?

Mr. Colin Stairs: Risk might be a risk for human rights. It might be risk to the procedural integrity of the investigation. It might be that the information would be incorrect or that results would be unpredictable.

Ms. Ya'ara Saks: Okay. I have two questions just to follow up.

Would there be human intervention in that kind of level of risk assessment with the use of the technology? Also, are there transparency measures in place?

Mr. Colin Stairs: Do you mean in terms of determining the risk level or in terms of actually using a system that had a higher risk level?

Ms. Ya'ara Saks: I mean in using a system with a higher risk level.

Mr. Colin Stairs: One of the determinants is that there has to be a human in the loop in order to.... That's a significant risk element: Anything that doesn't have a human in the loop is considered high or extreme.

Ms. Ya'ara Saks: Okay. Thank you, and in terms of transparency...?

Mr. Colin Stairs: The board policy calls for all of our technology to be posted and to be evaluated under this frame. We are not going to be transparent about the very low risk and low risk, because we expect there are going to be a great number of them and the load on our service was going to be very high.

Ms. Ya'ara Saks: Thank you very much.

I'm going to switch over to the RCMP now.

On the OPC report in relation to Clearview AI, it was outlined in previous testimony that there were things the RCMP did agree with and things that they did not agree with.

What came out of that was a national tech onboarding strategy in March 2021. Where are we with that, and what is it?

C/Supt Gordon Sage: Roch Séguin would be the best one to answer that question.

Mr. Roch Séguin (Director, Strategic Services Branch, Technical Operations, Royal Canadian Mounted Police): Good morning, Mr. Chair and honourable members of the committee. Thank you for this opportunity to speak to you today.

We've made significant progress in the implementation of the national technology onboarding program, which is the main caveat to meeting all of the recommendations from the OPC. Every technology will be assessed, not only from the privacy aspect but also from a bias, ethics and legal perspective, before being used in any operation or investigation going forward.

As per the recommendation, we have until June 2022 to implement the program, so we still have a bit of time. We're working very hard right now to complete that. There's a slight risk that not all the training will be given by that time frame, and we may have a capacity issue, because we're having challenges with recruitment of additional resources within the program. However, the key foundation pieces for that program will be in place by June 2022.

• (1115)

Ms. Ya'ara Saks: Thank you for that.

Mr. Chair, how much time do I have?

The Chair: You have two minutes.

Ms. Ya'ara Saks: Terrific.

Could you talk about the key foundational pieces of this plan?

Mr. Roch Séguin: With regard to the key pillars for the national technology onboarding program, or stakeholder outreach and partnership, which includes the training, obviously there's a policy review in development to identify all gaps with existing policy and to modify and update new ones. There's a technology assessment portion, where we built a full intake process through a series of questionnaires. Also, we're implementing a technology inventory for awareness oversight. The last component is going to be public awareness and transparency.

Ms. Ya'ara Saks: Thank you. I have one last question.

Once this program is in place, who is accountable to it, besides the RCMP? Will partner organizations or contracted technology companies that work with the RCMP also be accountable to it?

Mr. Roch Séguin: At this point, the program is being implemented for the RCMP only.

Ms. Ya'ara Saks: There's no accountability when you partner with an organization using FRT, even with the framework in place.

Mr. Roch Séguin: Of course we'll do the evaluation if we're going to be leveraging, in partnership, some of these technologies going forward.

Ms. Ya'ara Saks: Will those companies be accountable to uphold those standards?

Mr. Roch Séguin: If the RCMP is going to leverage that technology, definitely.

Ms. Ya'ara Saks: Thank you. I think my time is up, Mr. Chair.

The Chair: You have—

Ms. Ya'ara Saks: Do I have any time left?

The Chair: You have a little bit, but probably not enough for a question and an answer. If you have a quick comment, you're welcome to make it.

Ms. Ya'ara Saks: No, I'll cede my time at this point.

The Chair: Thank you.

Monsieur Garon is next.

[Translation]

Mr. Jean-Denis Garon (Mirabel, BQ): Thank you, Mr. Chair.

My first question is for the RCMP officials.

Has the RCMP ever contracted or worked with Clearview AI? I would ask you to answer yes or no, please.

[English]

C/Supt Gordon Sage: No, we have not.

[Translation]

Mr. Jean-Denis Garon: I must say I am surprised.

Can you explain to me why the Privacy Commissioner's report released on June 10, 2021, mentions that the RCMP confirmed that it had purchased two licences to use Clearview AI services in October 2019, and that its members had also used Clearview AI services since then?

Who is in error, the commissioner or the RCMP?

[English]

C/Supt Gordon Sage: I thought the question was "are we presently".

We purchased two licences back in October 2019. Two licences were used. Clearview stopped all use in Canada as of July 2020, and we have not—

[Translation]

Mr. Jean-Denis Garon: I apologize for interrupting, but our time is limited.

When one buys, pays for, and uses a licence, does that require a contract? Is it called a contract?

[English]

C/Supt Gordon Sage: I would probably refer this question to André Boileau to answer.

[Translation]

Mr. Jean-Denis Garon: Mr. Sage, when I asked you if you had a contract with the company, you told me you did not. Then you told me that you had purchased a licence.

Can you provide the committee with the documents regarding this agreement with Clearview AI?

You say it's not a contract, but I don't know what to call it. Since these are documents that are already drawn up, it shouldn't be too difficult to get them to us.

Mr. André Boileau (Officer in Charge, National Child Exploitation Crime Centre, Royal Canadian Mounted Police): May I answer the question?

• (1120)

The Chair: You have the floor, Mr. Boileau.

Mr. André Boileau: The RCMP entered into a contract with Clearview AI for the acquisition of two licences.

Currently, I do not have access to the documentation, but we can do the necessary checks and forward the documentation to you if it is available.

Mr. Jean-Denis Garon: Mr. Chair, would it be possible for a written request to be sent to the RCMP to ensure that the documents requested by the committee will be filed in an unredacted manner?

Mr. Boileau, I imagine you will not mind sending us the documents unredacted, since there is not much to hide.

What do you think?

Mr. André Boileau: At this time there are two lawsuits against the RCMP. According to the legal provisions, we may not be able to provide you with all the information requested. We will certainly provide you with as much as we can.

Mr. Jean-Denis Garon: I insist that the information be sent to us, because we need it to do our parliamentary work properly, especially since my question was not answered accurately and I had to insist a lot. I want you to know that we will insist.

I have another question for the RCMP officials.

Earlier, you told us that facial recognition was only used on three occasions. As with the contract, I guess we have to take your word for it.

If a situation arose that you would consider urgent, how ready would you be to deploy this type of technology again very quickly and at very short notice?

You have suggested that you would use it in urgent circumstances. Tomorrow morning, would you be prepared to deploy this technology again in an emergency?

[English]

C/Supt Gordon Sage: At the present time, I'm unable to use that technology, which is very unfortunate, because there are victims at risk in Canada under the child exploitation side of the house. I cannot attempt to identify them, because I don't have the technology.

You talk about an urgent file; that is the most urgent file, in my eyes. There are victims in Canada who are being exploited by people—

[Translation]

Mr. Jean-Denis Garon: I am sorry, but I have to interrupt you again.

[English]

C/Supt Gordon Sage: —and I could not use that.

[Translation]

Mr. Jean-Denis Garon: Please, Mr. Sage, I have more questions to ask.

I understand what you are telling me, but why were you once able to deploy it urgently when you are no longer able to do so today?

What has changed between the first, second and third use and the present time, May 2022?

[English]

C/Supt Gordon Sage: The problem is that it's not available to us. We have been directed not to use it under any circumstances, so it's not available for us to use.

[Translation]

Mr. Jean-Denis Garon: If I understand correctly, you are waiting for a legal framework.

You have used facial recognition technology before, without a legal framework, and I guess you decided to wait for us to legislate on it. Is that what you are waiting for to use it again?

[English]

C/Supt Gordon Sage: I'm waiting on a decision from our national technical operations, our NTOP process, to do that assessment. Once I have that assessment from there and I'm told that I can use it, I will continue to look for victims of child exploitation. Until I get that process completed from my NTOP people, I cannot use it, and victims are at risk today.

[Translation]

Mr. Jean-Denis Garon: Thank you, Mr. Chair.

[English]

The Chair: Thank you.

Mr. Green, you have six minutes.

Mr. Matthew Green (Hamilton Centre, NDP): Thank you very much.

My first question is to Mr. Sage.

Sir, do you report to Mr. Paul Boudreau or does Mr. Paul Boudreau report directly to you?

C/Supt Gordon Sage: I report to Mr. Paul Boudreau.

Mr. Matthew Green: Why is it that Mr. Boudreau couldn't make it here today?

C/Supt Gordon Sage: I cannot provide that answer. I do not know—

Mr. Matthew Green: On the question of the licences, the previous questioner had a great line on contracts. Who, ultimately, would have signed the contract? You don't have to give the contents.

Who, ultimately, would have signed off on that contract? Would that have been yourself as the director general?

C/Supt Gordon Sage: No, I believe it was obtained by an investigator within the NCECC.

Mr. Matthew Green: A ground-level investigator would have purchased this technology. It wouldn't have gone through any procurement channels or required a higher level of scrutiny.

C/Supt Gordon Sage: No. Unfortunately, the director general at that time—it was not me—was not aware of the purchase when it was made.

Mr. Matthew Green: With other officers, when they access CPIC, and this was a point of contention I had with your superior... When they surreptitiously access CPIC to gather information that has not been lawfully granted.... There is a code of conduct within the RCMP. Was the investigating officer who pursued this technology ever investigated for a violation of the code of conduct?

• (1125)

C/Supt Gordon Sage: No, he wasn't.

Mr. Matthew Green: Why is that, sir?

C/Supt Gordon Sage: I'm trying to understand your question. If you're asking me if a person should be investigated for saving victims of child exploitation, I believe that would be inappropriate—

Mr. Matthew Green: Let's be frank, sir.

Are you familiar with the duty of candour within the body of law, that information must be—

C/Supt Gordon Sage: Not as you describe it.

Mr. Matthew Green: —presented completely, accurately, fairly and fully.

Is this not something you are familiar with?

For instance, when you're seeking to get a warrant, sir, are you not aware that as an RCMP officer, when you're presenting evidence for a warrant *ex parte*, you must present it even if it casts a negative light on you and that you would still have to present it? Are you familiar with that principle?

C/Supt Gordon Sage: I'm familiar with the principles we take before the court to obtain warrants.

Mr. Matthew Green: Would you not agree that even in the testing technology, your officers who were testing celebrities and other

people, invariably using this technology, would have drawn in facial profiles from hundreds of thousands, if not millions, of people who are under no lawful investigation?

C/Supt Gordon Sage: Unfortunately, we did not have a policy in place at the time. Now we have NTOP to identify those risks and needs.

At that time—

Mr. Matthew Green: Director Sage, am I hearing in your testimony today that any ground-level investigator can, either through procurement...?

What we're hearing in other services, quite frankly, is that they're using trial services, trial subscriptions, on AI and different types of technology to test their capabilities, because there aren't existing frameworks in place.

Is that what you're suggesting here today?

C/Supt Gordon Sage: I'm saying that at the time the licence was obtained, the policy wasn't in effect and that any members on the ground were able to obtain licences as they saw fit.

Mr. Matthew Green: When you're overseeing your investigators and they're bringing a new technology forward, at what point in time do they have to do a charter compliance analysis?

C/Supt Gordon Sage: Since I've started, we are doing that with NTOP as we speak, and anything that comes forward, any technology—

Mr. Matthew Green: Did that not happen before?

Sir, previously, that didn't happen before you.

C/Supt Gordon Sage: No, it didn't.

Mr. Matthew Green: You're suggesting that in the RCMP, when they're bringing in a new technology, and this isn't a small thing.... I'll use another example.

Has the RCMP ever engaged in the use of Pegasus NSO?

C/Supt Gordon Sage: I do not know that program.

Mr. Matthew Green: Are you aware of any scenarios...?

I want to make sure that I get this on the record.

In a previous question, my friend from the Bloc asked for those documents. In those documents, are you prepared to provide us with the name of the person who signed the licence in advance of receiving those documents? That wouldn't be anything that would be subject to any kind of solicitor-client privilege.

C/Supt Gordon Sage: As André Boileau indicated, if we are able to provide it, we will.

Mr. Matthew Green: Mr. Boileau, did you sign the documents?

Mr. André Boileau: No, sir, I did not.

Mr. Matthew Green: Mr. Boileau, did the investigating officer who contracted Clearview report to you?

Mr. André Boileau: No, he did not.

Mr. Matthew Green: Who did he report to, Mr. Boileau?

Mr. André Boileau: He reported to an RCMP member who has since retired.

Mr. Matthew Green: Who was that member, and what was his position?

Mr. André Boileau: At this point, and again because, as I mentioned earlier, we do have some lawsuits, so I'm not sure to what extent we can share—

Mr. Matthew Green: If we went in camera...

Mr. Boileau, if it helps you, we're talking about the duty of candour. This is a parliamentary committee that you're before. There have been instances in these committees when we have asked witnesses to swear an oath. Are you aware of the seriousness of the committee in which you're testifying today?

Mr. André Boileau: I am.

Mr. Matthew Green: If we went in camera, would you be willing to provide that name?

Mr. André Boileau: Pardon?

Mr. Matthew Green: If we went in camera, would you be willing to provide that name, given the parliamentary privileges of the members around this table?

Mr. André Boileau: My answer would prevail.

Mr. Matthew Green: Thank you.

The Chair: Thank you, Mr. Green.

Now we'll go to Mr. Williams.

Mr. Ryan Williams (Bay of Quinte, CPC): Thank you very much.

I'm going to follow up with Mr. Stairs from the last time he gave testimony to the committee.

I want to ask you a couple of things to clarify that testimony from the Toronto Police Service.

Number one, can you just reidentify that the Toronto Police Service currently uses FR technology? Is that correct?

• (1130)

Mr. Colin Stairs: That's correct.

Mr. Ryan Williams: Who are your suppliers? How often is it used and what is it used for at this point, just to clarify?

Mr. Colin Stairs: I don't have the frequency. We use Intellibook, and the essential use of it is in identifying images from crime scenes against our mug shot database.

Mr. Ryan Williams: When we talked before, you identified that it's completely a system in which you use human intervention or human review. Is that correct?

Mr. Colin Stairs: That's right. It's conducted by our forensic identification service, so there is a technician who takes the image, runs it into the system and looks at the results.

Mr. Ryan Williams: How often do you use that technology or that system?

Mr. Colin Stairs: I don't have the number, and I wouldn't want to give the wrong information. I'd have to go to my FIS, my forensic identification services team.

Mr. Ryan Williams: I'm going to ask that you please provide that to the committee. I think that's pertinent to what we need that for.

When you're using that in the force right now, you're saying that you identify mug shots and then use that for.... Is it for evidence? Is it to identify criminals? Could you please explain exactly how that is being used?

Mr. Colin Stairs: Sure. You might have an image from an event, and you have a person, who is usually a suspect you're trying to identify. That would be handed over to FIS, and they would look at the situation and ensure that it meets our criteria, that it's a significant enough crime and the right type to meet the criteria we've set up. At this point, they would run the image against our Intellibook system, and it would result in a ranked order of matches, some of which might be relatively good and some of which might be poor. There will be an assessment by the FIS technician as to any of those being viable, and that would be presented back to the investigators.

If none of the matches was sufficiently strong, then there would be no result returned. The investigator would then have to corroborate that identity through other means. Facial recognition is not considered an identification; it's a suggestion of where to look.

Mr. Ryan Williams: Then when you talk about an event, is this surveillance?

Mr. Colin Stairs: No, it would be more like.... Let's say there was a homicide, and you would have a security camera, and from that security camera, you might have an image of the perpetrator.

Mr. Ryan Williams: Okay.

Mr. Colin Stairs: You'd pull a still, and then you'd run that.

Mr. Ryan Williams: To talk about how this technology is helping the old methods, if you didn't have FRT, how would you be identifying individuals like that?

Mr. Colin Stairs: You would be taking the image and putting it on television. You'd be running it through the community putting BOLOs out to try to see if you could find that individual.

Mr. Ryan Williams: In terms of trying to understand why the Privacy Commissioner is finding fault in this—and this is what we're trying to investigate—if you had a crime scene and you had fingerprints, can you use them the same way that you're using FRT right now?

Mr. Colin Stairs: Very much so, yes.

Mr. Ryan Williams: You'd run it through, find databases....

Mr. Colin Stairs: We would take the fingerprint from the scene and run it against our fingerprint database, and if we got a match, we would follow up on that investigative lead.

Mr. Ryan Williams: In terms of—

Mr. Colin Stairs: It's very similar in that sense.

Mr. Ryan Williams: I guess the difference on this one that we're looking at—and I'm going to go back to some other earlier testimony—is that when we have this FRT system, it's identified that we see up to 35% error rates in identifying, for instance, Black females versus white females.

When it comes to that identification, you stated in past testimony that you have a human who looks through that data, but are we still seeing that? Your testimony—I'm just going to get you to confirm that—was that the technology you're using was the least biased. Is that correct?

Mr. Colin Stairs: It was selected on the basis of minimizing that bias, but that bias still exists, both in the training data and also, more importantly, in the photography technology that we use sort of broadly.

Mr. Ryan Williams: Okay. I guess the difference between a fingerprint, as you were saying, in a crime scene and this technology is that this one has proven to be inherently biased, or to have some bias, whereas a fingerprint would not have a bias, correct?

• (1135)

Mr. Colin Stairs: All systems have some bias, but yes, this has a different type of bias. There—

Mr. Ryan Williams: A fingerprint would not have a racial bias, correct?

Mr. Colin Stairs: A fingerprint would not have a racial bias, as far as I know.

The Chair: Mr. Williams, your time is up.

Mr. Ryan Williams: Thank you, sir.

The Chair: I will move on now to Ms. Hepfner for five minutes.

Ms. Lisa Hepfner (Hamilton Mountain, Lib.): Thank you very much.

Mr. Stairs, I'm going to go on in the same vein as my colleague Mr. Williams.

Just to clarify, in the system used by Toronto police and I think other police services across Canada, the source of the images you're using is your own database of mug shots.

Mr. Colin Stairs: Yes. That's correct.

Ms. Lisa Hepfner: What about the body cameras that I know are used by some police services, including by Toronto police, I believe? How are those images used with the police service? Do those images ever get into your database?

Mr. Colin Stairs: They don't go into the mug shot database. That's a separate digital evidence management system that holds all the video from body-worn cameras. Body-worn cameras would generally not be used, or no data would be used. The circumstances wouldn't arise. There is no connection between the body-worn cameras and the Intellibook system, no automated connection.

The only way to do a facial recognition off a body-worn camera image would be to lift the still, export it and then bring it into the Intellibook system through the process I described. That would be highly unusual, because if you're interacting face to face with

someone, you don't usually need to then determine their identity through that kind of means.

Ms. Lisa Hepfner: Would the police service at this point ever go into a crowd or a protest, for example, for images and try to identify people that way?

Mr. Colin Stairs: That's explicitly written out of our body-worn camera policy and procedure.

Ms. Lisa Hepfner: Okay.

You were talking about how the force is currently trying to develop policies and procedures surrounding facial recognition technology. Can you talk to us about that process? Who's involved in that process? Is it just sworn officers, or do you have advisers from outside the police force, maybe people with ethics backgrounds, who can help develop these frameworks and these ethical questions that should be included?

Mr. Colin Stairs: The process was initiated by our board in response to Clearview. The scope of it is slightly larger. It's looking at all AI and ML technologies, not just facial recognition. There are other technologies that have different but similar types of problems. We're looking at all of those.

We had an open consultation to specific groups—law societies, privacy groups, ethics groups and technology specialists—and then we had an open consultation that was open to any members of the public. We went through a round of that on the policy. Now we're expecting to do a similar round on the procedure, which sits underneath the policy and directs the service members.

Ms. Lisa Hepfner: What sort of outcome are you looking for? Are you looking for an ethical framework whereby you have a certain number of questions you have to ask before using any new technology? Can you describe a little bit about the outcome that you're hoping to get out of the process?

Mr. Colin Stairs: Sure. I think part of the problem we've got that triggered this conversation is that we have insufficient visibility and guidance to frontline officers on how they should approach new technologies. What we're looking to do is create a framework that allows us to filter and surface to our board and to our public the types of technologies that we intend to use and why we intend to use them, and then have a discussion in the full light of day on those technologies.

Ms. Lisa Hepfner: With the Intellibook program—I think you've already covered this, but this is just so that we're extra clear—an officer will pull up a list of potential suspects, and then it's really just a clue. It's not a piece of evidence that would be used in a court of law if a photo comes up in the Intellibook system.

Mr. Colin Stairs: It by itself is not considered an identification—

Ms. Lisa Hefner: Okay. Very good.

Mr. Colin Stairs: —so yes, what you're saying is correct.

Ms. Lisa Hefner: I don't know if you've been involved in that process at all, but you were talking about what you're looking for, like the benefits and the risk flags.

Can you talk about what you have discovered so far? What types of benefits come from this technology, balanced by what types of risks?

Mr. Colin Stairs: If we're talking about facial recognition, when we have an unknown subject in a violent crime or involved in a significant issue, and sometimes when we have an unknown witness, these technologies can be helpful. They're very much limited by the scope of our mug shot database. We don't pool that with other police services; it's only our city of Toronto mug shot database.

Some of the flags are the procedural Criminal Code and charter rights. Something that could violate those in any way is certainly a flag. Not facial recognition, but something called algorithmic policing that might direct resources to different communities is a flag, because it can reinforce biases—

• (1140)

The Chair: Mr. Stairs, unfortunately, we're a fair bit over time now with Ms. Hefner's round.

[Translation]

Mr. Garon, you have the floor for two and a half minutes.

Mr. Jean-Denis Garon: Thank you, Mr. Chair.

Mr. Sage, you have told us about investigations in which facial recognition had been used. Listening to you speak, I can see that these are important investigations for you.

Do you think that the nobility of the cause you serve justifies sparing ourselves an ethical and moral conversation about the use of artificial intelligence and facial recognition by law enforcement?

[English]

C/Supt Gordon Sage: I believe that when we use facial recognition technology, we have never used it on an offender in the child exploitation world because the offenders in the child exploitation world are generally—

[Translation]

Mr. Jean-Denis Garon: My question is very simple, Mr. Sage. You didn't understand it, so I will repeat it.

Do you think that the nobility of the investigations you are doing justifies sparing ourselves a serious conversation about the ethics surrounding the use of facial recognition?

[English]

C/Supt Gordon Sage: I utilize the technology to rescue victims and have not gone down the offender side of these investigations. My use is simply to identify victims only so we can provide safeguarding measures to the victim and then start the investigative process required to identify an offender.

I would only use it for a victim at this point in my world. I feel the needs of a child—

[Translation]

Mr. Jean-Denis Garon: So, if I understand correctly, the RCMP has done some ethical analysis on the use of this technology. Could that analysis be provided in written form to the committee?

You seem to have put a lot of thought into this at the RCMP.

[English]

C/Supt Gordon Sage: The NTOP process assesses the risks and the ethical issues, including a privacy assessment, on that technology. Once that is done, if I'm able to use it, I will use it. If I can't, I can't and I don't.

[Translation]

Mr. Jean-Denis Garon: Mr. Chair, I would like the witness to be asked to provide the committee with these documents, please.

[English]

The Chair: That's noted. He's heard the testimony and the request, so that request is conveyed.

With that, we'll go to Mr. Green for two and a half minutes.

Mr. Matthew Green: Thank you very much.

Mr. Chair, through you to Mr. Sage, can you please name your predecessor? This is the public record, so it's for the record here today.

C/Supt Gordon Sage: When I came into this position, the predecessor was not in the chair, so I would have to verify that.

Mr. Matthew Green: You're unfamiliar with the person who served before you. Is that your testimony here today?

C/Supt Gordon Sage: I'm sorry. I missed that.

Mr. Matthew Green: I said you're unfamiliar with the person who served in your position before you. Quite frankly, I think that's unbelievable, by the way. You're stating here today that you don't know the person who served in your position before you.

C/Supt Gordon Sage: Yes, I know the person who served before me—

Mr. Matthew Green: What is their name?

C/Supt Gordon Sage: The person is a retired employee—

Mr. Matthew Green: What is the person's name?

I'll save you the embarrassment, sir, because quite frankly, when I talk about the duty of candour and full and frank disclosure to this committee, what I have is a significant trust issue.

I reference that your service, sir, first denied the use of this technology and has, in initial claims, rejected the findings of the Office of the Privacy Commissioner. It has not, in my view, demonstrated the ability to have the kind of candour and frankness with civilian oversight bodies such as the House of Commons to provide basic information for Canadians who are concerned about their civil liberties.

Mr. Sage, you have quite frequently referenced “I” and “my” and “victims”. This study is not about you, sir.

Through you, Mr. Chair, to Mr. Sage, are you familiar with the RCMP using these technologies in divisions outside of your own?

• (1145)

C/Supt Gordon Sage: Yes, I am. They were used operationally.

Mr. Matthew Green: Which divisions were they used in? Were they used for oversight of first nations land reclamations or civil protests? Which divisions used them, sir?

C/Supt Gordon Sage: They were utilized one time by British Columbia for an international fugitive who was abroad. That is the only time.

Mr. Matthew Green: Has the technology ever been used to provide supplementary information that would have become lawful evidence for the granting of warrants? In other words, could this information be used with three degrees of separation in order to get lawful warrants?

C/Supt Gordon Sage: No, it hasn't.

The Chair: Thank you.

With that, we now go to Mr. Bezan.

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

I want to thank our witnesses for appearing.

I'm a little disturbed by the lack of forthcoming answers to some of the questions committee members have put forward so far.

I'd like to ask the RCMP if they've ever sought any legal opinion, outside of the RCMP, on the use of FRT in ongoing investigations.

Can anyone answer?

Mr. Sage or Mr. Séguin, can you answer?

Mr. Roch Séguin: No, the RCMP has not. The only one was from the Department of Justice and internal to the RCMP.

Mr. James Bezan: Just to backtrack a bit, we had the Privacy Commissioner here. His report on Clearview Technologies said the RCMP did not satisfactorily account for the vast majority of searches it made. The RCMP disagreed with the Privacy Commissioner's conclusion that they violated the Privacy Act concerning Clearview AI.

Does that position still stand today at the RCMP, after the hearings this committee has undertaken over the past month?

C/Supt Gordon Sage: Yes, it does.

Mr. James Bezan: Do you believe, then, Mr. Sage, that the RCMP is more familiar with the Privacy Act than the Privacy Commissioner?

C/Supt Gordon Sage: We presently have an employee working at the privacy commission. We've done a work exchange. As we develop our new ways forward, we have a member located within their office, and we are asking for one of their employees to be with our office in order to strengthen that knowledge and relationship. We do have a member there presently to help us.

Mr. James Bezan: Wouldn't having somebody from the Privacy Commissioner's office seconded to the RCMP indicate that the RCMP is quite concerned they are offside with the Office of the Privacy Commissioner, who is definitely the most knowledgeable person on the Privacy Act and the protection of personal information?

C/Supt Gordon Sage: If we can learn from another agency in any way, we do. We encourage that. That's why we encourage having a member from their office located with us, so we can be integrated and produce a much better product at the end.

Mr. James Bezan: The RCMP has also contracted IntelCenter to use its database and IntelCenter Check on facial recognition technology. Are you aware of that, Mr. Sage?

C/Supt Gordon Sage: No, I'm not.

Mr. James Bezan: Mr. Séguin, are you familiar with that?

Mr. Roch Séguin: No, I'm not.

Mr. James Bezan: One of the concerns I have with facial recognition technology relates to all the false positives, people who were erroneously identified and targeted, often based upon their race. If it's so bad about giving us so many false positives, shouldn't we also be concerned, then, that it's wrong and giving us false negatives? Are people who should have been identified slipping through the system, especially with respect to things like child exploitation and missing persons?

C/Supt Gordon Sage: We always look at avenues to find better technology out there. I would encourage any technology that can assist us in making things better in the child exploitation world.

• (1150)

Mr. James Bezan: How much time do I have, Mr. Chair?

The Chair: You have a minute and a quarter.

Mr. James Bezan: Okay.

When we look at Clearview's technology and their unlawful scraping of images from the Internet, shouldn't we think that potentially this would lead to more harm than good when dealing with things like child exploitation?

C/Supt Gordon Sage: When it comes to child exploitation, we realize that Clearview AI is not always correct. That's why we have a human intervention piece in there. It is absolutely critical to have a member actually view the results to see if they are true.

We did, in fact, test it ourselves, and we did find that false negatives were coming out of the program, so we're fully aware of that. If there is a better technology, that would be fine; however, you always need that human interaction and that human review process to take place. As we propose, in the future we will always have that, and it's absolutely critical.

Facial recognition technology is simply another tool in the tool box. It cannot be operated on its own, independently of any other processes. The human process is absolutely critical. The technology simply gets us to identify the victim in a quicker fashion. Traditional ways can then take over, but it will always be used with human interaction.

Mr. James Bezan: But the one problem with that—

The Chair: I'm sorry, Mr. Bezan, you're—

Mr. James Bezan: —technology is that false positives and false negatives ultimately could undermine the ability the process in a court of law.

The Chair: Thank you. It is time to move on to Mr. Fergus for five minutes.

[Translation]

Hon. Greg Fergus (Hull—Aylmer, Lib.): Thank you very much, Mr. Chair.

I must admit right away that I have a bias. I am not in favour of the use of facial recognition technology, but I was open-minded enough to listen to the evidence. It shocks me that my colleagues' questions, which are quite simple, are not being answered.

Mr. Sage, can you explain to me why you cannot answer these questions directly?

[English]

C/Supt Gordon Sage: The reason I cannot provide a name is that the individual is not an employee of the RCMP anymore. I do not know if that name can be released. If I was told I could, I would gladly produce the name.

[Translation]

Hon. Greg Fergus: In that case, can you name the exact position this person held?

[English]

C/Supt Gordon Sage: My predecessor had the same role that I have, which is director general of sensitive and specialized investigative services.

[Translation]

Hon. Greg Fergus: Without disclosing the person's name, can you tell us if they were very experienced? Did they have a long tenure before they retired?

[English]

C/Supt Gordon Sage: Certainly that individual did have experience in that position, but I do not know for how long.

[Translation]

Hon. Greg Fergus: I have some more questions for you. These are questions I wanted to address at the beginning.

According to the testimony of Mr. Stairs of the Toronto Police Service, that service has adopted a policy on the use of facial recognition technology.

Will the RCMP follow suit?

• (1155)

[English]

Mr. Roch Séguin: I can take that one.

Yes, definitely, and that's through our national technology onboarding program, whereby every technology will be assessed from all those facets that were named previously, from a privacy, ethics, bias and legal perspective, and before they're used in an operation or investigation.

[Translation]

Hon. Greg Fergus: When will this policy be made public?

Mr. Roch Séguin: We will have a policy in place by the end of June.

Hon. Greg Fergus: Will this policy apply to all RCMP officers?

According to Mr. Sage's testimony, prior to the exposure of the Clearview AI scandal, any officer could have signed a contract or done business in any way with this type of company.

Will your policy apply to everyone?

[English]

Mr. Roch Séguin: Yes, it will. That's the main reason we've decided to implement a centralized process that will apply to all RCMP nationally.

[Translation]

Hon. Greg Fergus: Will it also apply to all the people and organizations they deal with?

Mr. Roch Séguin: Yes, exactly.

Hon. Greg Fergus: I would like to quickly ask Mr. Sage or any representative another question.

[English]

The Chair: You're just about out of time, Greg.

[Translation]

Hon. Greg Fergus: In your last appearance before this committee, you said that the RCMP did not use these technologies. However, it was revealed that some of its partners were using them.

At this time, can you confirm that none of your partners are using these services?

I would like to have a crystal clear and very brief answer.

[English]

C/Supt Gordon Sage: I'm sorry. I was on mute. This is the first time I've been at this committee meeting, so I have not provided evidence in the past.

All the partners we would work with would be expected to follow our policy if we're going to use facial recognition technology.

The Chair: We're way, way over time on your round, Mr. Ferguson. We'll have to go now to Monsieur Garon.

[Translation]

Mr. Garon, you have two and a half minutes.

Mr. Jean-Denis Garon: Mr. Sage, do you or do you not share the Privacy Commissioner's opinion that the RCMP's use of Clearview AI technology represented mass surveillance and a clear violation of the Personal Information Protection and Electronic Documents Act?

[English]

C/Supt Gordon Sage: We do not use mass surveillance.

[Translation]

Mr. Jean-Denis Garon: If you do not share the opinion of the Privacy Commissioner, why do you answer the questions of my colleague Mr. Bezan by saying that

[English]

we have to develop "new ways forward"?

[Translation]

You say we need to work with the commissioner and think of new ways of doing things.

How is it that you don't acknowledge the wrong that is being attributed to you and yet you tell us that you need to change your ways completely?

[English]

C/Supt Gordon Sage: There are a couple of questions there.

I would recommend we would not use it for mass surveillance, and that's why we do not use it for mass surveillance.

[Translation]

Mr. Jean-Denis Garon: At what point does it become surveillance, Mr. Sage? What is the tipping point?

[English]

C/Supt Gordon Sage: We only use facial recognition on victims of this horrendous crime. We do not use it on suspects. Every time we've used it in the child exploitation world, it was to identify victims, not suspects.

• (1200)

[Translation]

Mr. Jean-Denis Garon: Can you explain to me why all the major federal privacy institutions find this to be surveillance, but not the RCMP?

How is it that everyone but the RCMP is wrong on this issue?

[English]

C/Supt Gordon Sage: I have never seen any examples of the RCMP using it for mass surveillance at all.

[Translation]

Mr. Jean-Denis Garon: So you are saying that the Privacy Commissioner is wrong and has misled Canadians. Is that what you are saying?

[English]

C/Supt Gordon Sage: I'm saying that we would never use it for mass surveillance.

[Translation]

Mr. Jean-Denis Garon: Mr. Chair, on a point of order.

As a parliamentarian, I ask questions and I am very annoyed by the fact that an RCMP official comes here and does not answer questions.

[English]

The Chair: That's not really a point of order. I hear your statement, but I don't see a point of order there.

With that, it is time for Mr. Green for two and a half minutes.

Mr. James Bezan: Just on that point of order, Mr. Chair—

The Chair: Mr. Bezan, I ruled that it wasn't a point of order, but if you have a point of order—

Mr. James Bezan: Well, it is a point of order, because I do believe that if you look at our rules of procedure in Bosc and Gagnon in chapter 20, there is an expectation put upon the witnesses who appear before a committee to answer all questions put by committee members, fully and truthfully. I do see that some of the answers we are receiving today have been very much limited. I would suggest that witnesses should exercise their responsibilities to this committee, and that those of us around the table have parliamentary privilege and do expect complete answers. Giving one-word answers and being dodgy is not fulfilling the work of the committee.

The Chair: It's noted, Mr. Bezan. I, as the chair, don't want to be in the position of judging the responses that come from our witnesses. You are absolutely correct that witnesses do have an obligation, when they appear at our committee, to be truthful and to answer to the best of their abilities. I don't want to get into a debate about the quality of the answers as chair, but your point is noted.

I see that Ms. Khalid has a point on the same point. Go ahead.

Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.): Thank you, Chair.

I just want to remind members of the committee that you have ruled on this point of order that it's not really a point of order. When we have found the answers of witnesses to be lacking in the past, we've invited them to provide further responses in writing. I think that we should do the same in this instance and not really get bogged down in the minutiae of it right now, and rather continue with our questioning.

The Chair: Thank you, Ms. Khalid.

Of course, members are always free to, if necessary, move for specific answers if they are looking for them.

With that, where were we? We were about to begin Mr. Green's round of two and a half minutes.

Go ahead, Mr. Green.

Mr. Matthew Green: Thank you very much. I will get into specificity.

I think what we're seeing here, Mr. Chair, is a huge gap between the way in which the RCMP views its role in public safety and the way in which our committee, as an elected civil society group, views its role. I want to get specific, because the language does matter when we talk about things like mass surveillance, and that's why I can appreciate my colleague's frustration that the answers have not sufficed.

In the investigation of the RCMP's use of Clearview AI, the Office of the Privacy Commissioner found that the company's technology allowed law enforcement to match photographs to a database of three billion images scraped from the Internet—three billion.

Mr. Sage, would you not agree that three billion images would constitute, quite rightly, mass surveillance?

C/Supt Gordon Sage: We have never searched mass surveillance.

Mr. Matthew Green: Mr. Chair, this is, again, what our public safety institution is doing indirectly when it cannot do it directly. Clearview AI's technology is used to identify people by matching photographs against their database of three billion images. That's just a fact.

In fact, according to the Office of the Privacy Commissioner, only 6% of the searches recorded by Clearview appear linked to NCECC victim identification, and approximately 85% are not accounted for at all by the RCMP.

Given this context, what was the purpose of the RCMP's staff who conducted these searches? Would you not agree that with a 6% hit rate and 85% unaccountability, that would constitute mass surveillance and an unlawful and unwarranted gathering of information against the general public?

• (1205)

C/Supt Gordon Sage: The 6% used were the actual three files I spoke of. The 85% were used to test the program. The members in the NCECC tested this process on themselves as—

Mr. Matthew Green: But isn't testing it a surreptitious gathering of information?

Let me ask one last question, Mr. Chair. With respect to the practice of street checks and racial profiling—the analog version of this, which the RCMP is still, at least to my knowledge, using actively across the country—at least that process would have some framework of accountability. Is it your testimony here today that in “testing” this, you can use that phrase to perhaps justify the gathering of this information without legal frameworks?

C/Supt Gordon Sage: When we test the system, it's on our members and using celebrities who are on the Internet. It was never, and has not been, used for mass surveillance.

Mr. Matthew Green: There were three billion images of your members and celebrities—three billion?

C/Supt Gordon Sage: We put a very tight restriction on who can use it and for what purposes. It was in the—

Mr. Matthew Green: Were those restrictions on Clearview?

The Chair: We are over the time with Mr. Green's round, so now I'm going to go to Mr. Kurek. If you wish to split your time, just let me know.

Mr. Damien Kurek: Thank you very much, Mr. Chair.

As a point of clarification to our witnesses, there's been some request for further information, so I would simply ask—and I hope with the agreement of other members of the committee—that the documents that have been asked for be provided by June 1. I think that would be a very reasonable request.

Director Sage, could you describe for me Project Arachnid? Do you have any involvement in that? I note on their website that it specifically states, “Project Arachnid does not use or rely upon facial recognition technology. It uses hashing technology — which is technology that assists in matching a particular image or video against a database of known child sexual abuse material.”

Mr. Sage, could you outline your familiarity with Project Arachnid and explain exactly what it is?

C/Supt Gordon Sage: Yes, I am aware of it. It's a program that CCCP runs out of Winnipeg for the child exploitation centre there. It is not using facial recognition technology, and I confirmed that with the director of their program. They use a hashtag search, which generally is the DNA of a photograph. It crawls the Internet based on the DNA of that image. When you have an image, it creates a hashtag and it is based on that. They do not use facial recognition technology at all.

Mr. Damien Kurek: Thank you very much.

Certainly I think it's this committee's wish to find that right balance to make sure that law enforcement has the tools needed to deal with those who commit heinous crimes, while ensuring that the rights of Canadians are respected and that challenges with racial bias and things like FRT are called out.

I would ask this question, as well, to our witness from the Toronto Police Service. Are you aware of Project Arachnid, and has that been used with any Toronto Police Service investigations?

Mr. Colin Stairs: I'm not aware of Project Arachnid, other than the discussion in this committee. I wouldn't be surprised if one of our speciality teams has some relationship to it.

Mr. Damien Kurek: Thank you very much. I will give the rest of my time to Mr. Bezan.

The Chair: Mr Bezan, you have two and a half minutes.

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

To follow up on the quality of the answers we've been getting, they seem to be intentionally evasive from some of the witnesses. I remind witnesses that at committee, you can be held in contempt of Parliament if you aren't fully co-operating or are it is found that you haven't been fully co-operating. I'll take your counsel on this, Mr. Chair, that we'll allow the witnesses' testimony to stand.

Based on some of the conversations we've had in the past, potentially we need to have a more senior member of the RCMP here, such as Commissioner Lucki herself. That is something we should consider.

I also want to reiterate that the documents that have been requested by committee members should be provided by June 1 so that we can take them into consideration in doing our work on this study.

I want to go back to IntelCenter Check.

The witnesses were saying they haven't heard about it before, yet IntelCenter advertises this product as terrorist facial recognition technology software, using open-source images of terrorists from the Internet and the RCMP in its procurement documents. That suggests that not only is the RCMP using it, but possibly CSIS and possibly the Department of National Defence.

As has been said before, we can't do indirectly what we're prohibited from doing directly under charter rights in surveilling Canadians. To the RCMP, are you using any FRT technology other than Clearview, which is right now not available in Canada? Again, there is the issue around the IntelCenter database FRT.

• (1210)

C/Supt Gordon Sage: I can comment on the IntelCenter software services. This software was acquired on an internal trial basis only. It was not tested or used in any national security investigation or other operational capacity.

In March 2018, it was identified that the IntelCenter service software was not approved for operational use, and its use by E Division was discontinued.

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

The Chair: Now we have Mr. Bains for five minutes, please.

Mr. Parm Bains (Steveston—Richmond East, Lib.): Thank you, Mr. Chair. Thank you to our witnesses for being here today.

My question is to the RCMP. We've had a considerable number of witnesses come in and talk about how many agencies are using FRTs. At a previous committee, Mr. Boudreau said that the RCMP does not use any new FRTs.

Which old FRTs do you use, and do you share the data gathered with any provincial agencies?

C/Supt Gordon Sage: We do not use any FRTs. The only one that was used was Clearview, which was stopped in July 2020.

Mr. Parm Bains: We heard last week from the National Council of Canadian Muslims that police agencies, specifically in British Columbia, have been using FRTs at rallies, gatherings or protests. Is there any evidence of that?

C/Supt Gordon Sage: I cannot speak to other police forces and jurisdictions, but I know that we do not and have not.

Mr. Parm Bains: What about the RCMP in British Columbia?

C/Supt Gordon Sage: I'm not aware of any, no.

Mr. Parm Bains: If we're talking about transparency, how can the RCMP ensure greater transparency around its use of artificial intelligence technology, such as facial recognition software, going forward? How can we learn more about these FRTs and transparency within the RCMP?

C/Supt Gordon Sage: You asked two questions. They're about the past and the future.

In the past, Paul Boudreau, my superior, queried all the detachments and RCMP units across the country, and he responded accordingly.

Moving to the future, all of that process would be through the NTOP process. Any software being asked about to be used across Canada by the RCMP needs to go through that NTOP process. If it's allowed, we would. If they say no, we don't. In that process, there's a privacy assessment as well. We will only use what is approved by the NTOP process.

Mr. Parm Bains: Can you clarify the NTAP? Is that what you said?

C/Supt Gordon Sage: I'm sorry. It's NTOP.

Mr. Parm Bains: Can you clarify a bit more what that process is?

C/Supt Gordon Sage: Maybe Roch Séguin can speak to that, as he manages that portfolio.

Mr. Roch Séguin: Good afternoon. It's the national technology onboarding program, whereby all technology leveraged for operational or investigation purposes will be assessed from a privacy, ethical, bias and legal perspective before being deployed in operations anywhere.

From a public awareness and transparency piece, it is built in as part of our communications strategy to relieve the categories of technology that the RCMP will be leveraging in the future.

• (1215)

Mr. Parm Bains: I'll go to the Toronto Police Service. I'm going to ask the same question.

Regarding what we heard from our National Council of Canadian Muslims, have police authorities reached out to them about reservations they might have about FRT technology?

Mr. Colin Stairs: We've had an open consultation around our policy and will have another around our procedure, but we have not reached out specifically to that group or community.

Mr. Parm Bains: Could you comment on their statements regarding the fact that police agencies have been using FRTs at rallies and gatherings?

Mr. Colin Stairs: I don't believe that's the case. I'd have to understand what they're alleging to be able to investigate that or hand it off to someone who could investigate it.

Mr. Parm Bains: They said that police agencies have been using FRTs at, let's say, common gatherings, a protest on an issue, or a community rally on something. They said that police have been surveilling those rallies and using FRTs.

Mr. Colin Stairs: The surveillance might be visible with body-worn cameras, static cameras, etc. There may be operational reasons for those to be deployed. Whether they're used for FRT would not be visible to the people who are at those events.

I don't understand whether they're suspicious that they're used or they have some sort of evidence that they were used.

Mr. Parm Bains: Have they reached out to you?

Mr. Colin Stairs: No, but I can't say that categorically for the entire Toronto Police Service.

Mr. Parm Bains: Okay.

Mr. Colin Stairs: I could take that away and see if that were the case.

Mr. Parm Bains: Thank you.

I have one final question. As chief information officer, you're responsible for—

The Chair: You're over time, Mr. Bains.

With that, we'll go to Monsieur Garon for two and a half minutes.

[Translation]

Mr. Jean-Denis Garon: Mr. Chair, I will put my questions again to Mr. Sage, hoping this time to get an answer.

With regard to the use of Clearview AI technology, Mr. Sage, I sense you are filled with contrition.

If you had it to do over again, would you do things differently or would you do exactly what you did?

[English]

C/Supt Gordon Sage: I don't understand the question.

[Translation]

Mr. Jean-Denis Garon: If the situation arose again today, would you act differently? Would you change your approach to using Clearview AI technology?

[English]

C/Supt Gordon Sage: Can you ask the question again, please?

[Translation]

Mr. Jean-Denis Garon: Mr. Chair, is it possible to get my time back? I will have to repeat my question for the third time.

[English]

The Chair: Please go ahead and repeat the question.

[Translation]

Mr. Jean-Denis Garon: Thank you very much.

Do you have any regrets about the way you used Clearview AI technologies? If you had to do it over again, would you do exactly the same thing?

[English]

C/Supt Gordon Sage: Yes, I think that what we're doing now, going through the NTOP process to do that full review, is a good thing. It's as important as a privacy assessment. That was not done back then, and I wish it had been done.

I think it's a good process, and we've learned from that. We can now implement a better process. I wish the NTOP process had been in place back then. It wasn't, but we've learned from that. We've moved forward to create a great process to ensure that the privacy and rights of Canadians are maintained.

[Translation]

Mr. Jean-Denis Garon: Do you think that the establishment of such a process could prevent possible abuses in the use of these technologies?

[English]

C/Supt Gordon Sage: Yes, I do. It would prevent things from going off the rails. That's why we support it.

[Translation]

Mr. Jean-Denis Garon: So you acknowledge the fact that, even when you used it twice, in any case, with two licences, in 2018, there was a risk and the commissioner's fears were justified.

• (1220)

[English]

C/Supt Gordon Sage: It was 2019, and not 2018, when they were purchased. They were given to the officers on the ground level to make that decision. They did, and I believe, probably, inappropriately. There could have been a better way, but they were working in an environment that didn't have the NTOP process, and that process, which is in place now, would minimize those things from going awry as you described.

[Translation]

Mr. Jean-Denis Garon: I am pleased to hear that, finally, you recognize the facts that the commissioner has mentioned. I'm going to take advantage of this moment of candour, Mr. Chair, to make a motion.

I note that from the beginning we have had few answers to our questions. So I would like to formally request by way of a motion that no later than June 1, documents be tabled by the RCMP. I would like to have any contracts and licensing agreements, unredacted, that have been entered into in the last five years with the company Clearview AI, as well as any ethical analysis that has been conducted by the RCMP prior to the use of such technology, or, if none exists, confirmation that no analysis has been conducted.

[English]

The Chair: Thank you, Monsieur Garon.

The motion is in order, as I see it.

Ms. Khalid, do you wish to speak to the motion?

Ms. Iqra Khalid: Mr. Chair, I recommend that we suspend while we get the text of the motion by email. I apologize. As I was listening, I didn't catch all of the wording. Is that okay?

The Chair: Ms. Khalid has asked for a suspension.

Mr. Green, did you...?

Mr. Matthew Green: I still have a two-and-half-minute round left. I'm wondering, for the courtesy of the round, if we could allow them to work on the wording of the motion while I ask my questions.

The Chair: If there is no debate on the motion now, okay, I get your point. I would like to proceed that way if we can.

Ms. Iqra Khalid: Mr. Chair, does that mean then that Mr. Green would move a dilatory motion to adjourn debate on the motion?

The Chair: Yes. We would adjourn debate on the motion until such time that we have the text. In the meantime, we go to Mr. Green.

Mr. Matthew Green: That's correct.

Thank you very much.

The Chair: Are there any objections to that?

We'll go ahead with Mr. Green for two and half minutes. Hopefully, we'll have the itemized pieces for the motion.

Go ahead.

Mr. Matthew Green: Thank you, Mr. Chair.

I want to be clear. When we talk about the use of IntelCenter, we had the collection of a database, or at least access to a database, of 700,000 images of what this company called "terrorists". Who they were, how they were determined to be terrorists and the accuracy of the company's information was basically impossible to assess.

The RCMP didn't reveal why or how they used this system. We've heard earlier testimony, Mr. Chair, that it stopped, and quite rightly so.

My question through you to Mr. Sage is this: Does that information remain within the intelligence files of the RCMP or other security agencies? We know much of this information is shared through systems like CPIC.

C/Supt Gordon Sage: We would have to follow up on the answer and provide the information for you, because I do not know.

Mr. Matthew Green: I want to state for the record, before Mr. Sage is relieved of his very unfortunate duty of being before us here today, that the original person who was suppose to be here, his supervising director, was not here.

I want to be clear for the record. Mr. Sage, I'm going to put this question to you one last time: Are you familiar with Marie-Claude Arsenaault? Is that the retired person who is your predecessor, yes or no?

C/Supt Gordon Sage: Yes, it is.

Mr. Matthew Green: I just want to state for the record, Mr. Sage, that it is my perspective that you afforded your predecessor more consideration in their right not to be named in a situation that is really public information in a public forum than the billions of people who have had their images compiled and analyzed by this AI technology.

I want to also acknowledge while we're here that the interim director was Dr. Roberta Sinclair. Is it correct that she was the acting director general?

• (1225)

C/Supt Gordon Sage: Yes, she was.

Mr. Matthew Green: Again, Mr. Sage, noting that you are new to this, I'm to understand that you weren't in this department prior to this. You were somewhere in Alberta. I respect that. I'm not going to double down on you.

The challenge we have in providing this type of new technology to our security frameworks, our intelligence agencies and our police is that there's very little oversight and willingness to share basic information and to have that duty of candour.

Mr. Chair, I'll leave that comment there because I don't want Mr. Sage, who was unfortunately put on the hot seat today, to leave here thinking that this was by any means personal. It was not. The person who he reported to who was here last time....

We've heard from my good colleague, Mr. Bezan, that we will be duly putting a motion. I'll just do it right now, Mr. Chair. I move to have the commissioner, Brenda Lucki, appear before this committee for the purpose of getting answers.

The Chair: Your motion is also in order. It's straightforward. I hope we don't have to wait to have that translated in writing.

You have moved to call Commissioner Brenda Lucki. Is there any debate?

Go ahead, Ms. Khalid.

Ms. Iqra Khalid: Chair, if it's okay, I would appreciate if we could deal with both of these motions after we've gone through our rounds that we've committed to.

The Chair: In other words, you're asking for a suspension of debate on Mr. Green's motion to allow time for one more round of questions.

Ms. Iqra Khalid: If I've calculated it properly, I believe we just have two more questioners, which is about 10 minutes total.

The Chair: No, we would have 15 minutes, with five, five, two and half, and then two and half.

Bells are likely to go in about 20 minutes. Time allocation has been moved in the chamber, but it appears that we are just beginning the 30-minute debate period on that. We might not even have bells. I don't know. We'll see.

We're getting a little bit irregular here. I would be happy if there's unanimous consent to proceed that way. We can do another round of questions and then deal with both motions.

Mr. Kurek, go ahead quickly, please.

Mr. Damien Kurek: Thank you, Mr. Chair.

I would suggest that we move to debate the motions. If they can be disposed of quickly, then we can complete—

The Chair: Fair enough. However, we were going to wait, and we had suspended debate on Monsieur Garon's motion pending a distribution of it in writing, which of course must be in both official languages.

Is that...?

Mr. Matthew Green: He moved it and it was in order.

The Chair: I understand that, but we then agreed unanimously to suspend debate on it, and a vote on it, until we had it in writing.

Mr. Matthew Green: Mine's basic. Let's continue on that one, and by the time that happens—

The Chair: If there's no objection....

Go ahead, Monsieur Garon.

[*Translation*]

Mr. Jean-Denis Garon: Actually, Mr. Chair, we agreed to finish the round of questions that was already in progress, so that the mo-

tion could be written and translated. It's a matter of minutes. We could debate the NDP motion and then debate our motion. I think the timing would be appropriate.

[*English*]

The Chair: Okay. If there's unanimous consent, we'll proceed directly to debate on Mr. Green's motion, which is to call Commissioner Lucki to appear at committee.

Is there debate?

Go ahead, Ms. Khalid.

Ms. Iqra Khalid: Thanks, Chair.

I just want to seek some clarification as to how that would impact the motion we passed last week on having the three extra meetings.

The Chair: Well, we're of course free to have as many meetings as we want. Our original motion on meetings spoke of minimums, not maximums. I don't believe we are under a maximum, but we certainly have agreed to have three more meetings. That to me would be—

Ms. Iqra Khalid: [*Inaudible—Editor*]

The Chair: I would consider it one of the three in terms of minimums, yes.

Ms. Iqra Khalid: Sorry, Chair. I would like a little bit more clarification on that. As we prepare the report, I think the analysts need to know what the end date will be for witness testimony.

The Chair: There is no end date on this study now. We've dispensed with that with the plan that we currently follow.

Ms. Iqra Khalid: Chair, we have no objections to inviting the commissioner.

The Chair: Okay. Fair.

Go ahead, Mr. Fergus.

Hon. Greg Fergus: I too have no objection to inviting Ms. Lucki to this meeting. I think it's important to do so.

I don't know if my colleague across the way would be...or if maybe there could be a general understanding. I know there's no such thing as a “friendly”. I would just like the people who are really responsible for this to be invited to the committee. If that's even a retired officer, I wouldn't mind having that person back.

I'm glad that Mr. Green mentioned that this is not personal to Mr. Sage at all—not at all—but I just want some more answers. Like Mr. Green, I did a quick Internet search. Within two minutes, I found out the name of Madam Arsenaault.

I just want to make sure we have the right people before us who can answer these questions. Otherwise, I'm afraid we're going to get the runaround again.

• (1230)

The Chair: Indeed.

If no one else wishes to speak to Mr. Green's motion, I'll call the question.

All those in favour of inviting Commissioner Lucki to committee?

(Motion agreed to [*See Minutes of Proceedings*])

The Chair: Are we ready to discuss Monsieur Garon's motion? The motion has been distributed. Everybody should have it in writing now.

Monsieur Garon, what you have distributed in writing is a clearer iteration of what you had dropped on the table. It is not precisely the same. I might ask you to withdraw what you had orally moved and allow the motion as distributed to be the text of your motion.

Can I have you do that, then?

[*Translation*]

Mr. Jean-Denis Garon: I would have preferred that we proceed in reverse order, Mr. Chair, that is, that we pass the motion and withdraw what I asked for verbally afterwards, but I agree to withdraw my previous requests and that we debate my motion.

[*English*]

The Chair: Okay. You are moving that motion, which has now been distributed to members in both official languages. Thank you.

Now, on debate, go ahead, Ms. Saks.

Ms. Ya'ara Saks: Thank you, Mr. Chair.

I think it's clear among everyone in this committee that there is more information that we require. It's definitely needed, and we are well within our rights as a committee to request the presentation of documents, contracts and so on.

My concern is in the request for them to be “unredacted”. While I can appreciate that we really are pushing here to get the transparency we need, it's a precedent that we have to consider in terms of other committees. If it's tabled here, then it will have impacts elsewhere.

There are times when contracts and information do need to be redacted. I've had my own experience on the foreign affairs committee, where we had initial documents presented to us that were redacted. Once we reviewed them, we asked for additional clarifications.

We always have to be mindful of security concerns and of privacy concerns of corporations and so on, and also the precedent. If we always ask for unredacted documents, then witnesses will not necessarily co-operate.

The Chair: I had three quick hands here, Mr. Green, and I have you next, after Ms. Hefner and Ms. Khalid.

Go ahead, Ms. Hefner.

Ms. Lisa Hefner: My point was essentially the same as that of my colleague Ms. Saks, so I will pass.

The Chair: Thank you.

Go ahead, Ms. Khalid.

Ms. Iqra Khalid: Chair, I'd like to cede to Mr. Green. Maybe you can come back to me.

The Chair: Okay. Go ahead, Mr. Green.

Mr. Matthew Green: Thank you very much.

I think that if there is a precedent to be set, it is the deference that we show to our security apparatuses, including CSIS, our military and police. As parliamentarians, we have privileges. There is lots of jurisprudence on which we have done lock-ups and had access to unredacted documents for that purpose. I don't think it would prejudice any other committees in the work they do.

What we've seen here, in my opinion, time and time again, is a clear unwillingness to adhere to what I have called the “duty of candour”. Having accountability on this technology would, I imagine, be a part—a significant part, hopefully—of the legislative recommendations that would come out of this study.

What we heard today was an unwillingness to be frank and concise in answering very basic questions, so I would ask that they be—I would require that they be—unredacted. There shouldn't be anything overly sensitive, unless, of course, it's contrary to the testimony that has been provided to this committee through witnesses, in which case it would open up a whole other subset of challenges that we would face.

However, for the purposes of this, Mr. Chair, I would be willing, if it suits the government side, to have a lockdown requirement within this committee so that we would have direct access to the documents. They would not be made public, but we would retain our long-standing traditions in the Westminster system for parliamentary privilege to send for documents, people and any other evidence as required by committee.

• (1235)

The Chair: Thank you.

Ms. Khalid, go ahead.

Ms. Iqra Khalid: Thanks, Chair.

I absolutely agree with the sentiments of this committee. I think it is important for us to have a clear, open, transparent process on how policing is conducted within our country, but I also take note of a number of things that Mr. Sage has said and done—and a number of other witnesses—with respect to public safety and the safety of witnesses and victims.

I am in agreement with the motion presented by Monsieur Garon. I think that we should make some concessions here, such that if matters of public or individual safety or matters of national security exist within the documents we are requesting, they should indeed be redacted.

The second point I'll make on the wording of the motion before us is that we're asking for any "ethics analysis", which I find is pretty unclear language. I would prefer it if we could request any "charter analysis" that was done, or "constitutional analysis". I think that makes it a little more clear.

I'd like to hear members' view on the two points I've just outlined.

The Chair: All right.

Ms. Saks, you're next.

Ms. Ya'ara Saks: Thank you, Mr. Chair.

I agree with my colleague Ms. Khalid. We are looking for a degree of transparency here and to understand what has transpired in terms of the contracts. We all want to be able to move forward with a clear set of recommendations.

This technology isn't going away, and I'm sure that the TPS, the RCMP and many other policing services in the country understand that FRT is out in the world, and we really need some clarity on how to wrangle it in, including on the contracts that are signed with our security services in order to know what safeguards and guardrails need to be in place in such contracting in the future.

That said, I would caution our colleagues here in terms of understanding the scope of privacy laws and security concerns when we do ask for these documents of what's at play. We should always proceed with caution, while at the same time getting the documents that we require to have a fulsome understanding of what is at hand.

The Chair: Did I see your hand up, Monsieur Garon? Go ahead.

[*Translation*]

Mr. Jean-Denis Garon: Mr. Chair, the very existence of this motion stems from the fact that the RCMP witness, Mr. Sage, explicitly refused to be transparent, explicitly refused to answer our questions, and explicitly refused to give us any information. He even refused to admit that the contracts we are trying to obtain today exist. So, in the circumstances and in the context of this public contract, I think it is entirely appropriate to ask for the documents as they are. As parliamentarians, we will accept our responsibilities, including any obligation of confidentiality.

I'd like to come back to the question of co-operation. I understand that sometimes requesting such unredacted documents could be seen as potentially discouraging potential co-operation from witnesses. However, in this case we are dealing with a public official who refuses to co-operate with members of Parliament. I think it is important that the committee have access to the documents as they are, i.e., unredacted.

• (1240)

[*English*]

The Chair: Do we have additional debate?

Go ahead, Ms. Khalid.

Ms. Iqra Khalid: Thank you, Mr. Chair.

I'd hoped that the member would address the two points I had outlined with respect to the unredacted piece and the ethics analysis piece.

Perhaps I will just move an amendment to the main motion to remove the word "unredacted" from the motion itself and then replace the words "ethics analysis" with "a charter analysis". Those are the two amendments I would seek to the main motion.

Just to explain, it's always the committee's prerogative, if the documents requested and received from the RCMP are not satisfactory, to go back and request them again or see how we can conduct ourselves after the fact.

At this point I really think we should go forward with these two amendments, Mr. Chair.

The Chair: Procedurally, Ms. Khalid, you said that there were two amendments you would like to make.

Ms. Iqra Khalid: It would be removing the word "unredacted" from the motion and then replacing the word "ethics".

The Chair: Okay, so this is one amendment to do both of those things.

Ms. Iqra Khalid: Exactly.

Mr. Matthew Green: I have a point of order.

The Chair: Yes, go ahead.

Mr. Matthew Green: May I please request that those votes happen separately?

The Chair: That's the trick. The only way to do that would be to move them one at a time. Ms. Khalid is moving them together in one amendment. That will be the question for the committee, unless she would like to withdraw that amendment—

Mr. Matthew Green: Mr. Chair—

The Chair: —and move first the substitution for "unredacted", allow us to vote on it, and then move the second piece, which is "charter" versus "ethics".

Ms. Iqra Khalid: Mr. Chair, if it's okay with you and with members of the committee, perhaps we can just suspend while I talk to my colleagues.

The Chair: I'm sorry?

Mr. James Bezan: The bells are going to ring in three minutes.

Ms. Iqra Khalid: Are they?

The Chair: I'm sorry; there is going to be a bell, yes. A time allocation motion was moved.

I will suspend for discussion if there is unanimous consent to do so.

There isn't. All right.

If there's no other debate on the amendment that Ms. Khalid has moved, I will put it to a vote.

We'll have a recorded vote.

The Clerk of the Committee (Ms. Nancy Vohl): It is five in favour and five opposed.

The Chair: With the tie vote, I will vote in opposition.

(Amendment negatived: nays 6; yeas 5 [*See Minutes of Proceedings*])

The Chair: If there is no further discussion—although it looks like there may be—we will go to the vote on the main motion.

Is that any debate on the main motion?

Go ahead, Ms. Khalid.

Ms. Iqra Khalid: Thanks, Chair.

I want to seek clarification from members, then, on how we will deal with these unredacted documents, and perhaps we can come to an agreement as to how we will protect the potential sensitivity of these documents. I'd like to hear from my colleagues on that.

• (1245)

The Chair: Is there any other discussion on the main motion?

Go ahead, Mr. Bezan, Ms. Saks and then Mr. Fergus.

Mr. James Bezan: Mr. Chair, to Ms. Khalid's comment, I believe that any documentation, anything submitted to the committee, is always owned by the committee and handled by the committee. It is not necessarily turned public unless it's attached to reports we release down the road. I believe that this would be held in confidence and only available to and under the control of the committee members themselves.

The Chair: Go ahead, Ms. Saks. You're next on the list.

Ms. Ya'ara Saks: Similar to my colleague, I think that respecting confidentiality, at least for an unredacted review, would be valuable for security and privacy law considerations.

I'd also like to encourage us to ask.... I'm curious as to whether or not the Privacy Commissioner, in their own analysis of Clearview AI, had an opportunity to review the documents themselves. It would be safe to assume they may have.

Perhaps that could be part of the consideration as we do this review, because the Privacy Commissioner should have had, in their own review of this situation and this file, a look under the hood, as they say, at the contracts.

The Chair: Go ahead, Mr. Fergus.

Hon. Greg Fergus: Very quickly, I just want to make sure that my colleagues agree with the idea that this document would be brought in and that we would review it in camera.

The Chair: Yes, there are tools. We may deal with it by receiving it in camera. We can also refer to the law clerk.

Go ahead, Ms. Khalid.

Ms. Iqra Khalid: Thanks, Chair.

Chair, very respectfully to all members on this committee, I would really like to set the terms clearly before we move to a vote on anything. It's been noted in the past, when things have not been clear, that we've seen actions happen to the detriment of members and to the public as well.

Can we please set out clear terms for how we are going to be reviewing these documents and how these documents will be received before we go to a vote?

The Chair: Again, I'll respond from the chair just to point out that it's up to members of the committee to propose anything. If

there's an amendment to be proposed, someone must propose it. Otherwise I'm going to go to the vote on the main motion.

Ms. Iqra Khalid: I believe Mr. Green suggested something. I'm wondering if he could just suggest it again, if that's okay, and maybe we can fold that into the main motion.

Mr. Matthew Green: Look, I'm comfortable moving that we receive the documents in camera. We also, as a committee, have the right, once we review them, to disclose them publicly if we feel that's the will of the committee. However, for the initial onset, I'm certainly willing to move a motion that we receive the documents in camera. I certainly look forward to the government side, having considered this amendment, supporting the main motion.

The Chair: You'd have to phrase that in the form of an amendment, because I can't entertain a new motion until this motion is disposed of.

Mr. Matthew Green: Mr. Chair, I move that the documents that have been requested be received at an in camera meeting, pursuant to the appropriate standing orders.

The Chair: Okay.

Mr. Green, just on one point there, the documents will be received by email or as a physical copy. They won't be received in a meeting. Your amendment perhaps would be that they be reviewed or debated or discussed in camera.

Mr. Matthew Green: My apologies. Thank you for that clarification, Mr. Chair. Yes, it's for the consideration of this committee to decide whether we want to move forward in an in camera capacity, given the sensitivities, or in a public forum, given the public interest.

The Chair: That is now the amendment to the motion that we will now debate.

Go ahead, Ms. Khalid.

Ms. Iqra Khalid: Thanks, Chair. Just for further clarification, who exactly would receive these documents? Would it be just members of the committee? Would staff have access to them? Would House personnel have access to them?

The Chair: Well, they are received by the clerk. The clerk is the one who communicates and receives documents on behalf of the committee. I don't know how else to answer that.

Go ahead, Ms. Saks.

• (1250)

Ms. Ya'ara Saks: Thank you, Mr. Chair. I'd like to just give a suggestion based on my previous experience dealing with the arms export documents over at the Department of Foreign Affairs. The classified documents were provided with an access code for committee members only. There is a particular way of doing it online. Staff did not have access to them. It was only the members of the committee who could take them under review.

The Chair: I'm certain that our clerk could take reasonable steps to ensure the security.

We will vote on the amendment.

(Amendment agreed to [*See Minutes of Proceedings*])

The Chair: All those in favour of the main motion?

(Motion as amended agreed to [*See Minutes of Proceedings*])

The Chair: Bells are not ringing yet. We still have our witnesses. We do not have time to complete a full round. I think that per-

haps at this point, unless there are objections, I'll release our witnesses and conclude the meeting.

Are there any objections by anybody who's dying to get an extra question in? No.

That being the case, my thanks to our witnesses, Mr. Sage, Mr. Boileau, Mr. Stairs and Mr. Séguin. Thank you very much for appearing today.

With that, the meeting is adjourned.

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