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# Standing Committee on Public Safety and National Security

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Chair: Mr. Ron McKinnon





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Monday, October 30, 2023

• (1100)

[*English*]

**The Chair (Mr. Ron McKinnon (Coquitlam—Port Coquitlam, Lib.)):** I call this meeting to order.

Welcome to meeting number 79 of the House of Commons Standing Committee on Public Safety and National Security.

Pursuant to the order of reference of Friday, November 25, 2022, the committee continues its consideration of Bill C-20, an act establishing the public complaints and review commission and amending certain acts and statutory instruments. Today the committee resumes clause-by-clause consideration.

Today's meeting is taking place in a hybrid format. Pursuant to the Standing Orders, members are attending in person in the room and remotely using the Zoom application.

I would like to make a few comments for the benefit of officials and members.

Please wait until I recognize you by name before speaking. That's a little flexible. As long as we're being friends, we can loosen that up a bit.

Although this room is equipped with a powerful audio system, feedback events can occur. These can be extremely harmful to interpreters and cause serious injuries. The most common cause of sound feedback is an earpiece worn too close to a microphone. In order to prevent incidents and safeguard the hearing health of the interpreters, I invite participants to ensure that they speak into the microphone into which their headset is plugged and to avoid manipulating the earbuds by placing them on the table away from the microphone when they are not in use.

Finally, I'm reminding you that all comments should be addressed through the chair.

We'll now welcome, once again, the officials who are with us. They are available for questions regarding the bill, but they will not deliver opening statements.

From the Canada Border Services Agency, we have Cathy Maltais, director, recourse directorate. From the Civilian Review and Complaints Commission for the Royal Canadian Mounted Police, we have Joanne Gibb, senior director, strategic operations and policy directorate, and Lesley McCoy, general counsel. From the Department of Public Safety and Emergency Preparedness, we have Randall Koops, director general, international border policy; Martin Leuchs, manager, border policy; and Deidre Pollard-Bussey, direc-

tor, policing policy. From the Royal Canadian Mounted Police, we have Kathleen Clarkin, director, national recruiting program; and Alfredo Bangloy, assistant commissioner and professional responsibility officer.

Thank you for joining us today.

(On clause 35)

**The Chair:** We first have BQ-6.

[*Translation*]

Go ahead, Ms. Michaud.

**Ms. Kristina Michaud (Avignon—La Mitis—Matane—Matapédia, BQ):** Thank you, Mr. Chair.

BQ-6 is quite simple. This is a consequential amendment, simply to ensure consistency in the wording to be used in the amendments adopted a little earlier, which added the possibility for third parties to file a complaint.

Again, as with the previous amendment, it says “non-governmental organization”. If someone wants to amend my amendment to read “third party” instead, I would be in favour of that type of change.

[*English*]

**The Chair:** Thank you.

Go ahead, Ms. O'Connell.

**Ms. Jennifer O'Connell (Pickering—Uxbridge, Lib.):** Thank you, Mr. Chair.

We support this amendment, with the same changes as in earlier clauses.

I would move a subamendment to change “non-governmental organization” to “third party”.

**The Chair:** Is there any discussion on BQ-6 as subamended?

Mr. Julian, go ahead.

**Mr. Peter Julian (New Westminster—Burnaby, NDP):** Thank you very much, Mr. Chair.

I want to ask our witnesses, whom we deeply appreciate for being here, for their sense of the difference between “third party” and “non-governmental organization”. I know we had a bit of this discussion at the last meeting. I think the distinction between the two would be important as a refresher.

Who is included in “third party”? How would “non-governmental organization” be restrictive?

**Mr. Randall Koops (Director General, International Border Policy, Department of Public Safety and Emergency Preparedness):** Thank you, Mr. Chair.

As with the previous amendments, we see no problem with the intent.

It is perhaps preferable for the committee to consider “third party” instead of “non-governmental”, since it is slightly broader in its application. Many third parties would not fall under the rubric of a non-governmental organization. Some could, in fact, even be governmental in nature, or individual in nature.

• (1105)

**Mr. Peter Julian:** Thank you, Mr. Chair.

I support the subamendment, and I will be supporting the amendment as well.

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

We go now to Mr. Motz.

Go ahead, please.

**Mr. Glen Motz (Medicine Hat—Cardston—Warner, CPC):** Thank you very much.

To the witnesses, can you clarify for me something from last week? Did we need language in here that added the fact that a third party could come but that we would need to have the complainant actually give that authorization? Do you remember that we had that conversation? I don't remember how we finished it off.

**Ms. Joanne Gibb (Senior Director, Strategic Operations and Policy Directorate, Civilian Review and Complaints Commission for the Royal Canadian Mounted Police):** For privacy reasons we might, but I would suggest that it depends on the nature of the third party. As it's written, we don't need it.

**Mr. Glen Motz:** That's concerning to me. As it is written, they don't need it. You could have somebody who saw, as was explained last week, an episode of *Border Security* on TV, or who heard about some friend who had an issue with the RCMP, and before you know it, even though they don't even know or have never spoken to the actual victim or the complainant in a matter, they can go ahead and make a complaint on their behalf. That's what I'm getting at.

**Ms. Joanne Gibb:** The commission still has the discretion to refuse. A third party can make the complaint, but we would still have the discretion to refuse.

**Mr. Glen Motz:** Before it gets to the commission, does each agency have the right of refusal on a complaint that comes in without authorization from a victim?

CBSA says yes.

**Ms. Cathy Maltais (Director, Recourse Directorate, Canada Border Services Agency):** Today I'm saying yes. On the legislation, I'd have to turn to my Public Safety colleagues. We've made a few amendments. I'm not sure whether we still have that right or not, because today we do require third party authorization.

**Ms. Joanne Gibb:** The commission remains the point of intake, even if the complaint is filed at a detachment or it's from CBSA. It would still come to us to deal with, so we could refuse to deal with a complaint if there was no connection to that third party. The agencies have the discretion to refuse to investigate.

**Mr. Glen Motz:** That isn't in legislation anymore, though, is it?

**Ms. Joanne Gibb:** Yes, it is.

**Mr. Glen Motz:** Specifically, yes, you have right of refusal, but wouldn't you save yourselves a lot of steps—given the fact that there is a significant amount of underfunding for the expansion of the commission—if you had it right in legislation, “without authorization from a person who's been aggrieved” or, based on this subamendment, if a third party could actually make this sort of complaint with authorization from an aggrieved individual? Would that not clarify it a lot better?

It would save you guys a lot of “Yes, we can”, and “How come...?”, and “No, we're not” and “How come you're not?”, and having that battle back and forth, if right in the legislation it said you had to have authorization from the person who is alleged to have been aggrieved in order to pursue this particular matter on their behalf.

**Ms. Lesley McCoy (General Counsel, Civilian Review and Complaints Commission for the Royal Canadian Mounted Police):** In practice the commission does verify whether there is consent, and in most cases there is, or perhaps in every case thus far. There are some situations in which it wouldn't necessarily be appropriate to ensure that there is consent, but as my colleague Ms. Gibb indicated, there are provisions currently in the act but also in Bill C-20 that provide discretion to the commission to refuse to deal with the complaint for various different reasons.

As well, the RCMP and the CBSA have similar provisions to refuse to investigate or to cease an investigation if there isn't a sufficient nexus with the individual directly affected.

**Mr. Glen Motz:** I appreciate all that, but we're at a stage now at which we can strengthen the bill. That's the purpose of clause-by-clause.

I'm asking you as witnesses whether it would not be better, whether the act would not be stronger, if it had some legislative language that would suggest that in order for a third party to make a complaint, there would have to be the nexus, as you call it, between the agencies—that there would have to be some sort of connection between the two. You said in some circumstances. I'd be interested in knowing what circumstances those might be.

• (1110)

**Ms. Lesley McCoy:** I'm trying to recall certain situations.

They would be, perhaps, cases in which the individual who was affected by the conduct is deceased, or in a situation in which the individual cannot be located. These are two situations that come to me off the top of my head. There are situations in which it's more appropriate for the commission, the RCMP or CBSA to exercise their discretion as to whether or not the matter should be investigated.

**Mr. Glen Motz:** That's fair enough.

I'm going to go to Mr. Koops for a second.

We support the intent behind this legislation. We've talked before at this committee about how to make it stronger to ensure that a complainant is properly looked after.

We have to look at both sides of the coin. We have to look at the organizations that are tasked with investigating these, and we have to look at the victim, or the alleged aggrieved individual or individuals who might have a complaint against the CBSA, the RCMP or the commission, for that matter. We have to clarify language in this act at this stage to ensure there's no ambiguity as to when, where and how a third party can actually launch an investigation.

I know the language is in there currently, and in some of your cases, I know that the act.... Currently, you have the ability to not investigate, but having done these, to go through and explain it, and the energy it takes to explain it.... When you say the act is very clear.... Unless you have, you don't get—isn't that right? It's only a matter of adding “with authorization from the aggrieved individual”, or something along that line.

Mr. Koops, I'm looking for your opinion on that. Given each organization's acts that they work under for complaints, and now expanding this to include the CBSA, would it not improve our legislation to have that in there?

**The Chair:** I would caution, Mr. Motz, that the witnesses are not able to speak to policy decisions, I think. They have to limit their responses to their roles as officials of the department.

**Mr. Glen Motz:** Yes, I appreciate that, but we're also talking about ensuring that we get some.... Anyway, they understand what I'm asking. If they can answer, that's great. If they can't, I guess I got my answer.

**Mr. Randall Koops:** I'll try my best to answer.

When we look at the amendment to clause 35, which is to expand the grounds of who can, in essence, request the commission's assistance, it is consistent with a change made earlier in the bill that this be expanded to third parties. It does not change the responsibility or the authorities of the commission to determine whether it wishes to investigate that complaint or whether that complaint meets the statutory threshold that exists elsewhere in the bill.

Expanding the class of persons who can bring the complaint doesn't change the process by which the commission itself, or the RCMP or CBSA, will make a determination, if it believes that the person has adequate standing, which could extend to consent or other grounds. It would, using its delegated authority in the statute, decide whether that third party has sufficient grounds to bring the complaint.

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

**The Chair:** We'll now go to Ms. O'Connell.

**Ms. Jennifer O'Connell:** Thank you, Mr. Chair.

The answer given really explains it, but to drive the point home once again, I think that allowing this will put in the legislation that there is the opportunity for this through the act. However, there are regulations and internal processes that still exist that allow for the commission to determine whether it meets an internal threshold.

We need to keep it open, not close off the ability, because you sometimes don't know what situations might arise. I appreciate the Bloc's amendment to this. You want to provide the opportunity in the event there is a situation where it could be of great public interest for an investigation to look at the situation. Limiting the scope in the act limits the flexibility with the commission.

I think this provides that opening. There are still checks and balances in place to ensure that they're not frivolous, and that they're not based on an episode of *Border Security*, or whatever else is being referenced, but that there is that opportunity and we're not limiting the scope too severely. It's a good balance between keeping it open and allowing for the flexibility to ensure that frivolous complaints are not being filed.

• (1115)

**The Chair:** Seeing no further discussion, the vote is on Ms. O'Connell's subamendment.

(Subamendment agreed to on division)

(Amendment as amended agreed to on division [*See Minutes of Proceedings*])

(Clause 35 as amended agreed to on division)

**The Chair:** That brings us to the new clause 35.1 and NDP-23.

Mr. Julian, go ahead, if you please.

**Mr. Peter Julian:** Thank you very much, Mr. Chair.

This is a recommendation that comes from Breaking Barriers Together. It's for further clarity that the use of non-disclosure agreements is prohibited in this act by the commission, the RCMP and CBSA when dealing with complaints of misconduct, both internally and externally.

It would create a new clause 35.1, which is:

Complaints made under this Act shall not be subject to a non-disclosure agreement.

Mr. Chair, very briefly, some of the members around the table have been part of the discussions at Canadian Heritage. We saw how the absence of safety in sports was covered up over many years by the use of non-disclosure agreements in a rampant and inappropriate way.

The recommendation from Breaking Barriers makes sense. It is that non-disclosure agreements shouldn't serve to hide an activity that is happening. For complaints of misconduct, there should not be the ability to obscure that and not be transparent through the use of NDAs.

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

We'll go now to Mr. Shipley.

**Mr. Doug Shipley:** Thank you, Chair.

The question is for our officials.

Is this currently an issue? Are NDAs currently used in the civilian complaint process?

**Mr. Randall Koops:** NDAs aren't generally used in a review process. They are a tool that is employed sometimes in the context of civil litigation and in settlements arising from civil litigation.

There's no provision in the act whatsoever that an NDA would preclude the commission from having access to necessary information. We would view it as an unnecessary provision.

My colleague from the commission may have more details about the current situation.

• (1120)

**Ms. Lesley McCoy:** Yes. There's no provision in the act either allowing or prohibiting non-disclosure agreements, but they aren't typically used. Certainly the commission has never imposed a non-disclosure agreement.

I suppose it could conceivably arise in the informal resolution process, at either the RCMP or the CBSA, but I'm not aware of it having been used.

**The Chair:** Mr. Lloyd.

**Mr. Dane Lloyd (Sturgeon River—Parkland, CPC):** I was a bit confused about this. I was wondering if we were subjecting the Civilian Review and Complaints Commission to say they can't utilize NDAs, but it seems clearer now that this is about previously agreed-upon NDAs from civil litigation that happened that led to a complaint. What this amendment is trying to say is that NDAs can't supersede the complaint process.

A concern I have is whether the government really has the power to break an NDA. If somebody is going to break an NDA in order to make a complaint to the commission, there's nothing that the government can do to protect that person from a reopening of a civil litigation. It seems to me there could be a concern that we might be confusing people and making them think that they can tell anything to the complaints commission without consequence.

Of course we want them to be able to tell the complaints commission everything that they feel is necessary, but I wouldn't want people to be confused in thinking that they're protected under the NDA. I'm not that familiar with NDAs myself. I'm just concerned that we could be creating confusion. That's what I have to say about that.

Do the witness have any thoughts, perhaps?

**Ms. Lesley McCoy:** Yes. I think you're correct. It could create confusion, because it would apply only to NDAs under the PCRC act. In fact, as you indicated, the NDAs agreed to in civil litigation would not be prohibited by this provision. Individuals might then be restricted in what they can disclose based on previous civil litigation NDAs.

That is correct.

**The Chair:** Go ahead, Mr. Motz.

**Mr. Glen Motz:** I appreciate the civil side. My question relates more to complaints that might arise that have a national security flair to them. There may be some non-traditional, non-civil non-disclosure agreements based on some national security issues.

Would this addition cause some concern if there was a complaint made about an investigation done by the RCMP, for example, in a matter that is of national security concern? Maybe they overstepped an authority or there's the allegation that they've overstepped an authority. At some point throughout that, because of the national security concerns, there was a non-disclosure agreement arrived at at some point in time with a witness or whomever. Would that create a problem with that investigation?

I see non-disclosure agreements as a blanket, having huge concerns for investigations. You can make a decision only based on the information you have. If information is being withheld because of a non-disclosure agreement, civil or otherwise, you have a less than fulsome suite of evidence to use.

I'm just curious to know whether a national security concern would play into this at all. Should we be alarmed by having this particular amendment considered under the act?

**Mr. Randall Koops:** We offer that it is a foreseeable concern, but that the national security provisions in the act governing both the access of the commission to national security information and then any further public release of national security information... The provisions that are already in the act would prevail.

**Mr. Glen Motz:** Again, with an overarching non-disclosure agreement, does this clause cause concern about the strength of this legislation?

• (1125)

**Mr. Randall Koops:** I think the best view we can offer is that it appears unnecessary to us. The commission or the agencies may have more direct experience with that.

**Mr. Glen Motz:** I'll defer to the CBSA and RCMP to answer that if there's an issue, but I think that statement is enough for me to recognize that it's probably not necessary, and I won't be supporting it.

Thank you.

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

We'll go to Ms. O'Connell.

**Ms. Jennifer O'Connell:** Thank you, Chair.

Again, I think the witnesses clarified this, but I want to hit home the point that in matters of national security...those who have the information would be subject to other legislation in terms of protecting national security. Whether they are members of the RCMP or the CBSA, or they are a third party who had access to that information, would they not still be subject to it?

Anyone who has gained access to national security documents... Glen and I have both had this. Before you sign, you're indoctrinated. It's such a weird title. You have to sign it, and you are subject to that for life. A non-disclosure agreement would actually be the lesser of the legal ramifications. Anyone who has access to national security information is already subject to much stricter legislation in terms of revealing that.

Is that correct?

**Ms. Joanne Gibb:** Yes. The Security of Information Act would apply.

**Ms. Jennifer O'Connell:** Thank you.

I don't have the national security concerns that were outlined on this, because, as I said, there is stronger and higher legislation that covers that, with stricter penalties.

However, in terms of non-disclosure agreements and banning them, I'm of two minds. I understand that there could be a legitimate reason for wanting one, but I think that more often than not, non-disclosure agreements are used to silence victims.

I think that the harm outweighs the good. They're often used as a bargaining opportunity. I'm not saying there was any wrongdoing done here, but I'm looking at what Mr. Julian pointed out, in the instances with Hockey Canada, etc.

I think, though, that they are meant to settle things quickly and quietly, and oftentimes, as a result, might resolve an individual person's grievance or complaint but allow for systemic issues to continue.

On the whole, as I said, I can see where there could be opportunities or times when a non-disclosure agreement may be completely legitimate and fine, but I think the potential harm outweighs the rare instances where they'd be used in a way that is fine. I think they often are used to hide systemic issues, and the public, even the agencies themselves, may not fully understand the extent of a problem because of the overuse of non-disclosure agreements.

I will support this amendment for that reason. I can certainly understand both arguments, but ultimately I think the potential harm outweighs the good of having them.

**The Chair:** Thank you.

Mr. Julian.

**Mr. Peter Julian:** Yes. I couldn't agree more with Ms. O'Connell.

What she pointed out is that the problems we've had with the use of non-disclosure agreements is that they have essentially stopped victims from speaking out. This has meant that in our sporting systems over the years, abuses in Hockey Canada and abuses in other national sports organizations have not been exposed because of the use of non-disclosure agreements. They're basically payments in return for silence.

If we are putting into place a transparent complaints process, it's important that non-disclosure agreements not interfere with that transparency, so that when there are systemic problems, we can actually identify them.

For those reasons, I think the potential harm of NDAs, which we've seen in real time in other sectors—literally covering up, in some cases, decades of systemic problems—is something that needs to be identified in this legislation, so that we're moving forward with a transparent and effective complaints process.

• (1130)

**The Chair:** Thank you.

Is there any further discussion on NDP-23?

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

**The Chair:** Shall clause 36 carry?

(Clause 36 agreed to on division)

(On clause 37)

**The Chair:** This brings us to CPC-8.

Mr. Shipley, or someone on your bench, go ahead.

**Mr. Doug Shipley:** We will not be moving CPC-8.

**The Chair:** It's withdrawn. Okay. Shall clause 37 carry?

(Clause 37 agreed to)

(On clause 38)

**The Chair:** That brings us to CPC-9.

Mr. Shipley.

**Mr. Doug Shipley:** We will also not be moving CPC-9. We withdraw that.

**The Chair:** Okay.

That brings us to NDP-24, Mr. Julian.

**Mr. Peter Julian:** Thank you very much, Mr. Chair.

The speed with which we're moving through these amendments.... If you'll give me just a moment to gather my thoughts....

I appreciate my Conservative colleagues' withdrawing their amendment and I commit to withdrawing other amendments a bit further on. As I mentioned at our last meeting, I don't intend to readjudicate issues that we've already discussed, debated and voted on, so that will mean the number of amendments we have to consider from the NDP will decrease significantly. I appreciate the Conservatives' also facilitating that work.

In this case, NDP-24 proposes that clause 38 would be amended by deleting lines 11 and 12, which currently state:

is not the individual at whom the conduct was directed,

and this is a commissioner directing the RCMP or the president directing the agency not to commence an investigation of a complaint if, in his or her opinion, the complaint is from an individual who is not the individual at whom the conduct was directed.

Breaking Barriers believes that this is something that could lead to a victim not stepping forward if there is any fear of reprisals. It would mean that essentially there would be an opportunity to not do the investigation. We seek—and Breaking Barriers recommended this—the removal of that clause, so that the investigations can still be undertaken.

There are a number of other groups as well, Mr. Chair, as you'll remember from our witnesses, that asked for the same thing, so it's removing that one clause to ensure that it is not a pretext to not commence an investigation of a complaint if the victims themselves feel uncomfortable stepping forward.

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

Mr. Motz, go ahead.

**Mr. Glen Motz:** For the witnesses, with the amendments that have been made with respect to third parties, would that have any impact on this amendment, NDP-24? I think it's kind of problematic to remove that sentence from there, yet I see Mr. Julian's point. With the amendment made of a third party being able to make a complaint, does it render NDP-24 moot?

That may be a question also for the legislative clerks.

We'll hear from them first, and then you guys can weigh in.

It's safer that way, isn't it?

• (1135)

**Mr. Randall Koops:** I don't think we can offer you a view on whether it is rendered moot or would render moot the other amendment.

We would just note that it is simply one of the conditions that is set out for the commissioner or the president to take into consideration under their grounds of the right to refuse to investigate. The others that follow provide other things they may consider, including whether that person has consent or is acting in a role on behalf of that other person.

A complainant who's not satisfied with the decision of the commissioner or the president in that case of course can bring that complaint to the commission to be reviewed. The net effect, however, of removing subparagraph 38(1)(b)(i) would be that it may increase quite considerably the number of complaints that are brought to the commission, because it would make much broader the class of persons who would feel that they are entitled to bring complaints about things that do not directly affect them.

**Mr. Glen Motz:** Just as a follow-up to that, then, if I'm reading this right, Mr. Julian's intent to remove this would be that he doesn't want to narrow the scope of an individual who is not the complainant to make a complaint, which I think we have as a third party already. That's in there. I just see this as being a problematic amendment, and I certainly can't support it.

Thank you.

**Ms. Jennifer O'Connell:** Thank you, Mr. Chair.

Very quickly, I also can't support it, because of my comments earlier that if we want to allow for others to do investigations, we

still have to have some flexibility in determining “frivolous” or creating some standards within the agency.

Keeping that in mind, though, if there are internal practices for how complaints are handled or refused, ultimately there will be reviews looking at how those internal standards are created. If they are not being adjudicated effectively, there could be more conversations.

In terms of the legislation itself, my comments earlier were that we still need some flexibility for the commission to weed out frivolous complaints or complaints that would not meet the standard in a more formal investigation.

I can't support this amendment, based on those reasons.

**The Chair:** Thank you.

Mr. Julian, go ahead.

**Mr. Peter Julian:** Thank you very much, Mr. Chair.

The right to refuse investigations because the complaint is trivial, frivolous, vexatious or made in bad faith already exists in the legislation. That's not a change. What the commissioner and president can do is direct to not commence an investigation if any complaint is trivial, frivolous, vexatious or made in bad faith. That doesn't change.

The second proposed paragraph, 38(1)(b), is “the complaint is from an individual who”, and included in that are a number of different criteria, including, “did not see or hear the conduct or its effects as a result of not being physically present at the time when and the place where the conduct or its effects occurred”. There are many provisions that exist for the exact reasons Ms. O'Connell just set out.

I would suggest that the reason Breaking Barriers made this strong recommendation is that what that does, given all the reasons an investigation could be directed to not continue and the fact that an individual, for very valid reasons—concerns about what the exposure might mean—might not make the complaint themselves.... This means that removing this clause, which still gives the commissioner and the president a wide scope not to continue an investigation.... One thing they couldn't point to is an individual who, for very valid reasons, has chosen not to step forward, even though there were witnesses to the conduct who are willing to step forward on their behalf.

• (1140)

**The Chair:** Thank you.

Is there any further discussion?

(Amendment negated)

**The Chair:** This brings us to BQ-7.

[*Translation*]

Ms. Michaud, you have the floor.

**Ms. Kristina Michaud:** Thank you, Mr. Chair.



This is also a consequential amendment regarding the addition of third parties who may file a complaint. Obviously, as in the other amendments, it says “non-governmental organization”, and I would support a subamendment to change the words “non-governmental organization” to “third party”.

[English]

**The Chair:** How about you just move it with the “third party”? There you go.

Is there any discussion?

Shall BQ-7 carry?

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

**The Chair:** Note that that was moved with “third party”.

We go now to BQ-8.

[Translation]

Ms. Michaud, you have the floor.

**Ms. Kristina Michaud:** Thank you, Mr. Chair.

BQ-8 is also a consequential amendment. This time, it concerns notices that could be sent in writing to a legal representative, if necessary.

We passed an amendment a little earlier to allow legal representatives to receive a notice in the case of a complainant who has been deported outside the country or who cannot be reached for some personal reason. This consequential amendment follows a request from the Association québécoise des avocats et avocates en droit de l'immigration.

[English]

**The Chair:** Is there any discussion?

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

(Clause 38 as amended agreed to on division)

(On clause 39)

**The Chair:** That brings us to clause 39 and CPC-10.

Mr. Shipley, go ahead, please.

**Mr. Doug Shipley:** I will not be moving CPC-10.

**The Chair:** The amendment has been withdrawn.

(Clause 39 agreed to)

(On clause 40)

**The Chair:** That brings us to clause 40 and NDP-25.

Mr. Julian.

**Mr. Peter Julian:** Thank you very much, Mr. Chair.

What this seeks to do—and this, as well, was a recommendation from Breaking Barriers Together—is, in clause 40, add to line 29 on page 27 the words “and the reasons for the withdrawal”.

This is something that Breaking Barriers recommended to this committee. In this way, it is better to understand, for example, the reasons for the withdrawal of the complaint. Is it because the process has taken too long, or are there other concerns that have been raised? This would include reasons for the withdrawal in the information that is then sent as a written notice to the commission or the commissioner.

As I mentioned, it was a recommendation from Breaking Barriers.

• (1145)

**The Chair:** Thank you.

We'll go to Mr. Shipley.

**Mr. Doug Shipley:** Thank you, Mr. Chair.

I have a couple of quick questions for our officials.

Is there any process like this now, whereby you have to give a reason as to why you're withdrawing a complaint?

**Ms. Joanne Gibb:** No. Reasons don't have to be provided.

**Mr. Doug Shipley:** Do you feel there would be any benefit to having this in there? Do you think it's a bit onerous on complainants to ask for their reasons?

**Ms. Joanne Gibb:** I think it would be beneficial.

During COVID, when we were all working from home and online, people had to submit their withdrawals by email. A lot of times they would include in there the reasons for their withdrawal, but normally the commission won't see that. Understanding why they're withdrawing and understanding that they're not being pressured to withdraw a complaint would be helpful.

**Mr. Doug Shipley:** That makes a bit of sense, then.

Is there any way it could be done whereby it would be more of a box submission, like a check mark? Instead of having to write their own paragraph, essay or whatever, is there an easier way? How would you go about actually doing this?

**Ms. Joanne Gibb:** If the individual requested a withdrawal from the commission, we could ask them their reasons. Conversely, if it's done at a detachment—it's only the RCMP here—they could do the same. A lot of times individuals will say that time has passed or that they're no longer interested, or, “I've had a couple of days to think about it. I want to withdraw.”

**Mr. Doug Shipley:** I don't know how we could make this mandatory, but would there be an opportunity for them to say that they do not want to disclose their reasons?

**Ms. Joanne Gibb:** I suppose that we should make that an option, yes.

**Mr. Doug Shipley:** Yes, I would think so.

Okay, thank you for that clarification.

**The Chair:** Thank you.

We're going to hear from Mr. Motz, but I should have mentioned earlier that, if NDP-25 is adopted, CPC-11 cannot be moved due to a line conflict.

Mr. Motz.

**Mr. Glen Motz:** I think there is some value in this, as we heard.

Rather, can we change the “and”, or do an “and/or”, so they can just do a withdrawal? We’re requiring them to give a reason for the withdrawal.

“If they wish” should be something that.... I don't know whether Mr. Julian is even interested in entertaining that, but if we make it arbitrary, they may not answer it. If it's a requirement, then what? “If they wish” is something we can add, potentially.

**The Chair:** I would suggest it's not up to Mr. Julian, at this point. It's been moved. If you wish to make a subamendment, go ahead.

**Mr. Glen Motz:** All I'm asking is whether there is any value in having words like that added to it.

**Ms. Joanne Gibb:** We could also just put in the option of “prefer not to say”.

**Mr. Glen Motz:** [*Inaudible—Editor*] a check box, if we're using that.

**Ms. Joanne Gibb:** Yes.

**Mr. Glen Motz:** That's fair enough. Thank you.

**The Chair:** Go ahead, Ms. O'Connell.

**Ms. Jennifer O'Connell:** Thank you.

I think my line of questioning is similar.

There should be no repercussions, should someone wish not to say. That would be my only concern. If they just choose to withdraw, there wouldn't be any sort of follow-up or issues if they prefer to leave it. Seriously, if it's in the act, I don't want an overzealous situation where, again, a complainant coming forward could be intimidated or...any kind of negative recourse, in terms of trying to scare them. I see no issue with understanding that information. I want to make sure there would be no form of repercussions, such as that they couldn't, then, ever complain in the future or raise other issues.

I want to be crystal clear on what this does, but I'm not overly concerned about it.

• (1150)

**The Chair:** Is there any further discussion?

Go ahead, Mr. Julian.

**Mr. Peter Julian:** Mr. Chair, if all parties are supporting, that's wonderful.

Another way of achieving that would be to use the word “any” instead of “the”. I think we've gotten clarity from the witnesses, which we always do, in an excellent way. I think it's clear that, if there were any concerns about it being a mandatory, obligatory thing, it's not going to happen.

If there are concerns about it, I would be open to that one-word change. If all parties are supporting it, we can just move ahead.

**The Chair:** Is everyone in favour of amendment NDP-25?

(Amendment agreed to)

**The Chair:** CPC-11 cannot be moved due to a line conflict.

(Clause 40 as amended agreed to on division)

(Clause 41 agreed to on division)

(On clause 42)

**The Chair:** We'll go to BQ-9.

[*Translation*]

**Ms. Kristina Michaud:** Thank you, Mr. Chair.

Again, this is a consequential amendment that would allow non-governmental organizations to file a complaint. I move right away that “non-governmental organization” be replaced by “third party” in the amendment.

[*English*]

**The Chair:** You're moving to change “non-governmental organization” to “third party”.

Is there any discussion?

(Amendment agreed to on division)

(Clause 42 as amended agreed to)

**The Chair:** On amendment CPC-12, we have Mr. Shipley.

**Mr. Doug Shipley:** Thank you, Chair.

We will be moving this one.

I'd like to move CPC-12, and I'll give a brief explanation. This amendment would provide remuneration for back pay for officers who were suspended during an investigation if the complaint was withdrawn or unfounded.

I would like to provide a bit of rationale for that. This amendment addresses an issue that was raised by the CBSA union. Currently, under CBSA's complaint regime, if a serious allegation is made against an officer, that officer's security clearance is revoked; therefore, that officer is not suspended and not fired, but that officer cannot go to work and does not receive any pay. Ultimately, if a complaint is deemed to be unfounded, that officer must go through a lengthy grievance process to receive any back pay. This issue is obviously devastating for our hard-working CBSA officers, and we hope all committee members can support this very reasonable amendment.

**The Chair:** Thank you.

Ms. O'Connell.

**Ms. Jennifer O'Connell:** Thank you, Mr. Chair.

I'd like to ask officials on this one. I never understood the PCRC as a disciplinary process to be able to remove, or implement, any of these disciplinary actions. I'd actually want to hear from the officials. If there is a disciplinary process whereby, let's say, a member is suspended while there is an investigation, would that be as a result of the PCRC work? Could you elaborate on the intersection between the PCRC process and disciplinary hearings, or disciplinary judgments, while an investigation is ongoing—something along those lines?

Would the PCRC actually put in place those measures in, let's say, the example of a suspension or removing pay? If not, wouldn't that be as a result of the PCRC investigation? That would probably be a union issue with the body that suspended the individual. Am I understanding that correctly? Could someone explain it more clearly?

• (1155)

**Mr. Randall Koops:** In our view, I think that understanding is correct. The design intent behind the bill is that the PCRC not be brought into the realm of discipline. In the case of the RCMP, there is already a separate external body to deal with that.

The act as drafted explicitly excludes the PCRC, or the statute, from dealing with any measure related to discipline. That is better dealt with in the existing domain of labour law and the disciplinary process. There was nothing in the government's design intent in the legislation to bring anything into the statute in relation to suspension, return to duties or compensation, which would otherwise be outside the realm of the PCRC and already subject to the jurisdiction of the Federal Public Sector Labour Relations and Employment Board.

**Ms. Jennifer O'Connell:** Thank you.

Mr. Chair, with that being said, I can't support this amendment, because if individuals were suspended without pay or any other disciplinary action, they should take that up within the processes of whoever made that disciplinary action. The PCRC's process...Even if a complaint is ultimately withdrawn or whatnot, there would have been an internal process, whether by the RCMP or CBSA, to take that disciplinary action, with or without the PCRC.

I don't think the two should be correlated. I think that if there is an unfair disciplinary action, there is recourse that exists between the union and whoever made that disciplinary action, which is not the PCRC.

I can't support this amendment.

**The Chair:** Thank you.

We'll go to Mr. Julian, followed by Mr. Motz.

**Mr. Peter Julian:** I have concerns as well. If the PCRC is disagreeing with the RCMP's or agency's decision on the complaint, what, in the opinion of our witnesses, would be the result? This seems to be a missing part of the amendment. I'll ask our witnesses: What do you see as the ramifications of this in a case where the PCRC is in profound disagreement with the decision of the agency or the RCMP?

**Ms. Joanne Gibb:** The founded or unfounded would come at the investigation of first instance, after the CBSA or RCMP investigates. The PCRC wouldn't really have a role until the complainant requested a review, if the complainant requested a review.

**Mr. Peter Julian:** Let's assume the complainant does.

**Ms. Joanne Gibb:** If a review is requested and the commission is in disagreement, we would write an interim report that has findings and recommendations for the commissioner or the agency. A copy goes to the minister. Then the commissioner or the president would have the opportunity to respond.

**Mr. Peter Julian:** Thank you.

I certainly understand the intent of the amendment. I'm not sure that the wording here actually accomplishes what the intent is. In its current form, I can't support this amendment.

Thank you.

**The Chair:** We'll go to Mr. Motz, followed by Mr. Shipley.

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

I agree with Ms. O'Connell's explanation that generally matters of discipline would fall under both the RCMP and CBSA. During an investigation, it's their own protocols that set out whether the complaint is serious enough that the individual who is the subject of it needs to be suspended with or without pay, pending the outcome of an investigation.

I understand the RCMP's process a little better. It was the CBSA union that had some concerns.

Can CBSA explain to me what's going on inside the organization that these members feel that they want this language in the act? Do they not have recourse now? Is it a clumsy process?

If you have a six-month, eight-month or year-long investigation, they're without pay for that length of time, and they are found to be not guilty, the complaint is withdrawn or it's frivolous and vexatious—whatever the outcome is, if they're found not to be responsible—there should be an automatic reinstatement of their pay, back pay included.

I'm curious to know whether or not they have to go through a very litigious process to get back what they're rightly due. I don't know the answer to it.

Obviously, there has to be something for them to have this concern.

• (1200)

**Ms. Cathy Maltais:** I can't speak on behalf of the union, because they're not here today. My understanding is that they're mixing different investigative processes.

The public complaints investigation is a separate process. As I mentioned last time, we have a service standard of 40 days, which we meet 90% of the time. Professional standards investigations or labour relations code of conduct investigations are a whole separate process within CBSA that is not part of the public complaints process.

While a public complaint may have brought to light the conduct of an employee, the complaints process will follow through within the 40 days to say whether it will be supported or not. Then the professional standards investigation process or labour relations process—I can't speak on their behalf because they're not here today—would be their separate piece with the collective agreements, with the grievance rights and everything else that is part of that statute, which is outside of this.

One triggers the other, if you will, because one may bring up the conduct of someone, but it's not an actual public complaints investigation that would make an employee go on leave without pay or anything else. We have nothing to do with the employee; then it moves to the other processes that are legislated.

**Mr. Glen Motz:** Mr. Julian, I don't want to put you on the spot, but I'm going to anyway.

Do you understand the intent of this? If the language is clumsy—and I don't have any suggestions for changing the language—do you have anything that comes to mind to change this so it's palatable and still accomplishes what we are trying to accomplish?

**The Chair:** We have Mr. Shipley before Mr. Julian, but I will let Mr. Julian respond directly.

**Mr. Peter Julian:** I don't have any brainwaves, Mr. Chairman.

**The Chair:** Mr. Shipley.

**Mr. Doug Shipley:** Thank you, Mr. Chair.

Mine will be fairly quick, too, because Mr. Motz asked a very similar question.

I just want to get it clarified to me. Ms. O'Connell mentioned that this was during discipline issues.

What we're looking for here is.... This is not a discipline issue whereby they'd be losing pay and be off work. This is when they get their security clearance revoked and can't work. They haven't been disciplined. They're getting it revoked during the investigation. There has been no discipline handed out; it's not a discipline issue.

**Ms. Jennifer O'Connell:** They don't make that decision.

**Mr. Doug Shipley:** We're looking for a bit of clarification on that, if we could, please.

**Mr. Randall Koops:** Again, we would just observe that suspension and things flowing from it are from the operation of another statute. They are from the operation of whatever labour statute applies and whatever collective agreement applies in that context.

This amendment would impose on the commissioner or the president an obligation about the employment status of an employee in the PCRC statute, when it was the operation of an entirely different statute that may have created that situation, and that is not part of the operation of PCRC or of the complaint itself. It results from a disciplinary decision that was made by the president or the commissioner.

Briefly, I think we conclude that, whether that outcome is desirable or not, this may not be the proper statute to achieve it through.

● (1205)

**Mr. Doug Shipley:** Thank you.

**The Chair:** Is there any further discussion?

(Amendment negated [*See Minutes of Proceedings*])

**The Chair:** Shall clause 43 carry?

(Clause 43 agreed to)

(On clause 44)

**The Chair:** On clause 44, we have NDP-26.

**Mr. Peter Julian:** Thank you very much, Mr. Chair.

This was a recommendation, members of the committee will recall, from the Canadian Association for Refugee Lawyers regarding

a third party, which is a principle I think we've brought forward in the bill as well, allowing, in the section on representation, which is clause 44, to include some clarifying language:

a person or entity with a substantial interest in the subject matter of the complaint, acting in the public interest.

For reasons that we've had before in terms of investigations, it's important to have those third parties able to make representations on specific complaints. I certainly hope that members of the committee will support this recommendation from the Canadian Association for Refugee Lawyers.

**The Chair:** Thank you. I have to let you move it before I can rule on it.

My advice here is that this amendment seeks to introduce the right to make representation in relation to complaints about the policies and procedures of the agency, which is a new concept that goes beyond the scope of the bill as adopted by the House at second reading. An amendment to a bill that was referred to the committee after second reading is out of order if it is beyond the scope and principle of the bill.

In the opinion of the chair and for the above-stated reason, I will rule the amendment inadmissible.

**Mr. Peter Julian:** Mr. Chair, with all the deep respect I have in your abilities, I think it's fair to say that throughout this bill, what we've been trying to do is ensure that third parties have the ability to intervene in complaints.

With the deep respect I have for you as a fellow British Columbian—and you've done an admirable job as chair of this committee—I'll have to beg to disagree on this particular question, and I'll have to challenge your ruling.

**The Chair:** That's no problem.

The question is: Shall the decision of the chair be sustained?

If you vote yes, you are voting to sustain the decision of the chair, and if you vote no, you are voting to overturn that decision.

(Ruling of the chair sustained: yeas 8; nays 2) [*See Minutes of Proceedings*])

**The Chair:** The chair's decision is sustained.

**Mr. Peter Julian:** I'm sorry, but what was the result? Was it 10 to 2?

**The Chair:** You found some support out there.

PV-2 is inadmissible for the same reason.

This brings us to CPC-13.

If CPC-13 is adopted or defeated, then NDP-27 cannot be moved, since they are identical.

We will go to CPC-13.

● (1210)

**Mr. Doug Shipley:** Thank you, Chair. I will be moving CPC-13.

As explanation, this amendment would allow union representation on behalf of an RCMP or CBSA employee who is subject to a complaint.

I'll keep that short and sweet and see what the rest of the committee feels about that.

**The Chair:** Is there any discussion?

Mr. Julian.

**Mr. Peter Julian:** I absolutely support CPC-13.

Mr. Chair, as you can see from the package, it's worded exactly the same as NDP-27. The idea that RCMP and CBSA members have the right to union representation, I think, is a fundamental principle within Canada's system of collective negotiations and labour rights.

I completely support CPC-13 and thank the Conservatives for presenting it.

**The Chair:** Thank you.

Is there any further discussion?

Ms. O'Connell.

**Ms. Jennifer O'Connell:** Thank you, Mr. Chair.

On the wording, I want to get a little more clarification.

Could I ask officials whether this is the best clause to be included and where in the legislation it spells out the rights of employees who have filed a complaint or have had a complaint filed against them.

I'm not necessarily opposed to it. I'm just not sure whether this is the right wording and whether this is helpful or not.

Perhaps I could get some more insight from officials on how they see this clause working in the legislation.

**Mr. Randall Koops:** We would have the same concern, from our analysis.

Clause 44 is not dealing with a broader right of the union to make representations on behalf of the employee. It is a much narrower ground, about making representation with respect to the conduct's impact on the person who is the recipient of the conduct. It is actually giving the unions the right to make representations about what may or may not have happened to the person who ends up as the complainant.

That's a very different thing from a union making representations about the effect on the employee or on behalf of the employee. From that perspective, we think that may raise some concerns.

**Ms. Jennifer O'Connell:** Thank you.

Again, it's the employee whose conduct is the subject matter of the complaint. Could you foresee this causing issues in terms of just the investigation?

The PCRC's role is to investigate the matter, and issues of disciplinary action or conduct would be outside of the PCRC's scope. It's simply to look at what happened and determine whether there are changes that need to be made.

Could this be seen as a situation that could limit the ability for the investigation to take a look at the actual complaint?

**Ms. Joanne Gibb:** I don't think it would limit the ability to do an investigation. As earlier noted, I think the desire to have union representation is somewhat different from having the unions being allowed to make representations at what is essentially a victim impact statement.

As it is right now, if RCMP members want to have a National Police Federation member with them when they're being interviewed, that's permissible.

**Ms. Jennifer O'Connell:** Okay. It doesn't limit the ability for the union...or it's for someone to have their union representative with them throughout any stage of the process, but this would be kind of above and beyond that.

That wouldn't necessarily be just the representative. Am I understanding correctly that this is above and beyond just an individual's representation?

• (1215)

**Ms. Joanne Gibb:** Yes. That's our understanding.

**Ms. Jennifer O'Connell:** Okay. Thank you for the clarification.

**The Chair:** I have Mr. Motz.

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

On that line of thought, do you ever foresee an opportunity or a possibility that, in the odd circumstance, the subject of a complaint—not the complainant—could find themselves in a spot where they could make representation about what the complaint has done to them?

As part of the investigation, and at the end of the adjudication process, it may be found to be frivolous and vexatious. Is there a possibility, then, that this gives a member of the RCMP or CBSA an opportunity, through their different associations, for representation, in this particular clause, to explain the impact the investigation has had on them or their family or whatever it might be, just like, as was said, a victim impact statement?

**Ms. Lesley McCoy:** The proposed amendment as written does not allow the subject of the complaint, through their representative, to give comment on the impact on themselves. It allows comment only on the impact of the victim, we'll say, the person impacted by either the RCMP member or CBSA employee conduct. As written, it does not allow representations to be made of the effect on the subject of the complaint.

**Mr. Glen Motz:** Yes. It's directed specifically only to a complainant.

**The Chair:** Is there any further discussion?

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

**The Chair:** NDP-27 cannot be moved. That takes us to NDP-28.

**Mr. Peter Julian:** Thank you, Mr. Chair.

This was a recommendation from Breaking Barriers. It is a fact that was documented through the Merlo Davidson lawsuit that there are concerns once a complaint arises about the complainant not getting ongoing support.

This would add a new section, 2.1, in clause 44 that would allow the commission to continue to maintain contact with the complainant to ensure there is not any untoward influence. This is a recommendation that came out of Breaking Barriers to protect the complaint process.

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

We'll go to Mr. Shipley.

**Mr. Doug Shipley:** Thank you, Chair.

For the officials, if this were put in place and passed, who would be able to do these monthly contacts? It seems like that potentially could be a lot. Also, basically, what would be the human resources required and removed from your current resources to maintain and to do this monthly contact?

**Mr. Randall Koops:** Our assessment is that it could be a very onerous burden. A conservative assumption would be that it would create about 60,000 touchpoints a year, over and above the commission's existing workload, to check in with 5,000 complainants 12 times a year over a duration of an average of one year.

**Mr. Doug Shipley:** There would be 60,000 contacts over a year. I mean, these contacts must take a while. Do you have any idea how many full-time employees it would take for a role like that?

• (1220)

**Ms. Joanne Gibb:** Lots. Is that sufficient?

**Mr. Doug Shipley:** Give me a ballpark, because I don't have a clue.

**Ms. Joanne Gibb:** I would think dozens.

**Mr. Doug Shipley:** Dozens. Okay, thank you.

**Mr. Randall Koops:** It also comes on top of the existing CBSA and RCMP check-ins that are obligatory in the act, to report to the complainant about the progress of their complaint and the status of the investigation.

**The Chair:** Mr. Motz, go ahead.

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

First of all, I think it's important to hear... This amendment makes it sound as if it's the mission of the agencies or the members inside these agencies who have the complaints made against them to harass complainants so that they change their minds.

I find it rather offensive to even suggest that. However, there are always those "one-offs", individuals who might overstep and interfere with an investigation. We've seen them from all sides who do that.

Does it make sense, as part of your normal process of checking in with the complainant, whoever that might be, on the status of an investigation, which is legislated, that you would ask those questions as a matter of practice anyway, such as, "Is there anything new to report?", meaning anything along those lines that would give rise to an opportunity for them to report exactly this if it were actually happening? Is that a reasonable thing to expect from all the agencies when they check in with the complainants during an investigation?

**Ms. Joanne Gibb:** The RCMP and CBSA have to send a monthly update letter to the complainant, so it's already being sent. I sup-

pose you could insert something like that. Among our complainants now, there are some who are quite well informed, and when they don't receive their monthly update letter, they will file a second complaint. That is a complaint we will take if they didn't get their monthly update.

**Mr. Glen Motz:** Okay. To the agencies, RCMP and CBSA, if you're sending these out and if you have to send the updates to the commission, you're obviously sending them to the complainants as well. Is there an avenue there if they wish to add more information, or is there anything new happening? Is that something that is a matter of practice now?

**Assistant Commissioner Alfredo Bangloy (Assistant Commissioner and Professional Responsibility Officer, Royal Canadian Mounted Police):** For the RCMP, as a matter of practice, we just advise them of the status of the investigation, but certainly if the complainant has any other complaints of any type of harassment or anything like that, we definitely take that seriously, and it would potentially result in the initiation of a statutory investigation or another code-of-conduct disciplinary type of investigation.

**Mr. Glen Motz:** That's if they bring it up on their own. I think the intent of Mr. Julian's motion is to provide an avenue so that they can at least get asked.

If I'm hearing you right, you don't necessarily ask them if there's anything new or if they're being harassed or anything like that, but if they say it, you take it seriously.

**A/Commr Alfredo Bangloy:** That's correct.

**Mr. Glen Motz:** That's on their own initiative.

**A/Commr Alfredo Bangloy:** That's correct.

**Mr. Glen Motz:** How about CBSA?

**Ms. Cathy Maltais:** We're not under the commission yet, so we're not part of the legislation and we don't have that check-in every 30 days. Our current service standards are 40 days, so we don't usually need a monthly check-in, because the complaint is resolved generally within a month and a week.

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

**The Chair:** Is there any further discussion?

(Amendment negated) [*See Minutes of Proceedings*])

**The Chair:** That brings us to clause 44. Did we amend this?

(Clause 44 as amended agreed to [*See Minutes of Proceedings*])

**The Chair:** We are set to stay here until 2:00 p.m. It's been suggested to me that we might need a bio break, so I think we'll suspend for five minutes or so.

• (1220)

(Pause)

• (1235)

**The Chair:** The meeting is resumed.

Go ahead, Ms. O'Connell.

**Ms. Jennifer O'Connell:** Mr. Chair, before we get into it—because I don't want to interrupt during clause-by-clause, or at the end if we're rushing over to question period—I have a request. We're making good progress, but at the rate at which we're going, and with all of the other committee work we still have to do before the holiday break, I'm going to humbly request, even though this is never my first suggestion, that the clerk look into additional resources to continue clause-by-clause of Bill C-20, in particular for this Wednesday, if we can't conclude by today. Then, with Wednesday's meeting, we can look at additional resources.

Again, I didn't want to interrupt while we're in the middle of a clause, but I really think, given the timelines and how much we still have left to do, we need to request some additional resources and enable committee members to rearrange their schedules if need be, or find subs.

**The Chair:** Thank you.

Mr. Julian, go ahead.

[*Translation*]

**Mr. Peter Julian:** I completely agree with Ms. O'Connell on that point.

As I have said a number of times, everyone is working co-operatively, and that's nice. This is a very complex bill, and we have to take the time we need to go through each clause. These are important issues. Everyone wants to work co-operatively and in a positive way, but we also want to avoid making mistakes by trying to improve the bill.

That said, I agree that we need to add meeting hours in order to study the bill. That will require, whether it's this week or next week, extended meeting hours, but we can get there. By adding hours, we'll be able to make all the amendments we need to make to the bill. That would prevent us from having to postpone the next study until December. We won't be able to move on to the next study until we have completed the review of the bill.

The best way to do that would be to extend our meetings until midnight, for example, on Wednesday. That would be entirely appropriate. We could study all the amendments and work hard and efficiently to get through them.

[*English*]

**The Chair:** Mr. Shipley, go ahead.

**Mr. Doug Shipley:** That's definitely past my bedtime.

Thank you, Chair.

I want to chime in on this a bit. Recently my staff and I did a bit of an analysis of where we are and how quickly we're going. I'm very confident that we can get through this by the end of next week with no problem; we're moving very quickly. We're still withdrawing lots of amendments, and I know my friend from the NDP mentioned he's withdrawing some amendments. I don't think that's rushing it too quickly.

The Conservatives are more than happy to work as much as we have to work. Our only concern is that it has to work for everybody. Chair, just last week you sent out an email on Friday morning, and I responded within 20 minutes and said that the extra hour that day

was not going to work for some of the members of our team, because it was just too quick, and we all had other things on. Within two hours of that, we had notification that the meeting was being extended by an hour, so we're not exactly working as a collegial team on that issue. If we're going to be putting in extra time, we need to agree to it so it fits everybody's time.

You asked what our schedules were going to be like. I was very forthright with you and told you it didn't work for us that day, and we still had that extra hour.

Again, I think we'll be able to get this done quite easily by the end of next week. We're moving along very quickly. We're still withdrawing many. I know, as I said, our NDP friends are withdrawing some. I think if we can all commit to getting it done by the end of next Thursday, everybody might be amenable to that, but we'll see where it goes.

• (1240)

**The Chair:** Thank you, all.

I've already asked the clerk to see what's available for us on Wednesday. I think we're going great guns, moving very fast, and we might even be done with normal hours on Wednesday. I would be very much in favour of extending on Wednesday, so we potentially could get it done entirely on Wednesday, and then we could start on Bernardo next week.

I'm taking it that we have the general consent of the committee to look for extra time on Wednesday. How much extra time remains to be seen with what's available. I understand your concern, but I have to go with the will of the majority here, so we will look for extra time on Wednesday.

Thank you.

(On clause 45)

**The Chair:** All right. That having all been said, we can carry on with clause 45.

We have NDP-29.

Mr. Julian.

**Mr. Peter Julian:** In the spirit of collaboration and to move things along, I am not moving NDP-29.

**Mr. Glen Motz:** There's hope yet, then.

**The Chair:** That brings us to CPC-14.

Go ahead, Mr. Shipley.

**Mr. Doug Shipley:** I will not be moving CPC-14.

(Clause 45 agreed to on division)

(On clause 46)

**The Chair:** That brings us to CPC-15.

Mr. Shipley, go ahead, if you will.

**Mr. Doug Shipley:** We will not be moving that amendment.

(Clause 46 agreed to)

(On clause 47)

**The Chair:** Next is CPC-16.

Please note that, if CPC-16 is adopted, BQ-10 cannot be moved due to a line conflict.

Go ahead on CPC-16, Mr. Shipley.

**Mr. Doug Shipley:** There is no fear there, because we will not be moving that.

See how quickly we want to get through this?

**The Chair:** I am thoroughly impressed with the efficiency of this committee.

**Ms. Jennifer O'Connell:** You threatened a midnight sitting. Look how quickly we can move.

**The Chair:** That brings us to BQ-10.

[*Translation*]

Ms. Michaud, the floor is yours.

**Ms. Kristina Michaud:** Thank you, Mr. Chair.

I will not withdraw BQ-10, as it is simply a consequential amendment to ensure that a copy of the communications be sent to the complainant's legal representative in writing, if necessary. So all my colleagues should be able to vote in favour of the amendment.

[*English*]

**The Chair:** Is there any discussion?

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

(Clause 47 as amended agreed to)

(On clause 48)

**The Chair:** That brings us to CPC-17.

**Mr. Doug Shipley:** We will not be moving that amendment.

**The Chair:** That brings us now to BQ-11.

[*Translation*]

Ms. Michaud, you have the floor.

**Ms. Kristina Michaud:** Thank you, Mr. Chair.

BQ-11 is also a consequential amendment to ensure that a copy of the communications is provided to the complainant's legal representative in writing, if necessary. So it's somewhat the same as the previous amendment.

• (1245)

[*English*]

**The Chair:** Is there any discussion?

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

(Clause 48 as amended agreed to)

(On clause 49)

**The Chair:** That brings us to CPC-18.

**Mr. Doug Shipley:** We will not be moving that amendment.

**The Chair:** That takes us to BQ-12.

[*Translation*]

Go ahead, Ms. Michaud.

**Ms. Kristina Michaud:** Thank you, Mr. Chair.

BQ-12 is also a consequential amendment to ensure that a copy of the communications is provided to the complainant's legal representative in writing, if necessary.

[*English*]

**The Chair:** Is there any discussion?

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

**The Chair:** That brings us to CPC-19.

**Mr. Doug Shipley:** Once again, to move things along, we will not be moving that amendment.

**The Chair:** Very well.

(Clause 49 as amended agreed to)

**The Chair:** We have amendment NDP-30.

Mr. Julian, go ahead, if you please.

**Mr. Peter Julian:** I will not move that amendment, or the two following ones.

**The Chair:** Shall clause 50 carry?

(Clause 50 agreed to on division)

**The Chair:** We're on clause 51.

I understand you're not moving NDP-31.

(Clause 51 agreed to on division)

(On clause 52)

**The Chair:** We're on clause 52, which brings us to NDP-32.

I understand you're not moving this one either.

That brings us to PV-3. Is Ms. May online?

**The Clerk:** No.

**The Chair:** Okay. This is deemed moved. Is there any discussion?

(Amendment negated)

**The Chair:** That brings us to BQ-12.1.

[*Translation*]

The floor is yours, Ms. Michaud.

**Ms. Kristina Michaud:** Thank you, Mr. Chair.



BQ-12.1 is a consequential amendment to replace “non-governmental organization” with “third party”. That person would be appointed to represent a person.

I don't think this amendment needs any more explanation.

[English]

**The Chair:** BQ-12.1 is moved with the change to “a third party”.

Is there any discussion?

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

**The Chair:** That brings us to BQ-12.2

[Translation]

Ms. Michaud, you have the floor.

**Ms. Kristina Michaud:** Thank you, Mr. Chair.

Again, we're making a consequential amendment to replace “non-governmental organization” with “third party”. That way, a complaint can be filed, without necessarily having to represent an individual.

In addition, it won't be necessary to be the subject of the complaint directly. This is a consequential amendment to an amendment that we've already adopted.

[English]

**The Chair:** Very well. Thank you.

Is there any discussion?

Go ahead, Ms. O'Connell.

**Ms. Jennifer O'Connell:** I'm sorry. Just to clarify, are we changing that to “third party” as well?

**Ms. Kristina Michaud:** Yes.

**Ms. Jennifer O'Connell:** Okay. That's perfect. Thank you.

• (1250)

**The Chair:** Is there any further discussion?

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

**The Chair:** That brings us to NDP-33.

Go ahead, Mr. Julian.

**Mr. Peter Julian:** Thanks, Mr. Chair.

In this case, this is a recommendation that comes from the Customs and Immigration Union.

You'll recall that in clause 52, there is specific reference that the commission “must refuse to deal with a complaint if it relates to a disciplinary measure taken, or not taken, by the President.” The reality is that concerns have been raised by the union. What that means is that the commission is not able to address issues that relate to an abuse of authority when disciplined by management or, more importantly, I think, Mr. Chair, in the case of management de-

termining not to discipline a manager who is engaged in problematic behaviour, such as harassment.

What the Customs and Immigration Union recommended to us was that this particular subclause be taken out, so that there is access through the process for these types of problematic disciplinary measures, or measures when the president simply hasn't taken action within the CBSA for managers when action should have been taken, particularly when it relates to harassment.

**The Chair:** Okay. Thank you.

I should mention that if NDP-33 is adopted or defeated, BQ-12.3 cannot be moved due to a line conflict.

We have Mr. Motz, and then Madame Michaud.

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

This, if I remember correctly, is kind of in line with one of the other clauses that we went through earlier this morning, when we talked about its being outside the purview of the commission. This says that they have to refuse a complaint if it relates to a disciplinary measure taken or not taken. I think that's in line with comments that the department officials made earlier this morning with regard to not weighing in on things that are of a departmental nature.

I certainly support the idea of removing this from this particular piece of legislation, because it doesn't seem to fit with the explanation that was given to us earlier this morning. I would defer to Mr. Koops or others who might provide some clarity around subclause 52(3) here as it relates...and that I think should be removed. I certainly would defer to him on why it's there and whether that's a contradiction of what we talked about this morning with regard to weighing in on something that you don't have any jurisdiction on—it might be covered off with another act.

**Mr. Randall Koops:** We would offer at least two concerns about the amendment as presented. The first is that it would create an inconsistent condition between the commission's authorities related to the RCMP as found in subclause 52(2) and then, if subclause 52(3) were amended, the new condition created in relation to the CBSA. The commission would be obliged to refuse a complaint concerning part 4 of the Royal Canadian Mounted Police Act, which is conduct and discipline, but then would not be obliged to refuse the same under the CBSA.

With regard to the substance of the amendment, removing that limitation on the commission would be very much at odds with the design intent and the policy intent of the regime, which are that the commission not be brought into matters of discipline and that matters of discipline not be brought before it. The means by which that is achieved is by imposing on the commission a duty to refuse to deal with disciplinary measures, because they are provided for, as we said earlier, by other processes under other statutes.

The commission would, in any event, not be able to adjudicate or review a disciplinary decision, so there would be no logical reason, in any event, to bring that decision before it for review.

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

[Translation]

**The Chair:** Ms. Michaud, you have the floor.

• (1255)

**Ms. Kristina Michaud:** Thank you, Mr. Chair.

I just want to say that I support Mr. Julian's amendment. I wanted to propose a similar amendment. Indeed, this is in response to a request from the Customs and Immigration Union, and I am very sensitive to that request.

[English]

**The Chair:** Is there any further discussion?

Ms. O'Connell.

**Ms. Jennifer O'Connell:** Thank you, Mr. Chair, and thank you to the officials for clarifying.

I do see some concerns. We wouldn't want to see the PCRC become just another adjudication process for disciplinary action that someone is not happy with. There are other means to do so, and the PCRC is meant to deal with complaints outside of that, outside of a disciplinary nature. I think it does kind of change the spirit of the act in terms of allowing for these sorts of complaints when there are already avenues to deal with them. They may be very legitimate disciplinary complaints that should be questioned. I just don't think that the PCRC should be getting into that, so I can't support this amendment.

**The Chair:** Is there any further discussion?

(Amendment agreed to)

**The Chair:** BQ-12.3 cannot be moved. That brings us to CPC-20.

Mr. Shipley, go ahead.

**Mr. Doug Shipley:** Thank you, Mr. Chair.

Just before I jump on this, I will say that, regrettably, I'm going to have to leave. As I mentioned, I do have a previous engagement at one o'clock, so we will continue on with some substitutes, which is quite allowed. As I said, the time didn't permit me to stay today. We talked about that on Friday and had another discussion on the phone about it.

I will move CPC-20 just before I go, though. The explanation is that this amendment would ensure that the commission cannot refuse complaints made about disciplinary measures or by serving members.

**The Chair:** Very well. Is there any discussion?

Mr. Julian.

**Mr. Peter Julian:** I want to ask the witnesses what they see as the impact of CPC-20.

**Mr. Randall Koops:** Our assessment, if we have understood correctly, is that CPC-20 would erode the protection around the commission's responsibility to deal uniquely with complaints and review of complaints. It may risk opening the door for the commission to deal with things that are better dealt with under other existing statutes.

**The Chair:** Is there any further discussion?

(Amendment negated)

**The Chair:** That brings us to new NDP-34.

If new NDP-34 is adopted or defeated, PV-4 cannot be moved, since they are identical, and if new NDP-34 is adopted, BQ-13 cannot be moved due to a line conflict.

Mr. Julian, go ahead with new NDP-34.

**Mr. Peter Julian:** Thanks very much, Mr. Chair.

Folks around the table will recall this recommendation from the Canadian Association of Refugee Lawyers. Currently, the bill says:

The Commission must refuse to deal with a complaint if the complaint has been or could have been adequately dealt with, or could more appropriately be dealt with, according to a procedure provided for under any Act of Parliament—other than this Act—or any Act of the legislature of a province.

It's a significant loophole. One might say it's a loophole you can drive a truck through. The Canadian Association of Refugee Lawyers indicated that we needed to be more specific in the legislation about what the circumstances are in which the commission may decline to hear a complaint.

What is proposed here is replacing that open language with:

The Commission may refuse to deal with a complaint if dealing with the complaint would seriously compromise an ongoing investigation.

The difference, of course, is that in the first case, in the current bill as drafted, any expectation that the complaint could have been dealt with somewhere else will lead to the commission refusing to deal with that. In this case, with what the amendment proposes, the commission has the option to refuse if there is an ongoing investigation. It tightens up the language and would ensure that it is used only sparingly in a case in which an investigation through another entity had already begun.

That was the recommendation of the Canadian Association of Refugee Lawyers, and I propose it as an amendment, a new sub-clause 52(5).

• (1300)

**The Chair:** Thank you.

Mr. Genuis.

**Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC):** Thank you, Chair.

Before I begin on the substance of this, as a matter of process, my understanding was that this committee normally sits from 11:00 to 1:00. Some of our members were consulted. They're not available to meet after 1:00, but the meeting was scheduled anyway.

On that basis, my suggestion would be that it would be most productive for all if the committee adjourned and scheduled to sit at a time when the regular members from our side of this committee are available, and when there's proper consultation about additional meetings.

On that basis, I move that we adjourn.

**The Chair:** The motion is to adjourn.

All in favour of the motion? All opposed?

**An hon. member:** Can we have a recorded vote, please?

**Ms. Jennifer O'Connell:** On a point of order, you had already called the vote. Members had voted, and then a recorded vote was asked for while we were already in the process of voting. Let's just move forward here.

**The Chair:** We'll do the recorded division.

(Motion negatived: nays 7; yeas 4 [*See Minutes of Proceedings*])

**The Chair:** Thank you.

Is there any further discussion on new NDP-34?

Mr. Genuis.

**Mr. Garnett Genuis:** Thank you, Chair.

I think I made my point about the value of having regular members and having meetings scheduled at a time when they're available, but given that that's not the appetite in terms of direction, I wonder if I could get the officials to explain for us what the substantial effect of amendment NDP-34 as it's proposed would be on the legislation.

**Ms. Joanne Gibb:** It would give the commission, the PCRC, more discretion to ensure that certain complaints wouldn't fall through the cracks, by making it discretionary.

**Mr. Garnett Genuis:** It would give the commissioner more discretion to ensure—

**Ms. Joanne Gibb:** It would, for the commission, the PCRC.

**Mr. Garnett Genuis:** Okay.

In your judgment, is it likely that complaints would fall through the cracks otherwise?

**Ms. Joanne Gibb:** It is conceivable that where we would have to refuse, there would be some circumstances in which that could happen, I would think.

**Mr. Garnett Genuis:** What are the circumstances in which a complaint could fall through the cracks?

**Ms. Joanne Gibb:** If we were required to refuse to deal with a complaint based on this, there could be aspects.... For example, there could be certain aspects of human rights-related complaints that we take now, whereas in other instances it might be more appropriate for them to go to the Canadian Human Rights Commission, so it's discretionary.

**Mr. Garnett Genuis:** It's discretionary for whom? Do you mean for the commissioner?

**Ms. Joanne Gibb:** It is for the PCRC, the commission, the chairperson.

• (1305)

**Mr. Garnett Genuis:** Okay, so this would oblige it to do what exactly then, to prevent it from falling through the cracks?

**Ms. Joanne Gibb:** I mean the amendment.

**Mr. Garnett Genuis:** You mean the amendment. Exactly.

**Ms. Joanne Gibb:** Well, it provides the discretion for the commission, for the chairperson, to actually examine it and decide

whether or not to refuse it and whether it would be better investigated somewhere else or with the PCRC.

**Mr. Garnett Genuis:** The process that's envisioned by this amendment is one in which it would go to the chairperson, and the chairperson would then have the discretion to determine whether they were going to examine it or someone else should examine it. How does that differ from the process proposed in the absence of the amendment?

**Ms. Joanne Gibb:** The commission must refuse. It's not discretionary as it's written, as opposed to "may refuse" as it would be amended.

**Mr. Garnett Genuis:** The commission must refuse. If a complaint went to the commissioner, the commission, in the absence of the amendment, the commissioner would have to refuse. Under what circumstances would that be?

**Ms. Joanne Gibb:** It would be as is written. They "must refuse to deal with a complaint if the complaint has been or could have been adequately dealt with, or could more appropriately be dealt with...."

**Mr. Garnett Genuis:** Okay, so the effect of this is to give the commission the discretion to look at an instance in which the situation could be dealt with by another body, whereas the amended language would give the discretion to look at it if the commissioner considered it—

[*Translation*]

**Ms. Kristina Michaud:** A point of order, Mr. Chair.

[*English*]

**The Chair:** Madame Michaud, go ahead on a point of order.

[*Translation*]

**Ms. Kristina Michaud:** Ms. Gibb's explanations are quite clear. I don't know why we're seeking more clarification on what NDP-34 seeks to do. Like me, other people may want to speak to their party's position on this amendment.

I hope that the latest explanations have enabled Mr. Genuis to fully understand the amendment. I think we could move on.

[*English*]

**The Chair:** Thank you.

Mr. Genuis, go ahead.

**Mr. Garnett Genuis:** Thank you, Chair.

I'm happy to cede the floor and come back on this if others want to speak on it, so I'll cede the floor. Could you add me to the end of the list, so that I can hear what others have to say on it?

[*Translation*]

**The Chair:** Ms. Michaud, you have the floor.

**Ms. Kristina Michaud:** Thank you, Mr. Chair.

BQ-13, which comes right after amendment NDP-34, is very similar. Its purpose is to give the commission a little more discretion to refuse to examine a complaint. So, instead of the wording “The Commission must refuse”, as set out in Bill C-20, NDP-34 proposes, “The Commission may refuse...”.

However, it's my opinion that NDP-34 goes a little further than BQ-13, which changes the wording a little. In addition, I think it is more beneficial to stick more closely to what is provided for in the bill. I would not go so far as to add, “... if dealing with the complaint would seriously compromise an ongoing investigation”. I think the current wording of the bill is fine the way it is.

I would therefore suggest that my colleagues vote against NDP-34 and vote in favour of BQ-13. It's a small change, but it can have an impact.

I would also like to take this opportunity to say that what we're seeing and what we'll be seeing for the next hour is very unfortunate. It's quite clear that we experienced a filibuster by the Conservatives when they wanted to pass their motion on the Paul Bernardo study.

For whatever reason, they want to delay or slow down the study of Bill C-20, and the permanent members of this committee don't even have the courage to do it themselves. They get subbed in to do that. That's too bad.

I too had something else scheduled for this next hour, but I feel that the study of Bill C-20 is a priority. It's normal for us to work overtime to study this bill, since the Conservatives filibustered for so many hours before we could begin this study.

I'll just take this opportunity to say that I find this very unfortunate. I invite my colleagues to vote on amendment NDP-34 if they have no further questions.

[*English*]

**Mr. Garnett Genuis:** I have a point of order, Chair.

Substantively—and maybe my notes are out of date—I have the NDP amendment that says to delete lines 1 to 3 on page 35. The Bloc amendment 12.3 says exactly the same thing.

• (1310)

**The Chair:** We're past those.

We go now to Mr. Kurek.

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

It is good to be back at the public safety committee. In the second session of the 43rd Parliament, I had the honour of sitting on this committee.

I think that they are all new faces here, other than Ms. Michaud's. It's good to be back.

Certainly, Bill C-20 is an interesting bill.

I'll note, like Mr. Genuis did, that I believe that at the conclusion of the previous meeting, consent was sought to extend the meeting. It was not granted, yet here we are anyway. It's unfortunate, be-

cause for those of us who care a lot about this issue and this bill, we have to dig into some of these things. I think it's very important.

Specifically related to NDP-34, the idea around giving discretion is something that seems to me, from what Ms. Michaud said and in light of the next four amendments as well, that we have a great deal of agreement on.

I always find that one of the challenges when amending legislation is that, when there are similar amendments that are brought forward that deal with substantively the same concern, to deal with one simply because it was submitted first versus taking the time to ensure that we are, in fact, passing the best legislation and the best...what in this case would be changes, to ensure the commission is given the necessary discretion to ensure, as our officials....

I would just thank the officials for coming here as well.

I know that it is important work that we do before these committees.

Ms. Gibb, you mentioned that changing it from a “must” to a “may” would give that necessary discretion. I would, however, like to ask for your opinion.

In BQ-13, the language is a bit different. The reason I ask is to make sure we are doing justice to each amendment, although we can deal with them only sequentially. It allows us to deal with them to make sure we get the right thing passed.

BQ-13, which would be dealt with next, has slightly different language.

**The Chair:** Actually, if this is adopted, BQ-13 cannot be moved.

**Mr. Damien Kurek:** Okay.

**Mr. Garnett Genuis:** Chair, on a point of order, I'm sorry, but when I made my earlier point, I was referring to the wrong pages. However, I am still failing to see the textual difference. They're written differently, because BQ-13 amends a line—

**The Chair:** Ms. O'Connell has a point of order.

**Ms. Jennifer O'Connell:** I'm sorry, but this isn't a point of order. It's going back to debate.

**The Chair:** Thank you. Your point is well made.

**Mr. Garnett Genuis:** The point is that I am trying to understand what the difference is between the two amendments. I don't know if that's....

**The Chair:** The difference between which two amendments?

**Mr. Garnett Genuis:** You just ruled that if NDP-34 is adopted, BQ-13 could not be moved. Are they substantially the same amendment incidentally, or are they different?

**The Chair:** As was stated to the committee at the outset of moving this motion, if new NDP-34 is adopted, PV-4 cannot be proceeded with, as they are identical. Also, if NDP-34 is adopted, BQ-13 cannot be moved due to a line conflict.

That's just how things work.

Carry on, Mr. Kurek.

**Mr. Damien Kurek:** Thanks very much, Chair.

You succinctly—

**Mr. Peter Julian:** On a point of order, Mr. Chair, because there are a number of us who want to speak, could you please tell us the speaking order?

**The Chair:** Absolutely.

On my list, I have Mr. Julian, Mr. Genuis and Ms. O'Connell at this time, following Mr. Kurek.

• (1315)

**Mr. Peter Julian:** Through you, Mr. Chair, to our new colleagues around the table, our practice here at committee is to speak briefly and then allow others to speak as well. I would hope that the new members of the committee who are substituting in would respect that.

**The Chair:** Thank you for your input.

Mr. Kurek, go ahead.

**Mr. Damien Kurek:** Thank you.

To Mr. Julian, as I stated in my opening comments, I had the honour of serving on this committee in the second session of the 43rd Parliament, and certainly I would hope that he, or anyone, wouldn't want anything but the best legislation to result from our discussions here.

In light of that, Chair, my point is to what you had quite succinctly articulated.

Ms. Gibb, specifically I'd like to ask you the question.

With regard to the substantive similarities between NDP-34 and BQ-13, one is slightly longer than the other, with slightly different language. If we end up passing NDP-34, BQ-13 is not able to be moved. However, the reverse of that is also true. If we do not pass 34 but can pass 13, is that in fact the better option?

Ms. Gibb, or other officials who would be able to weigh in, could you outline specifically, if this were to pass versus some of the other wording, what some of the differences might be and the interpretation of that in the commission's work?

**Ms. Joanne Gibb:** It seems to me that both amendments have a discretionary clause to them, to change the first part of subclause 52(5). The NDP one references “seriously compromise an ongoing investigation”, as opposed to stating another act of Parliament. I'm not the lawyer here, so I can't interpret the difference.

“Seriously compromise an ongoing investigation” suggests to me that we're referring to CBSA's investigation or an RCMP investigation, as opposed to sending it, say, to the Canadian Human Rights Commission.

**Mr. Damien Kurek:** Thank you, so the intent here is to ensure that the commission has the necessary discretion.

Does the language in NDP-34—and feel free to invite your colleagues in as well—take away some of the discretion that I think is being suggested through the amendment by adding the “seriously compromise an ongoing investigation”, whereas the other amendment simply says “may”?

Is there a substantive difference in terms of how that would be interpreted and the impact that would have when this discretion is utilized?

**A/Commr Alfredo Bangloy:** NDP-34 limits discretion because it provides for that only if there's another investigation in place, whereas the other provision continues with other factors, as far as the complaint being more appropriately dealt with by another act of Parliament.

**Mr. Damien Kurek:** I will follow up on that.

It's adding discretion but narrowing the scope of where that discretion can be applied. Could you provide some context around what the practical effects of that might be, and the ongoing work? For discretion to be added but limited.... In the right context, that makes perfect sense, but it's about ensuring we find the right balance.

I'm wondering whether you could provide some simpler context.

**A/Commr Alfredo Bangloy:** It could potentially require the PCRC to look into things that could be more appropriately dealt with by other acts of Parliament, because they're limiting it to when there's an investigation.

**Mr. Damien Kurek:** I will again follow up on that.

For example, the Canadian Human Rights Commission, and other types of investigations.... Would narrowing that discretion prohibit complainants from having access to the full scope of what is intended through this legislation?

• (1320)

**A/Commr Alfredo Bangloy:** No, but I think it might require the PCRC to look into things that could be more appropriately dealt with by other acts of Parliament. For example, a complaint with respect to official languages could be more appropriately dealt with through that specific act.

**Mr. Damien Kurek:** As we see in BQ-13.... As a general rule, simple is better. That's sometimes a tough thing to say in government, but the simplicity of amendment BQ-13 fails to allow for appropriate discretion to be provided in the context of an investigation—

**The Chair:** Can we stick to NDP-34, please?

**Mr. Damien Kurek:** I'm happy to, Mr. Chair, but in whether or not to support NDP-34, I think these are certainly important questions that need to be asked, since the passage—or non-passage—of NDP-34 affects whether or not we debate BQ-13.

I have a list with your title. Is it constable?

**A/Commr Alfredo Bangloy:** It's assistant commissioner.

**Mr. Damien Kurek:** I apologize.

It's just to make sure we have that appropriate scope when looking at the difference between the bill seriously compromising ongoing investigations, and....

In your opinion, would that be an appropriate limitation to the added discretion that would be imposed by the passage of NDP-34?

**A/Commr Alfredo Bangloy:** I think it provides discretion, but because it replaces everything else that was previously in subclause 52(5), it could potentially require the PCRC to turn things down if they could be more appropriately dealt with by another act of Parliament.

**Mr. Damien Kurek:** Thank you.

**The Chair:** We'll go to Mr. Julian.

**Mr. Peter Julian:** Thank you very much, Mr. Chair.

I think it's quite clear that if we want narrow scope in terms of the commission's refusing, we should adopt NDP-34. If we want a slightly larger scope, as Madame Michaud indicated, we can look to adopt BQ-13, but we actually need to get to a vote.

I am a little perplexed by the filibuster around NDP-34, Mr. Chair, because we had a one-month filibuster, you'll recall, where finally the NDP motion was essentially adopted around the Bernardo transfer and the transfer of offenders.

Now, one party around this table is filibustering Bill C-20. Now they're filibustering NDP-34 and, in doing so, they're stalling the study that they filibustered on for a month. It doesn't make sense. They're filibustering themselves. The Conservatives are now filibustering what they finally agreed to: the NDP motion a few weeks ago. Now they're filibustering the bill and filibustering the study that they said was important to get to.

I'm very perplexed about the filibuster around NDP-34. It doesn't make sense at all.

I've said this many times, Mr. Chair: There are two block parties in the House of Commons. There's the Bloc Québécois and there's the block everything, and the Conservative Party seems to be blocking everything, including Bill C-20, NDP-34 and good legislation that will make a difference in putting in place a public complaints commission, which is something so many people in this country are calling for.

The delay around this, the filibuster around it and filibustering the study around the transfer of offenders within the correctional services make no sense at all, from any standpoint, and I'm just very perplexed about the member for Carleton and his approach to the House of Commons in trying to block everything at all times.

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

We're back to Mr. Genuis, who will be followed by Ms. O'Connell.

**Mr. Garnett Genuis:** Thank you, Chair.

I have some questions, but since it's on the table, maybe I'll respond to some of the comments made by Mr. Julian.

Of course, we have two parties currently in the opposition and two parties currently in the government—

• (1325)

**The Chair:** We have a point of order.

**Mr. Peter Julian:** That is actually completely false, and Mr. Genuis knows that. There are three opposition parties and just one government.

**The Chair:** The point is taken and well made. Thank you.

**Some hon. members:** Oh, oh!

**Mr. Garnett Genuis:** Chair, I've always esteemed your neutrality in these proceedings.

To Mr. Julian's point, I do not think it's factually inaccurate at all, and whether it is or not is not a matter of order. The NDP have made a choice when it comes to providing a relative blank cheque on confidence to the government, and they can't very well take advantage of that and train all of their fire at their so-called fellow opposition party—

**Mr. Peter Julian:** On a point of order, Mr. Chair—

**Mr. Garnett Genuis:** I suspect it's not a point of order, but go ahead.

**Mr. Peter Julian:** —as you know, you enforce rules around relevance and repetition, and there is no relevance right now to what Mr. Genuis is actually saying. We're discussing NDP-34 as part of Bill C-20. I would ask you to enforce that rule of relevance with Mr. Genuis.

**The Chair:** I have Mr. Lake on the same point of order.

**Hon. Mike Lake (Edmonton—Wetaskiwin, CPC):** On that point, if we're being consistent, the honourable member just had a slot to debate the NDP amendment that he's talking about. He's in the NDP and he didn't use one word of his time slot to actually talk about the amendment. If we're on the issue of relevance, I welcome the conversation.

**The Chair:** Thank you.

Given that Mr. Julian had spoken in regard to other matters, I was giving Mr. Genuis a little leeway.

However, I would certainly appreciate it if Mr. Genuis could get back to the matter at hand, which is NDP-34.

**Mr. Garnett Genuis:** Thank you, Mr. Chair. I will return to that after I have ever so briefly dispensed with the arguments of Mr. Julian.

He cast some aspersions around the work Conservatives had done previously at this committee in insisting on three meetings to hear from the minister—

**The Chair:** Mr. Genuis—

**Mr. Garnett Genuis:** —as well as family members involved in the issue of the Bernardo transfer—

**The Chair:** Mr. Genuis, come to order, please. We're not discussing the debate around the Bernardo study. The matter has been discussed—

**Mr. Garnett Genuis:** I'm just responding to Mr. Julian.

**The Chair:** Please get back to the matter at hand, which is NDP-34. You had an opportunity to respond to Mr. Julian already. Let us carry on with NDP-34.

**Mr. Garnett Genuis:** Mr. Chair, on a point of order, there are not time limits associated with this part of the proceedings. If a chair, in violation of the rules, imposes time limits, then the new Standing Orders provide for a member to be able to raise a point of order and bring that matter to the attention of the chair in the House.

**The Chair:** Mr. Genuis—

**Mr. Garnett Genuis:** All subsequent proceedings are disallowed.

**The Chair:** Order, Mr. Genuis.

**Mr. Garnett Genuis:** You should be aware of the rules.

**The Chair:** Mr. Genuis, come to order.

**Mr. Peter Julian:** I have a point of order, Mr. Chair.

**The Chair:** In your turn.

I have not established a time limit. I'm just asking you to get to the matter at hand. It is appropriate to stick to the matter at hand. If we can try to not bring in extraneous matters, we can get forward on this.

I have Mr. Julian, on a point of order.

**Mr. Peter Julian:** I actually agree with you, Mr. Chair. The issues of relevance and repetition are the two key elements here. Mr. Genuis is not being relevant to NDP-34 and Bill C-20.

**Mr. Garnett Genuis:** On the same point of order, Chair, it is really unfathomable to me how Mr. Julian could make—

**The Chair:** I didn't recognize you on a point of order.

**Mr. Garnett Genuis:** Oh, I profusely apologize.

Mr. Chair, I have a point of order that I'd like to raise.

**The Chair:** I have Mr. Genuis, on the same point of order.

**Mr. Garnett Genuis:** Thank you for graciously recognizing me.

Mr. Chair, Mr. Julian was able to make an extended intervention that was not on the topic of his amendment. I am trying to provide a perfunctory response to Mr. Julian. Mr. Julian is now raising points of order—

**The Chair:** Mr. Genuis, order.

**Mr. Garnett Genuis:** —to say that I am not being relevant for responding to him.

**The Chair:** Order, Mr. Genuis.

**Mr. Garnett Genuis:** Now you are interrupting me again.

**The Chair:** Mr. Genuis, come to order. You had a chance to respond to Mr. Julian. Let us get back to NDP-34, if you will, so that—

**Mr. Garnett Genuis:** Was that in a narrowly prescribed time limit that is nowhere in the rules, Chair?

**The Chair:** Once again, I have not prescribed time limits.

Go ahead, but you need to stay on topic, which is NDP-34.

**Mr. Garnett Genuis:** Mr. Chair, I am responding to the suggestion, but with respect to NDP-34, an accusation was levelled by Mr. Julian that there was some kind of filibuster going on with NDP-34. On the subject of NDP-34, I think it's important to respond to that allegation about the questions we are asking.

The process, as it happened, was that Conservative members who are regular members of this committee—I am not a regular member of this committee—were asked about their availability in a particular time slot outside the normal time slot.

● (1330)

**Mr. Peter Julian:** On a point of order—

**The Chair:** Mr. Genuis, you're out of order.

**Mr. Garnett Genuis:** No, I'm not.

**The Chair:** The matter of the scheduling of this meeting—

**Mr. Garnett Genuis:** I'm not out of order, Chair.

**The Chair:** —is not a matter for discussion today. That was a matter discussed by the majority of the committee off-line, but it was a decision of the majority of the committee. It was a majority decision. That matter has been addressed. We have scheduled this time. It's not a subject of discussion at this time.

Please return to the matter of NDP-34.

**Mr. Garnett Genuis:** I'm not out of order, Chair.

**The Chair:** I have Mr. Lake, on a point of order.

**Hon. Mike Lake:** I'm also subbing in on the committee. You just said that the decision was made in an off-line meeting of some members of the committee. Were all members of the committee part of that off-line, unofficial—

**The Chair:** It was not an off-line meeting. The decision was—

**Hon. Mike Lake:** You just said there was an off-line meeting.

**The Chair:** No, I didn't.

**Hon. Mike Lake:** It was an off-line discussion.

**The Chair:** I have Ms. O'Connell, on a point of order.

**Ms. Jennifer O'Connell:** Thanks, Mr. Chair.

First of all, the lack of respect being shown to you in this matter when you're speaking—being interrupted with, “Yes, it is,” and, “No, it's not”—is frankly embarrassing, coming from those who are supposed to be experienced members. I would suggest that they stop embarrassing themselves.

On the point of order, in terms of the questions about why we are here right now and what is occurring, I find it incredibly interesting that one hour of extra work on a study has caused such fragile egos to be so upset—

**Hon. Mike Lake:** Is this a point of order?

**Ms. Jennifer O'Connell:** —that the good old boys have to come here and disrupt important legislation. I hope they will get back to—

**Mr. Arnold Viersen (Peace River—Westlock, CPC):** What is the relevance...?

**Ms. Jennifer O'Connell:** Continuing to interrupt me while I have the floor just proves my point about the behaviour and lack of respect. That is a point of order.

**Mr. Garnett Genuis:** I have a point of order.

**Ms. Jennifer O'Connell:** Mr. Chair, I would ask that the decorum of these meetings be upheld and that if members opposite cannot control their emotions—

**Mr. Garnett Genuis:** I have a point of order.

**Ms. Jennifer O'Connell:** —the chair rule them out of order and cut off their mike.

**Mr. Garnett Genuis:** On that point of order—

**The Chair:** Excuse me. Thank you.

I believe this was on topic, because we are having a problem with decorum here and having a productive meeting.

While Ms. O'Connell was speaking, there were a couple of points of order. I lost track.

I think, Mr. Lake, you were first.

**Hon. Mike Lake:** Given that you allowed Ms. O'Connell's point of order... On that topic, we're sitting here today. From our understanding, a meeting was called a business day ago. Our members clearly couldn't make that meeting, because they had other obligations, so we have four members sitting here, who are not familiar with the legislation, trying to do the best we can to understand by asking questions.

**The Chair:** Okay. As said, that has been dealt with.

**Hon. Mike Lake:** We're continuing to deal with it, though, and Ms. O'Connell was—

**The Chair:** It's the chair's prerogative to schedule meetings and to set the agenda. I did so on consultation with all the parties around the table. It was agreed—except by Mr. Shipley—that we should proceed with an extra hour today. In was well in keeping with my prerogative as chair to do so, and I did consult with all parties. A majority, basically, determined that it was okay to do this.

That matter is done, though. We can't unschedule this meeting, so if you want to carry on wasting time, I can't stop you—

**Hon. Mike Lake:** I have a point of order, Mr. Chair.

**The Chair:** Don't interrupt the chair.

You may continue with your point of order, if you wish, but I just want to advise that this matter—the matter of having scheduled this meeting or not—is done. It's a *fait accompli*.

**Hon. Mike Lake:** The point of order, Mr. Chair, respectfully, is that you just accused us of wasting time with what we're doing here.

I was on House duty today. We needed a slot filled today. I volunteered to come over and fill the slot. I don't know the legislation that's being discussed today.

Because a meeting was scheduled where no sitting member of this committee on the Conservative side could be here, the legislation would just flow through without any of the issues that our experts on this committee might want to raise. We're not wasting time. We're trying to step in, because a decision was made, without our agreement, to hold this meeting, and we're here, filling in, doing the best we can to ask questions to understand what's happening with the legislation. It's not a waste of time. It's us doing our job.

• (1335)

**The Chair:** We do not need unanimous agreement to do these things.

**Hon. Mike Lake:** That's fine.

**The Chair:** If you wish to ask questions about NDP-34, by all means, do so. If you want to talk about all kinds of extraneous issues, I'm asking that you not do that. Stick to NDP-34, please.

**Hon. Mike Lake:** Okay.

**The Chair:** I believe Mr. Genuis had the floor.

**Mr. Garnett Genuis:** I have a point of order before I resume my comments, Chair, and that is just that I would encourage the chair to be fair and to act in a way that at least aspires towards some degree of impartiality, because when Ms. O'Connell is permitted to speak at great length on a matter that's—

**Mr. Peter Julian:** I have a point of order.

**The Chair:** We have Mr. Julian on a point of order.

**Mr. Garnett Genuis:** I'm sorry, but I am on a point of order already, so it's not automatic that you end my point of order in the middle—

**The Chair:** I did not recognize you on a point of order.

Mr. Julian, go ahead.

**Mr. Garnett Genuis:** Okay. I'd like to be recognized on a point of order, though.

**Mr. Peter Julian:** Thank you.

Mr. Chair, what Mr. Genuis is doing is highly inappropriate. He's not being relevant, and he's attacking the chair. I think that does a profound disservice to parliamentary democracy.

You certainly have, I think, the support of the vast majority of members of the committee to bring him to order.

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

Carry on. You have the floor, Mr. Genuis.

**Mr. Garnett Genuis:** May I raise a point of order, Chair?

**The Chair:** We have Mr. Genuis on a point of order.

**Mr. Garnett Genuis:** Thank you, Chair.



Ms. O'Connell was permitted to speak at great length on matters that were clearly not matters of order. You've allowed other members to address things that are unrelated to the amendment on the table, but then when I and other Conservative members seek to respond simply in line with matters that were just raised, you immediately cut that off or call that a lack of decorum or something.

I've dealt with lots of chairs who are elected Liberal members of Parliament. I have encouraged them—as I'll encourage you—to aspire to impartiality in the context of their role in the committee, and to seek to enforce the rules.

That's my point of order. I'm happy to return now to my substantive remarks, and that was simply to say that I do have some specific questions that I want to bring to our witnesses with respect to the amendment. I do want to say that Conservative insistence on having three meetings to address the issue of the Bernardo transfer was very reasonable and very well supported, and I'm glad we achieved that result.

**The Chair:** Mr. Genuis.

**Mr. Garnett Genuis:** With respect to Bill C-34—

**The Chair:** Mr. Genuis, come to order.

The Bernardo meetings—the number of meetings we had to discuss that—are not on the table right now. We're discussing NDP-34. Please stick to that.

**Mr. Garnett Genuis:** Chair, as I said, I was seeking to respond in a perfunctory way to comments that were made by Mr. Julian. I think that was reasonable.

**The Chair:** Mr. Genuis, you had a chance to respond to those remarks by Mr. Julian.

Please carry on with NDP-34.

**Mr. Garnett Genuis:** Mr. Chair, I don't understand the basis on which you're saying I had that chance when I did not and was constantly interrupted.

**The Chair:** Mr. Schiefke, go ahead on a point of order.

**Mr. Peter Schiefke (Vaudreuil—Soulanges, Lib.):** Thank you, Mr. Chair.

It doesn't look like we're going to be getting back to the business of the bill that we're supposed to be addressing today. We have 22 minutes left before we all have to depart for question period.

I would ask that the guests we have appearing before us—the witnesses—be let go, because 20 minutes spent here is 20 minutes they are not serving Canadians. I would simply ask that they be let go so they can pursue all of their important work.

Thank you, Mr. Chair.

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

Is it the will of the committee to invite the witnesses to—

**Mr. Garnett Genuis:** Can I raise a point of order on that, Chair?

**The Chair:** We're going to decide this matter.

**Mr. Garnett Genuis:** Then no, there isn't agreement.

**The Chair:** Is it the will of the committee—

• (1340)

**Hon. Mike Lake:** I have a point of order.

There's an important point to make here. If we release the witnesses, there's no point in our having the meeting, so we might as well adjourn the meeting. The meeting is to hear from the witnesses. What is the rest of the meeting if we—

**Mr. Garnett Genuis:** I'm game to adjourn the meeting. There's no point in dismissing the witnesses and not adjourning the meeting if we're continuing to discuss the clause—

**The Chair:** It really depends on what you want to discuss.

Ms. Michaud, go ahead on a point of order.

[*Translation*]

**Ms. Kristina Michaud:** Thank you, Mr. Chair.

If my Conservative colleagues want the officials to stay, perhaps they could ask them questions on NDP-34 instead of raising points of order.

[*English*]

**The Chair:** It boils down to the will of the committee.

Do we want to carry on and ask questions of the witnesses?

**Some hon. members:** Yes.

**The Chair:** Mr. Genuis, you have the floor on NDP-34.

**Mr. Garnett Genuis:** Thank you, Chair.

I keep being about to pose questions to the witnesses, but trying to briefly deal with other matters first and then getting interrupted in my attempt to briefly deal with those other matters.

On this legislation, Bill C-20, we have four regular members of the committee who, I think, made clear to the chair that they were not available for the additional time proposed outside of the time slot. Hence, we are here asking questions.

**The Chair:** Leave it alone.

**Mr. Garnett Genuis:** Mr. Chair, I don't understand at all your approach to chairing this meeting.

**The Chair:** Stick to the topic at hand. That is the requirement.

**Mr. Garnett Genuis:** Chair, it is the topic at hand. I'm talking about the bill. You don't like what I'm saying, but it's still the topic at hand.

**The Chair:** The topic at hand is NDP-34. Do you want to ask questions of the witnesses or not?

**Mr. Garnett Genuis:** Could I ask—

**Mr. Peter Julian:** Read the green book.

**Mr. Garnett Genuis:** I read it to my kids every night, Mr. Julian.

**Some hon members:** Oh, oh!

**Mr. Garnett Genuis:** Respectfully, there is nothing I enjoy more than discussing the rules of the House of Commons. I'd invite chairs, and this particular chair, to avail themselves of that opportunity.

To the witnesses, I wonder if you could clarify this. The context of NDP-34 envisions other entities potentially looking at complaints that may emerge.

I wonder if you have a list or could suggest a list of all the various entities that might be conducting an investigation that would lead the commission to decide that it either must or may, depending on this amendment's being adopted, refuse to deal with the complaints.

I heard mention of the human rights commission and official languages. I want to make sure I have a clear sense of what the various other bodies are that could be conducting investigations.

**Mr. Randall Koops:** We don't have a list. The amendment doesn't appear to include one. We can suggest that, in that case, it may be very open.

**Mr. Garnett Genuis:** What other types of bodies...? I presume federal government bodies, at least, would be your interpretation of this wording, or could this include other bodies that can conduct investigations and are not under...?

You could imagine a situation in which some international body was conducting investigations on similar matters, or a provincial one...if there was some ambiguity around....

Again, this is the base of the question, that it's very open. What range of bodies or other types of bodies do you imagine that this would be referring to?

**Ms. Joanne Gibb:** It could also refer to the serious incident bodies in the provinces that investigate potential criminality against police officers. We have a chair-initiated complaint currently that we're putting on hold because it is under investigation by a provincial body.

We wouldn't necessarily refuse the complaint, though. We might hold it in abeyance, as opposed to the, as written, "must refuse" and, as amended, "may refuse".

**Mr. Garnett Genuis:** Okay. Do you think "may refuse" provides you with the flexibility around holding it in abeyance, for example, or is there language that would be needed to clarify the option to neither refuse nor investigate, but to park, let's say, for later?

• (1345)

**Ms. Joanne Gibb:** There are other provisions for suspension.

**Mr. Garnett Genuis:** All right.

If the "must" changes to "may", it would provide the body with the flexibility to make the suspension.

**Ms. Joanne Gibb:** It's not necessarily the suspension, but to accept or to not accept the complaint.

**Mr. Garnett Genuis:** I see. I just want to understand how those other aspects that you referred to in relation to suspension would potentially interact with the provision here.

If a complaint were brought forward that you thought might be being dealt with elsewhere, maybe pending further consideration, do the other provisions provide the flexibility to have a suspension in the meantime, or is it unclear on that?

**Ms. Joanne Gibb:** I'm sorry—we were just discussing some potential scenarios.

The question I was asking my colleague was this. Say the Canadian Human Rights Commission were investigating something, or we thought it was more appropriate for them to investigate, this amendment—the first part, the "may"—would allow us the discretion to decide whether it would be better placed with another act of Parliament.

The second part of the NDP amendment is somewhat different from the way it's written here.

With an ongoing investigation, for example, it may be that suspension would be the better thing to do than either being required to refuse or having the discretion to refuse.

**Mr. Garnett Genuis:** I see.

I have some questions about that, but specifically what I was asking was whether, if this passes, you have the discretion to suspend without refusing to deal with or deciding to deal with. Do you have the flexibility to suspend consideration, let's say, pending the continuation of that other process?

**Ms. Joanne Gibb:** The suspension provision still exists, yes.

**Mr. Garnett Genuis:** Right, and it would apply in this kind of scenario.

I'm sorry; I want to come back to the issue of other bodies, but this just reminds me, what is your interpretation of the difference between—now that I've sort of zeroed in on it—not the "must" versus "may" but the "seriously compromise an ongoing investigation" by any other person or entity versus "could have been adequately dealt with, or could more appropriately be dealt with, according to a procedure provided for under any Act of Parliament"?

It seems to me that in one sense, the NDP amendment does provide for less discretion insofar as the only case in which they may refuse to deal with it is if there is a concern about a serious compromise to another investigation, so there might be a case in which it's determined that it wouldn't seriously compromise another investigation but it would still be more appropriately dealt with at another body. The implication of the new language is that effectively the commission doesn't have the flexibility to refuse in that case; they have the flexibility to refuse only if there's a basis for believing that there would be a serious compromise to an ongoing investigation.

Is my understanding accurate, or am I missing something?

**Ms. Joanne Gibb:** Yes, I would be concerned about “seriously compromise” and what that means, but also about what “ongoing investigation” means. Another body is already taking carriage of it and is investigating it, as opposed to the way I read this clause now, which is that the commission would believe it could be dealt with better by another body.

The other body wouldn't be seized with it yet, necessarily, the way it's written in the bill, but with the amendment, it would have to be seized with it and have an ongoing investigation.

**Mr. Garnett Genuis:** It's very interesting, actually, to draw our attention to the word “ongoing”. Suppose you have a situation in which an issue has been brought to a human rights commission, the human rights commission has made a decision on it and then another complaint is brought to the commission. Because the decision was made by the human rights commission, it would not be an ongoing investigation. It would be a complete investigation and, as such, the revised language would not give the commission the power to refuse to deal with it.

Is that correct?

• (1350)

**Ms. Joanne Gibb:** Yes.

**Mr. Garnett Genuis:** Okay. It could be the case, then, in advance of or after an investigation is done at the other body....

I would be curious to know Mr. Julian's response to this, because it seems the presentation of this was framed as providing a greater degree of flexibility. It seems to provide, in that particular sense, less flexibility.

Regarding the reference to “seriously compromise”, is that sort of descriptor defined somewhere in the legislation or in the Criminal Code, or is it subject to interpretation? What constitutes a serious compromise or a compromise that's not so serious?

**Ms. Lesley McCoy:** No. It's not defined in the bill.

**Mr. Garnett Genuis:** Would it be defined elsewhere in the Criminal Code? Would there be a standing basis on which that would be interpreted, or is that left to some...?

Based on your expertise, how would you understand that to be interpreted in practice?

**Ms. Lesley McCoy:** Yes. It's left open for interpretation. In this case, it would be the commission that would determine, possibly based on previous case law...as a determination based on the civil law.

**Mr. Garnett Genuis:** The combination of “may” and a serious compromise imagines a situation in which the commissioner could view the proceeding of a complaint before the commission as seriously compromising an ongoing investigation elsewhere yet still have the flexibility to choose to deal with that complaint.

Is that right, that the flexibility in “may” implies that...? Actually, I think this is designed to ensure that a much greater volume of complaints must be considered and, in some cases, can be considered. I think I'm answering my own question, but is that correct?

**Ms. Joanne Gibb:** I can't speak to the intent, but it may be the result, yes.

**Mr. Garnett Genuis:** Okay.

**The Chair:** Mr. Genuis?

**Mr. Garnett Genuis:** On the issue of...

Yes?

**The Chair:** Given that it's eight minutes to the hour, and members have to get to question period, I'm wondering if it's the will of the committee to adjourn at this time.

**Hon. Mike Lake:** No, Mr. Chair, because I have something I want to say.

**The Chair:** Very well.

Carry on, Mr. Genuis.

**Mr. Garnett Genuis:** Okay. I'll cede the floor, but add me to the list so that I can follow up, because I want to let Mr. Lake have a chance.

**The Chair:** Go ahead, Ms. O'Connell.

**Ms. Jennifer O'Connell:** Thank you, Mr. Chair.

I find what's taking place very disappointing, with over an hour of extra work that the Conservatives had to put in. As parliamentarians, we're all expected to stay up to date on legislation. If there is an inability to do so.... When a person comes to a committee, if they don't come prepared, they don't get to hold up the work of everybody else. I think—

**Mr. Damien Kurek:** I have a point of order.

**Ms. Jennifer O'Connell:** —that, since there was reference to children, we wouldn't expect children to behave and to come to—

**The Chair:** I'm sorry.

Mr. Kurek, do you have a point of order?

**Mr. Damien Kurek:** I'm just wondering about relevancy, Mr. Chair.

**The Chair:** Thank you.

I would urge Ms. O'Connell to stay relevant to what we're doing here.

**Ms. Jennifer O'Connell:** That's perfect. I will. Thank you.

I'm talking about coming prepared to deal with these motions, since there were lots of questions about what page number we're on, and things like that. We would even encourage children to come prepared to do their work, and if they don't, it doesn't become everybody else's problem because they chose not to do their work.

When it comes to NDP-34 versus BQ-13, we support the intention behind this, but we just happen to prefer BQ-13. However, we're working collaboratively.

On that note, Mr. Chair, I'm going to move a motion to adjourn.

• (1355)

**The Chair:** There's a motion to adjourn on the floor.

(Motion agreed to)

**The Chair:** It's done.

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