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Chair: Mr. Ron McKinnon



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• (0850)

[English]

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

Welcome to meeting number 69 of the House of Commons Standing Committee on Public Safety and National Security. We will start by acknowledging that we are meeting on the traditional unceded territory of the Algonquin people.

Today's meeting is taking place in a hybrid format pursuant to the House order of June 23, 2022. Members are attending in person in the room, and remotely using the Zoom application.

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

We have today two panels of witnesses. In the first hour, in person, from the National Police Federation, we have Brian Sauvé, president; by video conference, as an individual, we have Heather Campbell, Calgary police commissioner; and from the Customs and Immigration Union, we have Mark Weber, national president.

You will each have up to five minutes for opening remarks, after which we will proceed with rounds of questions.

Welcome to all of you.

I invite Mr. Sauvé to make an opening statement, please.

Mr. Brian Sauvé (President, National Police Federation): Good morning, Mr. Chair, and thank you for having us.

My name is Brian Sauvé. I'm the president of the National Police Federation, the certified bargaining agent for members of the RCMP.

Civilian oversight of law enforcement is essential for ensuring public trust and confidence. With nearly 20,000 members of the RCMP handling over three million documents and interactions each year, complaints can be expected. An independent, timely and transparent complaints process is essential.

To that end, the NPF believes that Bill C-20 presents the government with an opportunity to improve oversight and complaints processes across the RCMP and the CBSA. Bill C-20 offers an opportunity to address the issue of the police investigating the police and to make the PCRC a fully independent public complaints body. Amending this bill would meet the government's numerous and

consistent mandate commitments and address the public interest in increased civilian oversight and transparency of law enforcement.

To that end, the NPF is making the following three recommendations.

First, the PCRC should end the practice of the police investigating the police. Under the current CRCC model, members of the RCMP are tasked with investigating most of the public complaints filed. It has been noted many times that our members handle these investigations of their colleagues in a professional and impartial manner. However, this does create a perception of bias and possible conflict of interest.

Independent civilian oversight of law enforcement is a critical component of bolstering public and member trust, which the NPF supports. The current system is not fully independent and does not serve to reinforce the government's intent to build public trust in oversight of law enforcement. While there are many advantages to having the police investigating the police, many provincial public complaints bodies have utilized a hybrid investigative model. This model includes the involvement of civilian investigators in the investigative process, with some reliance on experienced police investigators, either retired or serving.

Second, the PCRC should be appropriately resourced to conduct its own investigations, having the authority to make independent decisions and recommendations that are not politically motivated. Currently, the CRCC receives an average of 3,500 public complaints per year. However, most are not investigated, as they are deemed frivolous, vexatious or out of time. Estimating an average of 1,500 files per year that require a 40-hour investigation each, we're talking about approximately 60,000 work hours taken from communities in which our members could be engaging in core policing duties. That equates to about 30 full-time RCMP officers. Unfortunately, there is no cost-recovery mechanism for those communities to regain those hours.

Bill C-20 should be amended to allow the PCRC to conduct its own investigations, using and hiring its own investigators, and stop the downloading onto other resources. Failing this, if members of the RCMP are to continue to conduct investigations, there must be a cost-recovery mechanism established to compensate for the countless hours and overtime that our members are spending on public complaints investigations that take them away from their core policing duties. This is particularly harmful in smaller detachment areas, where all resources are vital to daily operations.

Third, the PCRC, with the addition of the CBSA, needs an increase in funding and staff. The CBSA will create an influx of new complaints, and more resources will be needed to keep pace. The estimated increase in public complaints further emphasizes the need for the PCRC to be established as a truly independent body that is effectively resourced to complete investigations through the hiring of its own investigators, similar to provincial public complaint bodies.

To be effective, the government must enact changes to Bill C-20 to address concerns about transparent, fair and timely investigations while also ensuring that the public interest is being met. These changes must strengthen the ability of the PCRC to be fully independent to conduct evidence-based investigations away from any political agenda of the day, while ensuring it is fully resourced to act and conduct its own investigations.

Thank you. I am subject to any questions.

• (0855)

The Chair: Thank you, sir.

We'll go now to Ms. Campbell.

I understand that your Internet connection is somewhat unstable. If you need to slow down for that, we will try to make adjustments as well.

Please go ahead for five minutes.

Ms. Heather Campbell (Calgary Police Commissioner, As an Individual): Thank you very much. Good morning.

I appreciate the invitation to appear as a witness at the House of Commons Standing Committee on Public Safety and National Security. Although I am a commissioner with the Calgary Police Commission, my testimony today is provided as an individual. My comments are exclusively my own and not those of the Calgary Police Commission.

My name is Heather Campbell, and in my work and in my life, I come to you from Calgary, or Mohkinstsis, where I live as a guest on the traditional indigenous lands of Treaty 7 and the Métis Nation of Alberta, Region 3.

I will prioritize countering racism, systemic racism and systemic bias in policing in this presentation. I will address data collection, data management and data sharing in policing, particularly the need for demographically segmented data in complaints, and in all areas of policing, in the question and answer period, time permitting.

Policing in North America, from its creation, has been deeply rooted in racism. When it comes to police reform, it isn't bad apples, and it isn't a bad barrel. It is literally the soil. Success in police

reform will come only when, bravely and transparently, the culture and environment—the soil—is modified such that it poisons the landscape in which racism and systemic racism flourish in policing.

A detailed plan is required for the transformation of the culture of a police service that has systemic racism within its walls and its ranks. Cultural transformation is not an overnight action. It took two and a half years for the existence of systemic racism in policing to be accepted and understood by a majority of the police service in Calgary. There are still those who rail against it, and I often personally receive backlash when I identify or note a relapse in the progress made towards anti-racist behaviours.

One of the most challenging things in my life was reading the 1,109-page report called "Missing and Missed". The report, prepared for the Toronto Police Services Board, was largely prompted by concerns that the McArthur-related investigations in Toronto and Peel Region were damaged by systemic bias.

Many community members felt that the Toronto police "remained uninterested in the disappearances of McArthur's victims until Mr. Andrew Kinsman, who was not a person of colour, was reported missing." The review of these cases takes into account the presence and the impact of systemic bias, discrimination and differential treatment by Toronto police and in the investigation of missing persons. The Honourable Justice Gloria Epstein, in her executive summary, wrote, "The disappearances of McArthur's murder victims were often given less attention or priority than the cases deserved."

I will be far more direct and plain-spoken than Justice Epstein. They were brown, and they were Black. They were gay, and they were trans. When they went missing and were eventually murdered, the police didn't look that hard for them.

Accordingly, there should be dedicated resources and resource planning to provide critical attention to missing persons investigations, particularly for cases involving missing and murdered indigenous women, girls and two-spirit persons.

A substantial finding in the mass casualty report from Nova Scotia was:

The perpetrator's pattern of violent and intimidating behaviour was facilitated by the power and privilege he experienced as a white man with professional status and substantial means.

Systemic bias in policing favoured a privileged perpetrator, despite a wealth of red flags that had been reported to the police by members of marginalized communities.

A cisgender, white, male, middle-aged, privileged dentist murdered 22 people, and police missed the signs, partially because of systemic bias. The transformation and cultural change to nullify the training and thinking that contributed to that error is the incredible challenge ahead of a civilian oversight body.

Consideration must be given to the investigative skills and tools of the complaints investigations and professional standards teams. Do the investigators have the skills to investigate a case in which the only complaint is racism? Have the investigators rid themselves of historic systemic biases and of inherent discrimination to evaluate evidence of racism and white supremacy in a case or a complaint? Training and skills improvement may be required, and investigators need to be open and receptive to the training and new skills that are focused on reduction of bias.

- (0900)

Establish the complaints and review commission so that it has an opportunity for success. Complaints and management of complaints are invariably about justice. Justice is more than policing, and if that principle is forgotten in this legislative exercise, there will be a continuation of the rallying cry from Canadian streets: “No justice, no peace.”

Thank you.

The Chair: Thank you.

We go now to Mr. Weber.

Go ahead, please. You have five minutes, sir.

Mr. Mark Weber (National President, Customs and Immigration Union): Thank you, Mr. Chair.

Mr. Chair and members of the committee, thank you for the opportunity to appear before you here today. As the national president of the Customs and Immigration Union, which represents Canada's frontline border officers and other personnel working for the Canada Border Services Agency, it is always a pleasure to assist this committee.

Regarding the proposed legislation, we have a number of concerns that I'd like to highlight, acknowledging that the type of civilian oversight the bill aims to create is something that already exists for most law enforcement bodies, and that we agree it is paramount for our government and its agencies to develop the tools and resources necessary to address issues linked to overreach, systemic discrimination and abuse of authority.

That said, the bill seems to be missing the mark when it comes to addressing systemic issues already present within the agency, which is infamous among its employees for letting gross abuse by management run unchecked. To be candid, I have lost count of the number of times CBSA management has, in one way or another, done everything in its power to minimize, delay or brush aside complaints from employees regarding highly problematic behaviour from managers, choosing rather to use the robust discipline process already in place to punish employees through unfair and heavy-handed disciplinary actions.

I see nothing in this bill that would help curb this, and I'm concerned that the proposed commission would mostly serve as an ad-

ditional punitive tool to be used toward our public-facing members without really addressing entrenched cultural issues within the CBSA and its management structure. What we're talking about here is an agency that year after year refuses to hire an appropriate number of frontline officers, preferring to invest in automated technology, which, when it fails—and it does fail—only exacerbates existing issues: an automated technology that makes Canada less safe.

It is an agency that claims to be committed to addressing systemic racism but arbitrarily cancels anti-racism and anti-discrimination training developed in large part by its own racialized employees. It is an agency that does everything it can to set itself up for human rights complaints by staffing immigration holding facilities with poorly trained, contracted-out security guards.

All of these aspects play an underlying role in any complaint made to the commission, and they must be addressed.

We also have real concerns with the absence of clear language around an employee's right to procedural fairness and natural justice and to representation during administrative investigations, and around the time limits for investigations as well. In our experience, investigations within CBSA are already lengthy—more often than not, unnecessarily so. Bill C-20 does not address this. In fact, under this new legislation, it's likely that investigations could take years to be completed, which is fair neither for the complainant nor for the party under investigation.

I should point out that this bill is being discussed while more than 8,000 officers and other law enforcement personnel we represent at the CBSA are currently in bargaining with the agency and with Treasury Board. It is concerning that the Government of Canada would seek to pass legislation that could potentially change the nature of employment for our members, which would effectively bypass the bargaining process. At the very least, the union should be afforded the opportunity to address the proposed legislation and its ramifications at the bargaining table. Ultimately, the legislation should also include clear language guaranteeing that collective agreement rights are maintained, especially when it comes to investigations and representations.

I would like to end by pointing out that for many of our members, this latest piece of legislation is likely to be seen as yet another example of the agency and the government treating its border officers as proper law enforcement and public safety personnel only when it suits them.

The role of border officer has changed tremendously over the past 25 years, and our law enforcement members are an integral part of this country's public safety framework. The proposed legislation of this new civilian oversight body implies that the federal government agrees, yet our members are not recognized as public safety personnel under major public service legislation, such as the Public Service Superannuation Act and the Income Tax Act and their associated regulations. The government cannot pick and choose. For Bill C-20 to be coherent, it must be accompanied by language confirming the status of border officers as public safety personnel across federal legislation. Changes to these two acts must happen as well.

I thank you, and I look forward to your questions.

• (0905)

The Chair: Thank you, sir.

We'll start our questions with Ms. Dancho.

Ms. Dancho, please go ahead for six minutes.

Ms. Raquel Dancho (Kildonan—St. Paul, CPC): Thank you, Mr. Chair, and thank you to all of the witnesses for your testimony and for being with us today.

My first question is for Mr. Sauv  .

Again, for those who aren't familiar, you represent the frontline RCMP officers across the country and others in the RCMP. Is that correct?

Mr. Brian Sauv  : Yes. They're below the rank of inspector.

Ms. Raquel Dancho: Thank you very much.

I want to build on some of the remarks you made regarding the independent model your organization is looking for, to further support—from my interpretation of what you said—RCMP officers.

In discussions that we've had, and certainly upon reviewing the policy paper you put forward on this bill, it would seem that there are provincial models like SiRT in Nova Scotia and ASIRT in Alberta. I believe that every province has a similar independent body, which is triggered when officers use lethal force or in other serious circumstances.

My understanding is that those are completely independent bodies. We don't have officers investigating each other. They're fully independently funded, and independent individuals come in to investigate those serious situations.

Is that a correct assessment of the provincial investigation model?

Mr. Brian Sauv  : Sort of. For example, SiRT in Nova Scotia and ASIRT in Alberta do the hybrid model. They will second serving police officers to work for a time period alongside civilians. The IIO in B.C. is a fully independent civilian body with no police officers in it.

Ms. Raquel Dancho: Okay, so some of the provincial models utilize some resources of frontline officers, but for the most part they're independently funded. It's not taking budgets from the police resource.

Is that correct?

Mr. Brian Sauv  : Yes, they're provincially funded.

Ms. Raquel Dancho: I understand.

In your remarks, you argued in favour of more of that independent model that you see provincially, whether it's hybrid or completely independent, depending on the province. If you were to design Bill C-20, then, that's what you would be looking for, a new oversight body to remove that "officer investigating an officer" model.

Is that correct?

Mr. Brian Sauv  : That's 100% correct.

Ms. Raquel Dancho: I have not been a police officer, but I would imagine that particularly in a small detachment, officers investigating each other.... They work quite closely together, and often there's a lot of camaraderie. You mentioned that there could be a perceived conflict. That's a concern.

There's another a concern I find, though, and that's what it does to morale to have officers investigating each other. Would you agree that there's an impact on morale in that regard?

Mr. Brian Sauv  : I'll reiterate that they do it very well, and it's been well documented that they do it extremely well. However, yes, there is an impact on morale, and obviously it's an added burden to what they're already doing.

Ms. Raquel Dancho: Thank you very much. I appreciate that.

Certainly it's something that the committee should be looking at and taking seriously.

Thank you for your testimony.

I'm going to go to Mr. Weber with the CBSA.

I am concerned on a number of fronts, and I would appreciate your remarks.

Over the last eight years, we know that the current government has added only about 25 frontline officers to the CBSA. Is that correct?

Mr. Mark Weber: That's correct, yes.

Ms. Raquel Dancho: That's at a time when your mandate has been growing. Is that correct?

Mr. Mark Weber: That's correct.

Ms. Raquel Dancho: Of course, there is significant public pressure, and I'm sure pressure from government, to crack down on gun smuggling. The current government has announced resources for that, but I was surprised to learn that in fact very few frontline officers have been hired.

I've crossed the border, and certainly folks get upset when border officers have to seize their goods. I'm wondering what impact that has on officers.

There must be a significant number of complaints. How does that work when you're an officer? Do you have to go on leave without pay? How does that work, logistically?

• (0910)

Mr. Mark Weber: At the CBSA, you're absolutely correct, our frontline numbers are not nearly what we need. We estimate that we need between 2,000 and 3,000 additional officers on the front line. In the time you described, we've added about 2,000 middle managers to the CBSA. It seems to be the only section that is growing.

Our officers are exhausted and under incredible stress. We have summer action plans that have mandatory overtime. The amount of leave we can take is limited. Many officers resort to leave without pay just to get some time off.

Of course, when you look at the lineups and volumes we're dealing with and talk about what's being proposed under Bill C-20, with travellers waiting sometimes two to three hours to get to an officer, we are more and more dealing with people who are arriving to us furious. That is the baseline of what we have to deal with, quite often, when travellers finally get to us.

The solutions being proposed by the CBSA are automated kiosks, e-gates and things like that. In terms of public safety, they are scary, in our opinion. They have done nothing to alleviate the backlog. We're desperate to get more people working at the border, on the front line.

Ms. Raquel Dancho: Thank you very much.

In my remaining minute, I think everyone agreed in their opening remarks that oversight is very, very important. We know that certainly the frontline officers in both the RCMP and the CBSA wield considerable authority, so it's important that there be oversight. However, I was concerned to learn in my discussions with you that very often, when these investigations happen, which sometimes are serious and sometimes can be frivolous and vexatious—which, I think, is the word that Mr. Sauvé used in the RCMP context—officers are going up to a year without pay, and in order to get that pay back, if the complaint is unfounded, they have to file a grievance.

Can you just update the committee? Is that an accurate description that I provided there? What should be done about it? It just seems very unfair. If it's unfounded and they miss a year of pay.... I don't know a lot of folks who can go a year without a paycheque.

Mr. Mark Weber: Sadly, that is the process, yes.

The CBSA has the security and professional standards directorate, which investigates more serious cases. If the allegation is deemed to be serious enough, the officer's security clearance will be pulled, meaning that they're not suspended and they're not fired, but they just cannot come into work until the investigation has been completed, which can sometimes take a year or more, meaning they're not getting paid. They're essentially at home on leave without pay until the investigation is done.

When the allegations are not founded and it's found that there was no wrongdoing, we're told to file a grievance to recuperate the lost salary. It's devastating to people. You're right—I really don't know anyone who could go a year with no pay.

Ms. Raquel Dancho: Thank you, both.

The Chair: Thank you, Ms. Dancho.

We'll go now to Mr. Noormohamed.

Go ahead, please. You have six minutes.

Mr. Taleeb Noormohamed (Vancouver Granville, Lib.): Thank you, Mr. Chair, and thank you to all of you for joining us today.

I want to begin by digging into something all three of you have touched on in different ways, and that is the importance of oversight.

I'd like to start, Mr. Weber, with you.

One of the concerns that have been raised repeatedly is that there is very, very limited recourse when it comes to complaints regarding people's experiences with CBSA. We've heard this from racialized communities. We've heard this from the Muslim community quite widely.

Of course we acknowledge all the challenges. I want to be clear. We acknowledge the challenges about needing more people. This is something we need to address. I think we all accept that.

With that baseline in mind, I would like to hear what your understanding is of the nature of these complaints and how you think people can best feel confident that there is recourse for the individuals who have these challenges when they are interacting with certain folks at CBSA.

Mr. Mark Weber: What Bill C-20 is proposing is important, and an oversight body is not something the union is against. The data we're looking at collecting is very important. Our concern is that the data be used to address systemic issues, that it be used to provide officers training, that it be used to make real change and not that we simply use it to identify an officer who acted inappropriately and have him suspended him for five days and then that's the end of it. It takes real change, and we see it. We acknowledge that there are issues. Racism exists everywhere. It's something we need to combat. It's something we need to work on, but to make real change, it has to be holistic.

• (0915)

Mr. Taleeb Noormohamed: Thank you.

Ms. Campbell, I'm going to turn to you. You sit on one of these oversight bodies.

Ms. Heather Campbell: That's correct.

Mr. Taleeb Noormohamed: You've just heard Mr. Weber's comments, which I think are very important. What he talks about in terms of making real change is critical to our getting all of this right. In the time you've spent in Calgary on that oversight body, what have been some of the things you have learned that might be helpful to us to inform how we respond to some of the concerns that have been raised by Mr. Weber? Also, how can communities feel confident that we're getting to a good outcome on this in terms of appropriate oversight, dealing with the real change and addressing the systemic issues that many people feel exist in the RCMP and CBSA?

Ms. Heather Campbell: Thank you very much, Mr. Noormohamed. Maybe I'll switch to our comments around data and data sharing, because those things are fundamental and they are some of the things actually articulated in Bill C-20. A transformation is required. One of the many lessons learned from the mass casualty report is that there needs to be a naming and countering of the operation of misogyny, racism, homophobia and other non-egalitarian attitudes within policing, and that needs to be placed at the heart of the strategies to improve everyday policing. That's what I think Mr. Weber was indicating with respect to real change. To improve everyday policing in an effective way, you need good data; you need demographically segmented data, and you need to be brave enough to actually address the challenges when you have that demographically segmented data.

In Calgary the racial demographics are wonderfully and increasingly diverse. Calgary is approaching 44% people of colour, according to the most recent data. Realistically, in less than three years the term "visible minority" won't make statistical or mathematical sense, but it's still used in data collection and in policing. Frankly, no one wants to be referred to by that fairly terrible, archaic and socially diminishing term.

Training and approaches need to be developed to train police services in the collection of demographically disaggregated data in a credible and consistent fashion. It's police, after all, who actually need to ask people in Canada for that information. Data collection currently occurs using a method called officer perception—basically, where the presenting police services member decides, based on their lived experience and knowledge—or lack thereof, quite frankly—a person's demographic characteristics for collection.

Data collection processes and approaches need to be established for credible data collection, consistent data collection and national data collection across Canada. Collected data must be analyzed with effective interpretation. Policing bodies need to be accountable for addressing the results the analysis demonstrates within a defined time frame. We can't have this ongoing, "Well, we've learned this," and three years later there's another report and, "We've still learned this," and nothing has happened. When the Ontario Human Rights Commission required the Toronto Police Service to collect race-based data, those data merely reflected what in certain cases Black people had said and known for decades. The finding of note in the Toronto report was the section on the use of force. Here, Black people were 2.3 times more likely than white people to have firearms pointed at them by the police when no other weapons were perceived.

No longer can—

Go ahead. Thank you.

The Chair: Thank you.

Thank you, Mr. Noormohamed.

[*Translation*]

Ms. Michaud, you have the floor for six minutes.

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

Thank you to the witnesses for being here today.

We are beginning our study of Bill C-20, and I am still trying to understand all of its ins and outs.

Mr. Sauvé, you made three concrete recommendations, and I thank you for that. First, you said we need to put an end to situations where the police investigate the police, and I'd like to understand how the new commission will work.

In the legislative summary prepared by our analysts, there is talk of two options that would be available to complainants. They could either file the complaint directly with the RCMP or the Canada Border Services Agency, or CBSA, or address it directly to the new commission. As for the people who will make up this commission, they would be civilians who have never worked for the RCMP or CBSA.

Will Bill C-20 put an end to the practice of the police investigating the police, in your view, or is there more work to be done?

• (0920)

[*English*]

Mr. Brian Sauvé: I think, as tabled, there is still work to be done. That is why we are making some recommendations. In our submission, we have sections within the RCMP Act presently. When the commission receives a complaint, it expressly states that it will be downloaded to the RCMP to investigate. The RCMP will investigate and report back to the complainant and the commission. Those should be amended if we're going to end the practice of having the RCMP investigate the RCMP when it comes to public complaints, under this new act.

[*Translation*]

Ms. Kristina Michaud: If I understand you correctly, complainants should not have the option of filing the complaint directly with the RCMP. It should be addressed directly to the new commission.

Is that correct?

[*English*]

Mr. Brian Sauvé: Well, I don't think a member of the public.... We should encourage the wide scope of abilities to file complaints, whether it be online, at your local detachment, even at your local border crossing or through the mail to the CRCC. However, once that complaint is received, how it is actioned is where we have to make modifications.

[Translation]

Ms. Kristina Michaud: Thank you.

You've made a recommendation on the funding and resources required. We're talking about ten million dollars over the first six years to set up the new commission. This is similar to the funding provided to the RCMP Civilian Review and Complaints Commission, or CCRC, which is currently in place.

You mentioned several hundred complaints, which is the same for the CBSA.

Is the proposed amount enough to deal with all these complaints? Do you think people will have to face delays that are too long? Given the cumbersome process and possible delays, isn't there a risk that they might decide to withdraw their complaint?

[English]

Mr. Brian Sauv : I don't think that's enough.

If you look at the processes that exist today, obviously, once a complaint is received and sent for investigation, there's a general ballpark figure of about 60,000 man-hours, or person-hours, that is used to investigate them. Most of those are done within the 30-day statutory time frame and referred back to the CRCC and the complainant.

Out of those, there are about 300 to 320 cases in which the complainant may ask for a review and further investigation. That comes back to the RCMP. If they're again not satisfied, then the chair of the CRCC can institute a further investigation. That happens in about 100 to 150 of those files annually. That's when they have their dedicated staff of about 80 or 85 across the country, who take on the file.

I don't think the amount proposed is enough. I don't know how much it should be, but we're just bringing it up and sounding the warning bells. We have seen numerous civilian oversight bodies across the country that have tried to operate on a wing and a prayer and then ended up with considerable delays, which is not good for the public. It's not good for the members of the agency, and it's not good for civilian oversight generally.

[Translation]

Ms. Kristina Michaud: Thank you.

Mr. Weber, thank you for joining us. I also want to thank you for what you said to the media, and what you said a little earlier today.

You raised the fact that problems are often a bit bigger, such as systemic problems. You said it would be unfortunate if an officer who is the subject of a complaint were to be dismissed or reprimanded when the problem came from higher up in the hierarchy.

Can you expand on that? How should we deal with this?

How should Bill C-20 address systemic issues, which can have repercussions that go beyond the officer who is the subject of the complaint?

• (0925)

[English]

Mr. Mark Weber: Thank you.

Yes, I believe that what we need is an overall culture change.

I think we need more education. We need more than just identifying one bad actor and disciplining them for x number of days and then moving on as though that has corrected anything. I think that in the CBSA as a whole, and in upper management especially, the culture has to change. As a union, we've brought forward numerous really disturbing complaints about managerial behaviour, and we may as well have not. They disappear. Essentially, if you're a manager and a complaint goes in, absolutely nothing is happening.

We have the example of the chief of operations in 2011, who ordered the strip search of a busload full of students after the officers had released them and were confident that they were clear to go. Was there any discipline? There was none. That's one case. I could think of many that are much worse than that. Simply nothing happens. That has to change.

I think that giving officers the ability to use Bill C-20 to bring forward issues they see every day is something that under the current proposal is not there. We cannot use the process to bring forward the concerns we have and the events we witness. I think that would make a big change. Overall, mismanaged policies, application of policies and, again, the staffing levels: Those are things that are not the officer's fault. That's a culture. That's upper management at CBSA.

Again, when we're dealing only with complaints coming in from the public, well, the public interacts with the officer, who is the one there when they've been waiting three hours to get to the border to finally make their declaration and, like I said, arrive quite furious. Our officers, again.... I think it's overall. I could call it a mental health crisis. They are exhausted. They are working almost unlimited overtime, with no ability to get leave. The summer is going to be even worse as we go through it. This happened last year and the year before, and I don't see any kind of help coming. Our numbers never go up. It's a desperate situation.

It takes overall cultural and total change within the agency.

The Chair: Thank you.

[Translation]

Thank you, Ms. Michaud.

[English]

We go now to Mr. Julian.

Go ahead, please, sir. You have six minutes.

Mr. Peter Julian (New Westminster—Burnaby, NDP): Thanks to all of our witnesses for their very rich testimony.

I'm going to start with you, Mr. Weber. I have two things.

First off, you've very clearly identified that in Bill C-20, implicitly, CBSA employees are recognized as public safety officers. What are the other things the government should be doing to fully recognize CBSA border officers as public safety officers?

What are the changes to the Public Service Superannuation Act, regulatory changes or any changes to the Income Tax Act that would clarify this, so that we no longer have this weird situation in which the federal government pretends border officers are not public safety officers in some circumstances, and in others acknowledges that? That's my first question.

On my second question, I think you've been very eloquent in saying you support Bill C-20's aspect of making CBSA employees accountable, but what I hear you saying is that CBSA management is not accountable. That is fundamental to putting in place civilian oversight in a way that allows systemic reform. That is what I think we're all looking for.

What are the changes we could bring to Bill C-20 that would make sure that CBSA managers are accountable for their actions?

Mr. Mark Weber: Thank you.

I'll take the first question first.

Legislatively, there are two things that would have to change. Number one would be the Public Service Superannuation Act. Border officers would have to be added as an occupational group, as exists for all other occupational groups, including corrections officers. That would have to change. The associated regulations would have to change accordingly as well.

The second piece of legislation would be the Income Tax Act regulations. There, we would have to start including FB members in the definition of "public safety occupations". Those two things would go a long way, and they would solidify and codify that we are indeed public safety officers.

Among the things that would have to change in the proposed Bill C-20 to bring about real cultural change—which, for CIU, would be the goal—is an ability for CBSA officers to use the process as well to bring forward incidents and things they know to bring about that kind of change, and for those to be investigated as well through the process.

We work in the milieu all day. We are likely to see a lot more than a traveller who's coming through and whose interaction with the CBSA might be for 10 seconds. Right now, the way it's currently defined, that door is shut to us. Again, a way to ensure that it is followed up on....

Historically at the CBSA, the higher you go in rank, the less accountability there always is. We're very confident in many of the things we bring forward regarding managerial behaviour. If this was one of my members, I would be advising them, "You're probably going to be fired." There's no follow-up. Absolutely nothing happens in general. It is frustrating at our level to see that happen.

Again, change has to come from above. I would really like us to be able to use what's available to the public here.

● (0930)

Mr. Peter Julian: Thank you very much, and thank you to your members for their service to the country.

Mr. Sauv , you've been incredibly detailed—much more than the minister was—in terms of what resources are required. You said 60,000 work hours. Does that include the 300 appeals—or where

there is a secondary look—and the 150 that you identified that are current cases that are being looked into more specifically? If it doesn't, we're talking about an even greater imposition on the work hours.

By what factor do you think the government has missed the boat in applying resources? If \$19.4 million is not sufficient, is it \$38 million or \$40 million? Is it \$50 million? Do you have a ballpark figure for setting this commission up in a way that it can adequately do the job, instead of, as you so eloquently put it, basically taking resources out of community policing?

Mr. Brian Sauv : No. When I speak about 60,000 person-hours to investigate those 1,500 complaints as a ballpark, that is just the initial 30-day investigation and returning it to the CRCC and the complainant. Should there be more required, that's not included.

If we are talking about only the status quo today, for 30 members of the RCMP, all in it's about \$202,000 per member for training and everything—all that great stuff. You can do the math: 30 x \$200,000 is around \$6 million. That would be an estimate for the status quo, for just the RCMP.

When you add a completely new public safety agency into the complaints process, I don't think anyone really has an idea of what that is going to do to the PCRC in terms of volume through the next year. What volume are we going to see through the Canadian public? Is it going to be consistent with what it has been with the RCMP? How do you resource it appropriately?

Mr. Peter Julian: What you're saying is that this is seriously under-resourced. Given the figures you've given us, the government is basically short-changing this commission right from the get-go.

Mr. Brian Sauv : I would say yes.

Mr. Peter Julian: That's a really important point. Thank you.

The Chair: Thank you, Mr. Julian.

We'll start our second round. This round is going to have to be abbreviated. We will end after Mr. Julian in the next round. Mr. Julian gets the hammer all the time.

Mr. Motz, if you please, go ahead. You have five minutes.

Mr. Glen Motz (Medicine Hat—Cardston—Warner, CPC): Well, thank you very much, Chair, and thank you to our witnesses for being here.

I'm just going to carry on with both Mr. Weber and Mr. Sauv  on what Mr. Julian was talking about. I have serious concerns with the current proposal, with resources, given how this legislation is written and how it's going to be proposed to look after both the RCMP and the CBSA. My guess would be that what is being proposed for resources for the PCRC is insufficient just for the RCMP, and that hasn't even included the CBSA yet. That's a huge red flag for me.

While I support wholeheartedly the idea of public oversight and review—it's absolutely necessary in all forms of law enforcement—it is severely under-resourced.

Mr. Sauvé, quickly, I think there's still some confusion, even around this table and in the public, about how the PCRC will be looking after complaints moving forward in the process. You said you don't want police looking after investigating police, and I get that. What you're specifically saying is that you don't want the RCMP to investigate the RCMP. That's not police investigating police, right?

Some of the hybrid models you talked about have law enforcement, retired or current, actually investigating in a hybrid model along with civilian investigators. It works well. I'm from Alberta, and I'm very familiar with that particular process.

In your estimation and as Mr. Julian has asked, is there a process that can be changed in the legislation? More than just saying that we need to add more money and more resources to the PCRC, is there a process we can look at that will make it more efficient, given the current legislation? What do we need to do differently?

• (0935)

Mr. Brian Sauvé: I don't know if changes to the legislation can improve the process. The current model as it is uses the RCMP to investigate the RCMP, which is police investigating police no matter how you slice it. Even if we download it to the Saskatoon PD to do the CRCC complaints, it's still police investigating the police, and the conflict is there.

The way it is today with those 1,500 files, the majority of those are completed within the 30-day statutory framework.

Mr. Glen Motz: Right, and that's by the RCMP.

Mr. Brian Sauvé: Yes, that's by the RCMP.

Mr. Glen Motz: In reality, the majority of complaints that come in to all law enforcement across this country and that will come into the CBSA are minor types of complaints regarding interactions with the public, attitudes and things like that. Those are, in reality, best suited for resolution with the complainant, with the public, at the detachment level, at the office level. Would you agree with that?

Mr. Brian Sauvé: I would agree that many—probably about 25%—of these can be resolved informally fairly quickly, with just a phone call or an explanation about—

Mr. Glen Motz: That's good on both sides. That's good for the public and that's good for the officers.

Mr. Brian Sauvé: It is, yes.

Mr. Glen Motz: Mr. Weber, I have only about a minute and 45 seconds left.

You described some very disturbing occurrences within the CBSA. I share your concern. I think what you've described is an incredibly toxic environment between frontline officers and management. I don't know how the PCRC can actually fix that. I think your assessment of a cultural change at the management and upper management levels is absolutely necessary.

Perhaps I'll ask you this question: How do you see the PCRC coming in? How do you think it will impact the frontline officers and the public we're here to serve, and their complaints? How do you see the current legislation fixing this?

I know you will run out of time when the five minutes are up. We would appreciate it if you could give to the committee any recommendations you have after your testimony today that could help us add strength to this legislation.

Mr. Mark Weber: I can do that quickly—thank you—if I have five seconds.

I think the CBSA needs to focus on not investigating absolutely everything locally. It's become an agency that does everything through formal investigation. The ability to manage or speak to employees has been abandoned at the CBSA. Everything is a formal fact-finding.... I think we can free up a lot of resources if we get back to the way management used to happen—actually having that interaction with employees and not formalizing everything. We'd then have the resources available to deal with the more important stuff.

Again, it's allowing our officers to use the provisions proposed in Bill C-20 in order to bring forward their concerns and complaints.

The Chair: Thank you, Mr. Motz.

We go now to Mr. Chiang.

Mr. Chiang, go ahead for five minutes.

Mr. Paul Chiang (Markham—Unionville, Lib.): Thank you, Mr. Chair.

Good morning to all the witnesses. Thank you for joining us today.

Mr. Weber, in 2017, the CRCC undertook a systemic investigation into workplace harassment at the RCMP. There is nothing stopping the chair from launching a similar review of the CBSA if she so chose. This was initiated through a letter by then-minister Goodale. There is nothing in the bill that would limit the chair from initiating her own review of the CBSA's culture, once this bill becomes law.

• (0940)

Mr. Mark Weber: That's good to know. Yes, I think that's an absolutely viable option.

Thank you.

Mr. Paul Chiang: Mr. Weber, are you aware that clause 28 of this bill outlines the powers the chair has to initiate the review of systemic complaints about the CBSA?

Mr. Mark Weber: Yes, I think what's lacking is the ability of CBSA officers to bring forward complaints.

Mr. Paul Chiang: Thank you, Mr. Weber.

Mr. Sauvé, one thing I'm interested in understanding is the interplay between the PCRC and other provincial police review and oversight agencies. For instance, the RCMP are the police of jurisdiction in Alberta. In that province, there's also the Alberta serious incident response team.

What is your understanding of the different powers and jurisdictions the PCRC would have compared with the Alberta serious incident response team?

Mr. Brian Sauvé: They are completely different mandates. If you're a member of the RCMP in Alberta or anywhere we provide uniformed policing, even federal policing in Ontario or Quebec, you're subject to three separate oversight bodies.

One is the statutory regime of civilian oversight, such as ASIRT, which investigates complaints of serious harm or death when we happen to invoke use of force. That is where a member of the RCMP could face a criminal charge.

The second one, obviously, is through the RCMP Code of Conduct, which is our disciplinary regime. That is up to and including dismissal.

The third one is the future PCRC, which deals with complaints from the public.

In all of those areas, a member of the RCMP could face an investigation by ASIRT, the RCMP professional standards...and the CRCC. Those are three different levels. There are three possible, different results. One could result in jail time. One could result in dismissal. The third could result in operational and policy changes, or changes to the RCMP itself.

Mr. Paul Chiang: Thank you so much, Mr. Sauvé.

What about data? Is there enough data? Do they have articles about data in the bill?

Mr. Brian Sauvé: If you were to ask my staff, I'm a big proponent of data. I love data and gathering data, because it tells a story.

Unfortunately, in the RCMP, we haven't been consistent with gathering data, whether it be race-based data or data on anything. The only thing we seem to be good about is "use of force" data.

I would strongly encourage the PCRC to look at exactly what Ms. Campbell was suggesting: implementing a very, very robust system to gather any and all data that is available for interactions with law enforcement in the public or complaints processes.

Mr. Paul Chiang: Thank you, Mr. Sauvé.

Ms. Campbell, this legislation will allow for the collection of disaggregated race data.

Do you believe it is important that this data be collected? Can you speak to how you would like the chairperson of the PCRC to use the data? Is there space to inform systemic reviews?

Ms. Heather Campbell: Thank you, Mr. Chiang.

Yes, the data should be collected. I believe right now in the bill, it's clause 13, the "Annual report", that provides for data collection, but it is rather light.

To Mr. Sauvé's point, the RCMP has been developing a national approach to the collection, analysis and reporting of race-based data in policing since probably about July 2020, in collaboration with the Canadian Association of Chiefs of Police and Statistics Canada. That process has been slow, but it is critically important.

The legislation in Alberta lacks in some areas. However, it does require, for a number of street checks or officer contacts or "info posts", as they're called in Calgary, that exceed the relative statistical demographics of a community, that the chief of police provide a

reconciliation and justification to address any overrepresentation of one group, particularly for racialized and indigenous people in the data.

It's important that this data analysis and sharing occur in a distinct fashion at a community level, lest the significance of the data and analysis be diluted to basic ineffectiveness.

The Chair: Thank you, Mr. Chiang.

[*Translation*]

I will now give the floor to Ms. Michaud for two and a half minutes.

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

Mr. Weber, when we were discussing systemic issues within the CBSA earlier, you talked about the importance of changing the culture. Just to be clear, I'd like to know if you're proposing that agents, too, be able to turn to the new commission.

Would they be able to lodge complaints with the commission when they encounter a problem involving a superior or a manager? If so, not only the public, but agents, too, on the inside, would be able to turn to the commission.

Is that what you were saying?

• (0945)

[*English*]

Mr. Mark Weber: It is what I meant.

To bring about real change, again, we have to address things systemically. Right now, the system we have at the CBSA is that if a CBSA employee brings forward complaints against management, it's dealt with by management. That's all that anyone will ever hear of it. As a rule, nothing happens with anything that we put in...

I think it's really important for this commission to know exactly what's going on, so it can look to do those systemic reviews.

[*Translation*]

Ms. Kristina Michaud: Thank you.

I'd also like you to tell us about the status of CBSA agents as public safety personnel. But I think my colleague Mr. Julian is going to ask you about that. So I'll take this opportunity to ask you about one of the points you raised in a Radio-Canada article. You expressed concern that Bill C-20 would increase tensions between employees and management.

You mentioned the labour shortage earlier. Now, an agent who is the subject of a complaint can be put on unpaid leave, sometimes for a long time. You said that handling complaints could last for several years.

What more can you tell us about this?

Aren't you concerned that the bill will eventually lead to a shortage of agents?

[*English*]

Mr. Mark Weber: The number of people who are placed on leave without pay for serious allegations is not to the point where it would cause us to run out of officers. The deficit of officers we have is something that's existed for a long time, and it is extreme. However, for people who are placed on leave without pay pending the outcome of an investigation, because the allegation is deemed to be that serious, it is life-changing and devastating to them.

I understand that some allegations can be extremely serious. However, imagine the situation they're in. Even when it's found at the end of the investigation that they've done nothing wrong, they're told to file a grievance to get their salary back. That is not acceptable to our union at all. As far as I know, that's unique to the CBSA.

The Chair: Thank you.

Mr. Julian, you have two and a half minutes, please.

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

These are such good witnesses. I wish we had more time with them.

I'm going to go to Ms. Campbell.

Thank you very much for your testimony today. You've spoken very eloquently about the importance of overcoming systemic racism, systemic homophobia and systemic discrimination against indigenous women and indigenous people.

Does Bill C-20 address those issues in your mind? If it doesn't yet as a bill, what are the things that need to be added to the bill and what are the other issues the federal government needs to start responding to so that we can start to make this sea change to overcome systemic discrimination?

Ms. Heather Campbell: Where Bill C-20 is lacking in terms of being able to address systemic racism and discrimination and the bias that is inherent is in providing the oversight body the accountability and strategic direction to set those priorities and that expectation for policing bodies and the CBSA to transform their culture.

There needs to be an expectation set in some piece of legislation or regulation to enable these policing bodies to actually do the work to transform their culture and have it be measured and assessed.

Mr. Peter Julian: What are the things the federal government should be doing so that we can eliminate these barriers and eliminate this discrimination?

Ms. Heather Campbell: Well, in terms of having the data, once you've collected all this wonderful data and you've done all your reconciliations and you've done the reporting, it's a question of who has the accountability to actually act on that data.

This is where the government needs to set an expectation in some form of legislation that there is the public oversight body that has the accountability for making that transformation and actually measuring. How do we do it? This is the work I'm currently tasked

with doing in Calgary. I've been a commissioner for two and a half years, and I am still working on it.

• (0950)

The Chair: Thank you, Mr. Julian.

Thank you to all our witnesses. You have been most helpful. Thank you for sharing your time and your expertise with us.

We will suspend briefly and bring in the next panel.

• (0950)

(Pause)

• (0955)

The Chair: I call this meeting back to order. Thank you.

With us today by video conference we have, as an individual, Mr. Mel Cappe, professor, School of Public Policy and Governance, University of Toronto, and, from the Quebec Immigration Lawyers Association, Ms. Perla Abou-Jaoudé and Mr. Vincent Desbiens.

We will start with five-minute opening statements from each group. We'll start with Professor Cappe.

Please go ahead, sir, for five minutes.

[*Translation*]

Prof. Mel Cappe (Professor, School of Public Policy & Governance, University of Toronto, As an Individual): Thank you, Mr. Chair.

[*English*]

I'm a former public servant. I was for 30 years in the government of Canada. I was appointed to the ranks of deputy minister by Prime Minister Mulroney and then served as Clerk of the Privy Council under Prime Minister Chrétien. I served as High Commissioner to the U.K. in the government of Prime Minister Stephen Harper. "Non-partisan" is my middle name.

I'm now a distinguished fellow at the Munk School of Global Affairs and Public Policy at the University of Toronto.

[*Translation*]

In 2017, I conducted a study for the Department of Public Safety on the lack of review capacity at the Canada Border Services Agency. I recommended closing this gap by—

[*English*]

The Chair: Excuse me, sir. We're not getting translation here.

Prof. Mel Cappe: Okay. Well, then, I'll say it in English, if that helps.

The Chair: That's okay. We have to have translation in both languages.

Pardon, Mr. Julian?

[*Translation*]

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

[*English*]

The Chair: Yes, absolutely.

[Translation]

Mr. Peter Julian: I just wanted to make something very clear to all the witnesses. I encourage them to give their testimony in French. If there are any problems with the interpretation, they can continue in French anyway. It's up to us to solve the problem, it's not up to them to switch languages.

[English]

The Chair: Yes. We're certainly not asking people to change languages.

I believe we have interpretation once again.

Sir, if you wouldn't mind starting over, we'll start your time right from the beginning.

Prof. Mel Cappe: Sure. I made the point that I was not affiliated with any political party and that I was a public servant for 30 years and now teach at the Munk School of Global Affairs and Public Policy at the University of Toronto.

[Translation]

In 2017, I conducted a study for the Department of Public Safety on the lack of review capacity at the Canada Border Services Agency. I recommended closing this gap through the creation of a review panel on the agency, similar to what is proposed in Bill C-20.

[English]

I would like to underscore for the committee a few guiding principles or objectives that members might like to keep in mind while assessing Bill C-20.

The first is to promote the safety and security of Canada and Canadians. The second is to protect and respect the rights of Canadians. The third is to build trust and confidence in the agencies in the portfolio. The fourth is to ensure adequate accountability of these agencies, both for their actions and their management of complaints. As an alternative to what you heard from Mr. Sauvé before, I'd like to see that the responsibility is on the agency and not transferred to the commission. The fifth is to maintain secrecy and privacy. The sixth is to protect the rights of officials who are appropriately exercising their statutory duties, as Mr. Weber pointed out, and the last is to avoid duplication and promote co-operation.

There are also some constraints that I would suggest you have to decide how to balance.

First, the Government of Canada does not have a mandate for all security and safety issues. There are local and provincial police as well. Not all safety and security activities, even at the federal level, fall under the mandate of the Minister of Public Safety.

Building confidence and trust is often in conflict with secrecy. We've seen that recently. Issues are not always agency-specific. You need to be able to follow the thread across agencies and commissions. You must respect the complexity and difficulty of using intelligence as evidence, and good law enforcement requires good service delivery.

Finally, sometimes it's about officer conduct in the exercise of authority and discretion, and sometimes—and here's the one area in which I think Bill C-20 could be improved and in which I support

the previous three witnesses, Sauvé, Campbell and Weber—it's a problem of systemic review.

An office with too many complaints or a type of complaint going beyond a particular officer may require the commission to initiate a review. Mr. Chiang, in the last session, appropriately pointed out that clause 28 allows the commission to initiate reviews, but only on “policy, procedure or guideline[s]”. I think that could be elaborated.

• (1000)

[Translation]

I would encourage you to find the sweet spot between the objectives and constraints.

[English]

The sweet spot is often in the eye of the beholder, and I think this bill does a reasonable job of finding that balance.

I'll be happy to answer any questions you have.

The Chair: We'll go now to Ms. Perla Abou-Jaoudé for the Quebec Immigration Lawyers Association for five minutes, please.

Ms. Perla Abou-Jaoudé (Lawyer, Quebec Immigration Lawyers Association): I'm going to let my colleague speak for the association, and then I'll answer the questions.

[Translation]

Mr. Vincent Desbiens (Lawyer, Quebec Immigration Lawyers Association): Good morning everyone.

Thank you for inviting us to appear before the committee today.

The Association québécoise des avocats et avocates en droit de l'immigration, or AQAADI, was founded in 1991 and represents more than 500 lawyers in Quebec in the specific field of immigration and refugee protection law.

AQAADI's objectives are, among other things, to ensure that citizenship, refugee protection and immigration laws and policies are drafted and applied in accordance with the principles of fairness, and that they adequately meet the needs of Quebec and Canada while respecting the Constitution, the Canadian Charter of Rights and Freedoms and international treaties ratified by Canada.

First and foremost, we applaud the introduction of Bill C-20. We would like to emphasize the importance of implementing a third-party monitoring system of the Canada Border Services Agency and its employees. In our view, not only is it essential to protect the public, but also for the administration of sound, efficient and transparent justice.

On this last point, it's important to note that the Canada Border Services Agency intervenes in many quasi-judicial proceedings at the Immigration and Refugee Board, which are related to the immigration process, whether it's on detention issues, asylum claims or even removals. However, most of the agency's representatives are not lawyers and don't have to answer to the same regulatory bodies or are subject to the code of ethics for lawyers. Consequently, in the event of misconduct on the part of a CBSA representative, there is not much recourse against them and, for the time being, any action taken is governed solely by the CBSA's internal processes. Our members' experience in the field has shown us that this is not enough to oversee the quality of their work and guarantee the sound administration of justice.

For this reason, we respectfully suggest that the definition of serious incident in section 14.1 of the proposed Canada Border Services Agency Act be amended to include any incident that may interfere with the administration of justice or the proper conduct of a judicial process, and thus not limit the scope of the Act to an incident defined as serious.

By the same token, we believe that the definition of a serious incident should also include any behaviour that would result in a violation of rights and freedoms, including the unfounded detention or the extension of an individual's detention. Although detention does not necessarily result in serious bodily harm or death, it nevertheless causes irreparable harm, since it is a violation of the right to liberty and time spent in detention can never be recovered, not to mention the psychological fallout.

In the same vein, certain provisions of Bill C-20 refer to arrest and detention by the Canada Border Services Agency, but there is no clear definition of these terms. For example, subsection 13(2) states that the commission's annual report must include "the number of complaints filed under this act by persons detained by the Agency". Section 86, however, states that "a person who is arrested or detained by an officer or employee of the Canada Border Services Agency is entitled to be informed as soon as possible of his or her right to make a complaint under Part 2 and of the manner of doing so."

In our experience, the CBSA has a very restricted definition of arrest or detention by one of its employees. In this respect, with regard to the massive arrival of refugees over the past few years, several asylum seekers were arrested by the RCMP after an irregular crossing of the land border, and within hours were handed over to the CBSA. However, many of them remained at the border under CBSA control for days, and in some cases for more than a week, without being considered arrested or detained. As a result, the process to ensure the legality of their detention under the Immigration and Refugee Protection Act was not initiated for several days.

This is just one example, but it is crucial, in our view, to have a clear definition of what detention and arrest mean so that it is not left to the discretion of the agency, and that the provisions in question apply as soon as an individual is detained or arrested.

Furthermore, in our opinion, the deadline set out in section 33(2) for lodging a complaint is too short. This is specifically based on the fact that current delays in immigration processes exceed one year. On this point, the current average time for an asylum claim to

be processed is about two years. Based on our experience with our clients, who are often a vulnerable position, we believe that potential complainants would be reluctant to initiate this type of procedure out of fear that it would negatively affect their chances of success, or even speed up their removal.

Finally, we found that most decisions or opinions of the commission in connection with a complaint, such as the decision not to investigate a complaint as provided for in section 38, or a report on the complaint as described in section 49, or the commission's final report, are disclosed solely to the complainant. We suggest that a copy of any communication should also be disclosed to the complainant's legal representative. Indeed, in many cases, the person concerned may have been removed from Canada, particularly as the complaint process does not provide for a stay of removal. Should this occur, it is highly unlikely that the commission would have the individual's new contact information, whereas it is more likely that the legal representative would.

• (1005)

In the same vein, it would also make sense to allow third parties, organizations, to file complaints.

In the end, we respectfully submit to you that the passage of this bill is crucial, but that appropriate changes must still be made to frame the agency's conduct as well as its policies. This is necessary to ensure public protection and a sound, efficient and transparent administration of justice.

Thank you.

[*English*]

The Chair: Thank you.

We'll now start our round of questions.

We'll start with Mr. Lloyd.

You have six minutes, sir.

Mr. Dane Lloyd (Sturgeon River—Parkland, CPC): Thank you to the witnesses.

I'm going to start with Professor Cappe.

I think some research here is indicating that over the course of six years, this commission would cost about \$120 million, with about \$19 million in funding on a go-forward basis.

Do you think that is a reasonable sum of money to stand up and maintain a commission like this?

Prof. Mel Cappe: Look, I spent the largest part of my career at Treasury Board, so I should be able to answer that question. Unfortunately, I can't. I have no idea whether or not that's enough.

I think the discussion you've been having around adequacy of funding is legitimate. You need to make sure it is funded enough. You're going to be carrying on the old functions of the CRCC and the new application of this law to CBSA.

It's a good question. I don't have an answer.

Mr. Dane Lloyd: You have this background in the civil service, and Treasury Board specifically. Do you anticipate that the down-loading of the responsibilities currently taking place internally in the CBSA and RCMP onto this independent review committee will lead to better allocation of resources—or even potential savings—within the CBSA and RCMP, which could offset some of the new costs of standing up a commission like this?

Prof. Mel Cappe: No, I do not.

The point here, I think, as I mentioned in my opening remarks, is that you have to keep the responsibility for doing these investigations on the agency. CBSA has to be responsible for pursuing the complaints it receives and reporting to the commission whether it has resolved them or not. The commission then makes its independent judgment.

If the responsibility rests only on the shoulders of the commissioner, it relieves CBSA management from treating its complaints seriously. I think you want to keep the burden of responsibility on the agency. Therefore, it's going to need the resources to do those investigations.

Mr. Dane Lloyd: That's interesting.

One reason I feel this could be very helpful—after speaking with frontline police officers—is that people make the complaint that there are too many resources going towards upper management and not enough going to frontline police officers. We know there's a massive shortage in frontline police officer recruitment and retention. I was hoping this legislation could potentially mean some of the middle-management officers, or officers being pulled off the front line to do these administrative duties, could be reallocated to the front line.

However, what you're saying is this wouldn't be the case when this is implemented—these police officers being reallocated to the front line.

• (1010)

Prof. Mel Cappe: Like Mr. Weber, I want the agency to be responsible for its own efficiency and effectiveness in delivering service, so I'd keep those resources in the agency.

Mr. Dane Lloyd: I wouldn't be supporting any cuts to our front line at all, but I want to make sure the resources are being used in the best manner. We are seeing an issue on the front lines, with frontline police officers not getting the resources they need to deal with an upswing in crime and—as a mental health advocate put it to me—a tsunami of mental health issues coming in our country, especially in the post-COVID environment.

Do you think—

Prof. Mel Cappe: Mr. Lloyd, can I provide a quick comment on that?

Mr. Dane Lloyd: Yes. Go ahead.

Prof. Mel Cappe: To put this in context, you have to look at the fact that this is 2015 data, so it's more or less now. There are over 100 million contacts a year between the public and the CBSA. Those generate 2,400 complaints—or they did in 2015. Even if that were four times 2,400, that's 0.001% of contacts leading to a complaint. This isn't going to require massive resources.

Mr. Dane Lloyd: Do you think the creation of this committee will lead to better outcomes in terms of police interactions—potentially negative interactions? Do you think that even just the presence of this accountability mechanism will improve those outcomes, or do you think that the creation of this accountability mechanism could also lead to an increase in vexatious and litigious complaints?

Prof. Mel Cappe: I think the answer is yes to both. Frankly, I think that you're on to something.

Look, if this system works well, there are no complaints, because the agency takes it seriously and looks at the commission as a problem that it wants to avoid. Therefore, it improves its performance dramatically. That's success.

Mr. Dane Lloyd: Thank you, Professor Cappe. I've really enjoyed this conversation.

Prof. Mel Cappe: Thank you, Mr. Lloyd.

The Chair: Thank you, Mr. Lloyd.

We go now to Ms. Damoff, for six minutes, please.

Ms. Pam Damoff (Oakville North—Burlington, Lib.): Thank you, Chair, and thank you so much to our witnesses for being here today.

Mr. Cappe, I have a question for you about these systemic reviews. When the chairperson of the CRCC appeared here in the past, I noticed that she too would like the ability to do more systemic reviews.

Could you maybe expand a little on how you think we should be changing the legislation to accommodate what you mentioned in your remarks?

Prof. Mel Cappe: Sure.

Again, Mr. Chiang, in the last session, pointed out that clause 28 allows for the commission to initiate, but it's on a very focused set of issues, the policies and guidelines.

Imagine if there's a pattern of complaints, that you get a lot of complaints coming from the office in Prince Rupert. The commission may look at that and say, "Well, you know, CBSA, you're missing something. You need to look at that office. Maybe there's a management problem. Do an investigation of that." You want the commission to be able to initiate those kinds of systemic reviews.

In the previous session, Ms. Campbell from Calgary pointed out systemic racism. It's something that may not occur in one office, but it might be systemically across the agency. You want somebody to be able to draw those inferences.

• (1015)

Ms. Pam Damoff: Okay. Thank you for that.

My other question has to do with national security.

As you were doing your report, NSIRA and NSICOP were just going through the legislative process. They didn't actually exist at the time.

We've heard testimony and received briefs about the necessity of having this new commission take note of national security complaints and also how many times they're referred to NSIRA.

I wonder if you could talk a bit about how you see the PCRC interacting within NSIRA and whether there should be reporting on the referrals between the agencies.

Prof. Mel Cappe: I made the point in my opening remarks that the RCMP and the CBSA are not the only law enforcement agencies in the government. Intelligence and security go hand in hand. Therefore, NSIRA becomes an important review commission for CSIS and other agencies, like CSE.

I talked about turning intelligence into evidence. You want to be able to see that work. There's nothing that I see in Bill C-20 that prohibits the PCRC from connecting with NSIRA, but neither does it create a gateway.

Out of precision, it would be interesting to think about specifying that those two commissions or agencies would be able to exchange information and that it would be legitimate. I don't think it's necessary. Administratively, it could be worked out. However, it's something worth thinking about.

The other thing is that there are a whole range of other law enforcement agencies. When I was deputy minister of the environment, I had the Canadian wildlife service under me. Those are armed officers who enforce endangered species legislation and such.

Conceivably, you could encompass all of them. I don't think that's a good place to start.

Ms. Pam Damoff: Okay. Thank you for that.

We've heard a lot of concerns about police investing police. I'm assuming that with CBSA it would be a similar situation, in that CBSA would be looking at CBSA to start with.

Do you think this is something that is operational? Is there a legislative change that needs to be made, or is that the way these systems should work?

I'm wondering what your opinion is, given your experience on this.

Prof. Mel Cappe: I think it's desirable that you have the agency investigating itself to improve itself in the first instance, and that means police investigating police. If you then have the commission as the fallback to carry out the complaints that are not adequately reviewed, I think that is going beyond.

There's then the question of whether you want the commission to hire current or former police officers. That's an administrative decision. I would leave it to the commission to decide.

It obviously then raises the question of whether this commission is independent enough. I think the answer is it will be, but it will have to pay attention to whom it hires.

Ms. Pam Damoff: Thank you. I have only a minute left. I'm sorry. I wish I had more time for the refugee lawyers.

Quickly, on third party complaints, I know you're supportive of that aspect. It was a change that was put forward by a number of organizations.

I'm wondering if you could talk about your role in initiating those kinds of complaints, and if you have any suggestions to improve the bill before us.

Ms. Perla Abou-Jaoudé: By permitting third party complaints, it will answer article 28 and permit the commission to do its own reviews. When we, who have experience in the field, have complaints from many claimants, at that point, we could also raise that issue to the agency or to the commission. We already try to do it in the field.

Different organizations, including our organization and legal aid.... When we have access to detainees, it's way easier for us to raise a general issue that's systemic and that we see every time, instead of having every claimant do it with the commission. It would also alleviate the work of the commission and help to improve the situation without putting one claimant, who is, generally, scared and vulnerable, in the position of making a complaint about what just happened.

• (1020)

Ms. Pam Damoff: Thank you.

[*Translation*]

The Chair: Thank you.

Ms. Michaud, you have the floor for six minutes.

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

Thank you to the witnesses for being here. I'm going to continue along the same line as Ms. Damoff.

First of all, thank you for your comments, Mr. Desbiens. I imagine you've done a lot of work in the past, and again recently, with migrants at the Canada Border Services Agency's immigration holding centres. On many occasions, you probably would have liked, as an organization, to support a complainant through the complaint process or make a complaint on his or her behalf, as allowed under section 38, which you said you supported.

Mr. Desbiens or Ms. Abou-Jaoudé, can you tell us how this could have helped people who find themselves in such situations?

Ms. Perla Abou-Jaoudé: This would have helped in certain situations where it's blatantly obvious that the person doesn't understand exactly what's going on or how to follow the process. By allowing agencies to help, it would make things easier for the new commission and allow for quicker responses. The agency has extremely wide discretionary powers. Normally the system works, but there are still unfair situations that should be highlighted.

In detention centers, prisoners have very limited access to the outside world. They communicate mainly with their lawyer. When they arrive, access to their families is also limited. Allowing a third party, whether an organization or association like ours, to raise problematic situations would make the commission's job easier.

Ms. Kristina Michaud: Thank you.

Your colleague referred to a couple of sections. I don't know if it would be possible to get a list of the changes you're proposing, but perhaps we could talk more about them.

If there were anything to amend in this bill at this time, what recommendations would you make to the committee?

Ms. Perla Abou-Jaoudé: Unfortunately, we didn't have time to submit anything in writing to the committee. We can put something together and sent it in later.

As mentioned in the document we sent you, we think that the definitions contained in Bill C-20 are really too vague to have probative value and for the new commission to have greater power of investigation.

As my colleague mentioned regarding the definition of detention, it is the Canada Border Services Agency that defines what constitutes detention or arrest. On this point alone, if you don't have a clear and precise definition, that's a problem.

We'll put something together for the committee. We'll send you something more concrete regarding the sections in question.

Ms. Kristina Michaud: That's kind of you. Thank you.

On the subject of overly broad definitions, clause 33 may also be problematic. It stipulates that complaints to the new commission must be made within one year of the day on which the alleged incident occurred. The deadline can be extended if there are good reasons for doing so and it is not contrary to the public interest.

The terms "good reasons" and "public interest" are not defined in Bill C-20.

Do you think the committee should define those terms? Would extending the deadline be in the public interest? What would constitute a good reason for extending the deadline?

As it stands, it's not really clear. Would you agree?

Ms. Perla Abou-Jaoudé: I completely agree. We think it should also include policies the agency adopts. Individuals and entities need to have that opportunity.

• (1025)

Ms. Kristina Michaud: Thank you.

I'm not sure whether you heard what Mr. Weber, the national president of the Customs and Immigration Union, had to say. He was in the panel just before this one. He said that the union has repeatedly noted systemic issues within the agency and that the officer who is the subject of the complaint should not be the only one to face consequences. He said it could be worthwhile to look at higher-ups and talked about the need for a culture change.

Given your experience with cases involving immigrants or individuals who have been wronged, do you think the problem goes beyond the actions of a single officer?

Ms. Perla Abou-Jaoudé: Yes, we see that in the decisions that are made.

I'll give you a straightforward example involving an officer. He decided to arrest someone even before their deferral date, on the

grounds that he had suspicions. His supervisor simply told us that he agreed with the officer's decision. A formal complaint was made, but nothing further was done. There was no follow-up.

We agree with what Mr. Weber said about the agency's culture. We can't speak to what happens with officers internally in the course of their work. In detention cases, when we ask the agency to provide us with the evidence or records, it's very hard to get them in advance, as required under the Immigration and Refugee Protection Act.

We try to bring those things to the attention of the people in charge at the agency. Sometimes, the information is well received, and sometimes, it isn't. In our view, if the change within the agency happened at all levels, it would certainly help in every way.

Mr. Vincent Desbiens: I'd like to say a bit more on that, if I may.

That is why we think third parties should be able to make complaints. We are witnesses to that culture, or the ongoing problems, whereas it may not always be in the client's best interest to report what happened because it could affect their claim. This is something that could help bring about culture change on a broader level.

It's also important to keep in mind that the client is a newcomer, someone who is vulnerable. They are seeking refugee protection, so they don't want a complaint to impact their claim. They have to find housing and social assistance. They have their family to worry about. From their standpoint, a complaint in relation to the conduct may be the least of their worries. Their lawyer, however, could pursue the matter and take on the additional burden that the client has no intention of dealing with. The lawyer could deal with the matter so as not to add to all the problems the client already has to overcome, not to mention the distress they suffer. The reason we are recommending these things is precisely to change the culture.

The Chair: Thank you.

[English]

I would suggest, witnesses, that the committee would certainly welcome any written submissions on recommendations you might have. As a matter of practicality, I would urge that they be received by us within the next week, so that we can take appropriate action.

We'll go now to Mr. Julian.

Mr. Julian, go ahead, please, for six minutes.

[Translation]

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

Thank you to the witnesses for their input. It's extremely helpful.

I'm going to start with you, Mr. Cappe. Thank you for your service to the country.

I have two questions for you.

[English]

When you worked at Treasury Board, how did you evaluate the process regarding resources? This is something that has come up systematically, that the resources that are being allocated by the federal government seem to fall woefully short of what is actually required. This is anecdotal, isn't it? The question is, on Treasury Board, how would you have evaluated the appropriateness of a budget? What criteria would you have used?

Prof. Mel Cappe: Well, Mr. Julian, I'm tempted to tell you that it was magic, but I know that won't suffice.

I think criteria were applied. We looked at the demand and thought about what supply was required. Each of the departments had to then justify the resources. In this case you would expect that CBSA would have gone to the Treasury Board Secretariat, which then would have taken it to the Treasury Board, to ministers, to look at the kinds of requirements and demands there would be.

I said, in answering Mr. Lloyd, that I hoped there would be no complaints, since the agency would adapt and do a better job. I know that's not going to happen; it's not going to get to zero.

You would come to a judgment about how many complaints would require investigation and how much staff would be required to do the investigation. Then you would make sure you had enough people at the border to keep service quality high.

One thing that is required in this is for the agency to establish service standards. You really want to see the agency saying, "Here's how we will respond to your complaints."

Mr. Sauv , in the previous panel, talked about how many of the complaints were resolved within 30 days. That shows that the RCMP, at least, has a standard. That would be used when going to the Treasury Board for resources.

• (1030)

Mr. Peter Julian: Thank you for that.

It's quite clear, given the figures that we know anecdotally now, what the size and scope of the existing workload is, and the fact that there will be an additional workload to do this properly. It's pretty clear to me that we are falling woefully short, but thank you for your answer.

I want to ask you a follow-up question. You said the commission does its work well. Hopefully, for example at CBSA, the management will take its work seriously. Can you give us any examples of oversight in which we have seen that kind of management taking reform seriously, and where it has led to fewer complaints?

Prof. Mel Cappe: Nothing comes to mind, I'm afraid.

I think the principles of the machinery of government and accountability point to the problem of offloading that responsibility. There are examples—and none come to mind at the moment—of how an agency that was having oversight....

I make a distinction between review and oversight. Review is *ex post*; oversight is in real time.

When you second-guess the agency, you change the behavioural response of the agents. What you don't want is for the agents to think, "I don't have to take this seriously."

I know, when I was a junior officer, I—

Mr. Peter Julian: I'm sorry to cut you off, but I have some other questions.

[Translation]

Thank you.

Now I'm going to turn to you, Mr. Desbiens and Ms. Abou-Jaoud .

First, I want to thank you for helping people who often have no other options.

You talked about giving third parties the ability to make a complaint. I think it's quite clear that everyone around the table sees that as an important change that should be incorporated into the bill.

Are you concerned that the new commission can easily dismiss complaints on various grounds? What do we need to change in the bill in order to really fight the systemic discrimination and racism we've been talking about for a few days in relation to the bill?

Ms. Perla Abou-Jaoud : Our association is definitely concerned about that. It's too easy to dismiss a complaint regarding an officer's conduct on the pretext that the complaint has less to do with the officer's conduct and more to do with the policy in place.

According to the language in the bill, the new commission must refuse a complaint, simplifying the situation. By stating that the complaint can be refused, the bill makes it easier to do so and would alleviate concerns. The commission would have the flexibility to determine whether the complaint warranted investigation and to decide on the steps that should be taken.

My colleague may wish to add something.

Mr. Vincent Desbiens: Mr. Chair, I don't have anything to add to what my colleague just said, but if something comes to mind, I will include it in the follow-up document we send to the committee.

[English]

The Chair: Thank you, Mr. Julian.

We're running a little short of time. I think we will have time to do a shortened second round, as we did last time, but we will go over by maybe five minutes.

Is the committee okay with that? Okay.

In that case, we will begin with Mr. Shipley for five minutes.

Mr. Doug Shipley (Barrie—Springwater—Oro-Medonte, CPC): Thank you, Chair, and thank you to the witnesses for being here today.

My first question is going to be for Mr. Cappe.

Mr. Cappe, first of all, thank you for your long and distinguished service to Canada. I want to ask you a bit of a personal question if I may. Back in 2017, you recommended an external oversight body for both the CBSA and the RCMP. That's six years ago. Are you feeling a little frustrated or disappointed, testifying here today, that this is our third attempt at passing this bill since you made those recommendations?

• (1035)

Prof. Mel Cappe: I'm sure I am less frustrated than you are, sir.

The only point I would make is that Ms. Damoff made reference to NSIRA and to NSICOP. I think those were more important, quite frankly.

Mr. Doug Shipley: Okay, and thank you for being here today.

In regard to that, in 2017, you were asked by the then minister of public safety, Mr. Goodale, to conduct a report on federal policing oversight in Canada. Would you say Bill C-20 in its current form aligns with the recommendations you provided in that report?

Prof. Mel Cappe: I would say it largely does. There are small points that I would do slightly differently, but the only thing I see as a gap is that point about the commission instituting new reviews.

Mr. Doug Shipley: Specifically, then, is there anything else missing from the legislation that you would have liked to see, given your experience reviewing law enforcement?

Prof. Mel Cappe: There is not, really. I'm assuming this is not the last time that Parliament will deal with this, and five years from now or 10 years from now, you'll be able to assess if this has been good, and what's missing.

Mr. Doug Shipley: You made me a little nervous here when you said "the last time" we're dealing with it. I hope it's the last time that we're dealing with it as a bill, and that we don't go on to number four, but let's keep our fingers crossed.

Thank you for those answers.

I have a couple of questions for the immigration lawyers.

First of all—either one can jump in on this one—the National Police Federation has shared concerns that the current complaint process effectively leads to police investigating themselves. Do you share those concerns?

Ms. Perla Abou-Jaoudé: From what we see in the field, I don't think it would be efficient. I don't think our association has a global point of view about that, but in the field it's hard to complain about a co-worker, and it's going to be even harder, we think, to see it from a different point of view.

Mr. Doug Shipley: Does your fellow lawyer have anything to add to that?

[*Translation*]

Mr. Vincent Desbiens: It is also important to keep in mind the perspective of the complainant, who is on the receiving end of a decision made by someone in a position of power. We are talking about people who are usually vulnerable, who come from countries where authorities are not looked upon favourably. It's hard for someone like that to complain to an officer's supervisor because

that supervisor is connected to the person who caused the harm. I don't think that would be a useful process for complainants.

[*English*]

Mr. Doug Shipley: Thank you.

Does either one of you have an opinion on the removal of the judicial review clause from this bill?

Ms. Perla Abou-Jaoudé: Could you tell us which article you're referring to? I'm sorry.

Mr. Doug Shipley: I don't have that right in front of me, and I don't have my staff two feet behind me, but there was in place, in the past, if information wasn't brought forward, an opportunity to go to a judicial review and ask them to review and have that released.

Ms. Perla Abou-Jaoudé: We would definitely encourage it. I'm sorry, I'm not sure where it is in the project, but we definitely encourage that there is a judicial review possible, because it is more than important. The agency has a lot of discretion. Bill S-8 also gave them even more power. We don't have access to judicial review, so we think a judicial review is really important to be able to catch the cases that fall through the cracks.

Mr. Doug Shipley: Thank you for that.

I want to go back to Mr. Cappe, and I have only about 30 seconds left, so I need a short answer on this one.

Mr. Cappe, would you like to see any type of information campaign or a code of conduct for CBSA officers alongside this Bill C-20, so they can have absolute clarity on their obligations, such as informing individuals of their right to file a complaint under this legislation?

Prof. Mel Cappe: I think that's possible and probably desirable, but it's an administrative decision of the agency. I wouldn't put it in to law.

Mr. Doug Shipley: Thank you.

The Chair: Thank you, Mr. Shipley.

We'll go now to Mr. Noormohamed.

Go ahead, sir, for five minutes.

[*Translation*]

Mr. Taleeb Noormohamed: Thank you, Mr. Chair.

Thank you to the witnesses for being with us.

Mr. Cappe, it's nice to see you again after so many years.

Ms. Abou-Jaoudé, one of the major shortcomings we hope to address is the concern various communities have regarding their lack of recourse and their inability to file a complaint after having a negative experience with a CBSA officer, including feeling discriminated against.

I want to make clear that that's not what happens in the vast majority of cases. When it does happen, however, the idea is to ensure that communities have some recourse. Do you think the bill does that?

What should we do to make sure those on the front lines feel as though they are part of the solution?

● (1040)

Ms. Perla Abou-Jaoudé: If I understand what you're asking, I would say that the bill is an excellent step in that direction. Giving third parties the ability to make complaints amounts to giving cultural communities a point of access for reporting problems they've had.

Third parties may submit complaints individually, but when a complaint is reported over and over again to organizations like ours, our members talk about it and usually it's pretty easy to pinpoint a particular problem, whether in a certain office or location. It's much easier for an organization like ours to submit a complaint and flag the different problems experienced by various communities. We also think it would bring some impartiality to the process.

Mr. Taleeb Noormohamed: What do you think prevents members of various communities from feeling comfortable enough to submit complaints against public safety agencies, and why? Can you tell us what makes third parties so important?

Ms. Perla Abou-Jaoudé: Take someone whose refugee protection claim was denied. CBSA has an obligation to remove them from Canada as soon as possible. Submitting a complaint could signal that the file needs to be updated, prompting the officer to conclude that the file is ready and the person needs to be removed from the country. That alone puts pressure on the person not to complain.

If a problem is reported and nothing is done, the fact that a third party can bring the complaint to the administration and a commission provides another complaint access point. That's a straightforward, but common example.

Mr. Taleeb Noormohamed: Great. Thank you.

[English]

Mr. Cappe, I saw you nodding as the previous witness was speaking. When it comes to this issue of being able to bridge the gap between communities feeling safe and officers feeling like they're part of the solution, along with this law what are some of the things you think need to happen to ensure that not just the letter but the spirit of the law is actually manifested on the front lines?

Prof. Mel Cappe: I come back to something Mr. Shipley raised.

Should the agency make it clear to people that they have the right to complain? The answer is yes, but there's also an outreach that should be undertaken from the agency to those communities, and we've seen this. CSIS has a consultative forum with some of the Nordic communities, and it's something that builds trust and confidence. We go back to those first principles; anything that will build trust and confidence, I think, is a good thing.

Mr. Taleeb Noormohamed: I'll yield the time I have left back to the Chair.

The Chair: Thank you, Mr. Noormohamed.

[Translation]

Ms. Michaud, go ahead. You have two and a half minutes.

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

Mr. Cappe, I know you have tremendous experience in government, and I wondered what you thought of the fact that it's been 20 years since the recommendation to create an independent body was made to the federal government. Justice O'Connor chaired the very high-profile public inquiry leading to the recommendation to create an independent mechanism to handle complaints from the public. In 2020, the Privacy Commissioner also noted significant failings in the practice of searching passengers' personal electronic devices. He, too, recommended an independent complaint mechanism.

Do you think it took the government too long to act? This is the third attempt. Twice, in the previous two Parliaments, similar legislation was brought forward but, unfortunately, was never prioritized, so it died on the Order Paper.

Do you think actions to restore the public's trust in the RCMP and CBSA are long overdue? Both public safety organizations have received negative media attention in recent years for a variety of reasons. I'm not blaming the officers, because every case is different. Nevertheless, a number of cases were publicized.

Do you think it was important for the government to establish a transparent process to restore the public's trust?

● (1045)

Prof. Mel Cappe: I'm not surprised it took so long, but as I told Mr. Shipley, I think the other bodies were much more important. It's understandable why this legislation was overlooked in relation to the legislation establishing those other bodies.

Restoring public trust is the keystone of all those legislative measures. I don't know what the best way to do that is, but it's very important in all cases.

Ms. Kristina Michaud: Thank you.

I think, at this point, everyone welcomes the legislation, and Bill C-20 has a lot of positives. Do you worry, as other witnesses do, that the lack of resources will make the process longer and more burdensome? That would deter people from filing a complaint or seeing the process through.

Prof. Mel Cappe: I don't have an opinion on that, since I haven't looked into the issue of adequate resources yet. It comes back to the agency's objectives. The agency enforces nearly one hundred pieces of legislation. As I mentioned, those measures involve everything from the Canadian Wildlife Service and Fisheries and Oceans Canada to Agriculture and Agri-Food Canada, so it's a lot more complex than it seems. What's more, the agency handles 30 million business transactions and administers border crossing measures. To do all of that, the agency needs adequate resources.

The Chair: Thank you, Ms. Michaud.

[English]

I was asleep at the switch.

Go ahead, sir.

[Translation]

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

My questions are for you, Mr. Desbiens and Ms. Abou-Jaoudé.

The commission will be made up of five people, so what criteria should be used to ensure that the commission is responsive to people's needs in the course of its work?

What kinds of people do you think the members of the commission should be?

Ms. Perla Abou-Jaoudé: To be perfectly frank, I have to tell you that we haven't given that a lot of thought, so I can't provide a detailed answer. However, I think expertise and open-mindedness would be good qualities for members to have, and having members from cultural communities would be a tremendous asset. The commission could have someone with an agency background to represent the agency's reality. Some diversity would be beneficial in every respect.

I'm not sure whether Mr. Desbiens has anything to add.

• (1050)

Mr. Vincent Desbiens: I'll just say that it isn't a question we've considered, but we are of course taking note of all the questions we aren't able to answer. We will try to address that question in the follow-up document we send.

Mr. Peter Julian: Do you think the commission should have at least one person with experience working with refugee claimants and prospective immigrants? Do you think it's important for the commission to have someone like that?

Mr. Vincent Desbiens: Yes, the commission should definitely have people with experience in organizations that work with

refugee claimants and other vulnerable populations. Lawyers in the field who regularly represent this clientele could also be considered. I think it's essential to understand the reality these people face, what they've experienced. For that reason, the commission needs to have people who understand that reality and have personal experience working with these complainants.

Mr. Peter Julian: Mr. Cappe, I'm going to ask you the same question. What type of person should we look for to do the work required of this new commission?

Prof. Mel Cappe: I don't have a straightforward answer for you.

[English]

I should tell you that I ended my report to the government on this issue by underscoring the importance of the quality of the people they appoint. I don't have a model in mind, but I would say that an indolent, too-relaxed chairman would not be helpful. It could be somebody who takes this seriously or perhaps has a background in law or law enforcement, but not necessarily. A member of the public could do this very well. In any case, I think the quality of the people is hugely important.

[Translation]

Mr. Peter Julian: Thank you.

[English]

The Chair: Thank you, Mr. Julian.

Thank you to our witnesses. That wraps up our meeting for the day. We appreciate your time and your expertise. We're looking forward to your briefs, hopefully within the next week, as a matter of practicality.

Thank you, all.

We are now adjourned.

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