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• (1545)

[English]

The Chair (Mr. Ron McKinnon (Coquitlam—Port Coquitlam, Lib.)): I call this meeting to order. Welcome to meeting number 72 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. Therefore, 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.

Before we get started, I'd like to advise the committee members that we need to approve a budget for this study. I think everyone received a copy of the budget in their email yesterday. I'm wondering if we can get a motion to approve this budget.

Some hon. members: Agreed.

The Chair: Okay. I would also note to the committee members that today is our last witness meeting. On Friday we had tried to schedule estimates, but the minister is not available, so my thinking is that we will cancel that meeting and we will be able to get up to speed on all the amendments that are coming.

It's up to the committee. Are we all okay to cancel that meeting?

Ms. Dancho.

Ms. Raquel Dancho (Kildonan—St. Paul, CPC): Thank you, Mr. Chair.

Just so I'm clear, we will not be getting the minister for the estimates...?

The Chair: That's correct.

Ms. Raquel Dancho: That's a bit abnormal.

The Chair: We asked. We invite, and it's really up to them to accept or not. We haven't had that many opportunities to do so.

Ms. Raquel Dancho: Mr. Chair, I'm just concerned about accountability. It's a big budget. There's lots in there, and I'm just voicing my concern and disappointment that he was not able to come on Friday. It is important that this committee question him on his very large budget with billions of taxpayers' dollars.

It is disappointing, but I appreciate that you tried, Mr. Chair.

The Chair: Thank you.

That all having been said, we have quite a number of amendments that have come in. We should get the bulk of them by close of business, let's say, today, and they'll be able to be put into a package. We're not exactly sure but maybe by Thursday or Friday, you might see that package.

Other amendments may come in over the course of that time. If they're few and far between, we can probably easily incorporate them into the package but, of course, we're all able to submit amendments from the floor when the time comes in any event.

That all having been said, welcome to our witnesses. Thank you. Today we have—

Mr. Peter Julian (New Westminster—Burnaby, NDP): I have a point of order.

We had spoken about having an extended meeting next Tuesday, and I just wanted to make sure that everything is in place for that.

• (1550)

The Chair: Yes, I've asked the clerk to scrounge around and see what we can find. At the moment the terrain is a little bit uncertain for next week. We don't know which committees are meeting and which ones aren't. We have certainly asked for more time for Tuesday and possibly Monday afternoon, and maybe even Wednesday. My thinking is that the longer we wait in the week, the less likely we're going to have a House sitting, so we're doing what we can to get more time.

Mr. Taleeb Noormohamed (Vancouver Granville, Lib.): It looks like we will not be sitting on Friday.

The Chair: We will not be sitting on Friday.

Okay. We have two panels of witnesses. First, let us welcome today in person, from Faces of Advocacy, Dr. David Edward-Ooi Poon, founder, and John McCall, member. From the National Council of Canadian Muslims, we have Fatema Abdalla, communications coordinator, and Nadia Hasan, chief operating officer. With us by video conference, from the National Family and Survivors Circle, we have Hilda Anderson-Pyrz, chair.

Welcome, everyone. We will start by inviting Mr. Poon to make an opening statement of up to five minutes.

Dr. David Edward-Ooi Poon (Founder, Faces of Advocacy): Hello. My name is Dr. David Edward-Ooi Poon. Please call me David.

I am the founder of Faces of Advocacy, a grassroots Canadian organization that was responsible for federal immigration policy changes for the safe reunification of multinational families during the COVID-19 pandemic-related travel restrictions.

I have the sincerest gratitude for many parliamentarians, including many here today, who helped bring together Canadian families in a responsible way by listening to the experience and pain of so many first-hand. I hope we can do that again today.

I want to begin by telling you why I founded Faces of Advocacy.

Early in the pandemic, the government completely ignored multinational Canadian families, Canadian families who had partners, children or parents of different citizenships. The rules at the time were vague enough, however, that they could be interpreted to mean that the international family members of Canadian citizens could come into Canada, and there were multiple reports of CBSA agents allowing that.

My partner is an Irish national. She had contacted the CBSA, the IRCC and the embassy, even receiving a letter from the consulate in Europe attesting to our relationship status. She was told that she could come to Canada. Upon landing in Toronto, the CBSA agent did not allow her to enter, outright lying to her that there was no way to speak to a supervisor, denying her the time to read any forms before she was forced to sign them and intimidating her by calling her a liar.

That same agent admitted to her later that day that he knew she was not a liar, but still he used these aggressive intimidation tactics alongside outright falsehoods. We later submitted an ATIP on the interaction where the CBSA agent did not record his unprofessional behaviour nor the misinformation he presented to my partner. He faced no consequences.

Members of the committee, I am the face of a national organization of over 10,000 people who caused the government to change federal policy. Whenever I enter the country with my partner, I am still scared. Imagine that I was a person without a platform just wanting to be with their family.

John McCall is such a person. He is an American citizen who fell in love and married a Canadian woman, Donna, 40 years ago. While their children have a right to Canadian citizenship, they were Americans in the eyes of the CBSA. When Donna became ill early in the pandemic, the McCall children pleaded with the CBSA for a compassionate exemption to allow them to be with their mother before she passed. They were given a form letter response that a Canadian passport was needed. We know that different CBSA agents at the time interpreted the pandemic-related border restrictions to allow family reunification, but with unclear rules and CBSA agents unwilling to help the McCall family find a solution or even escalate them to someone who could, the McCall children said goodbye to their mother over FaceTime.

John and I connected. We worked with Faces of Advocacy. We changed federal policy with Public Safety's help much later. De-

spite these seeming victories, there were those who were still denied entry into Canada or treated like liars, despite well-documented compliance with entry exemption requirements, simply due to the whims or unwillingness to listen of individual CBSA agents. Immigrants quickly learned that they had no recourse to challenge the decisions made by CBSA agents under the authority or discretion afforded to them without oversight.

It is for those reasons that Faces of Advocacy is pleased to support Bill C-20, which seeks to level the imbalance of power between the complainants and the CBSA. We are in strong support of the proposed empowerment of the public complaints and review commission to impose disciplinary measures upon the CBSA and the requirement for the commission to produce an annual report that must include disaggregated race-based data.

There are three areas of Bill C-20 we wish for the committee to refine.

The first, in part 1, is about the joint time limit service standards established between the commission and the CBSA. The PCRC has been made necessary by the inability and, at times, outright obstruction of the CBSA to investigate good-faith complaints. Our organization has heard many complaints from immigrants to Canada who have been told that there's no access to a CBSA agent supervisor and that the agent's decision is final. These people have essentially been threatened if they dare to question the agent.

We fear a requirement to "jointly establish" service standards will be viewed by the CBSA as an opportunity to delay investigation and, therefore, delay justice. We ask that the committee replace the existing directives as they are written and develop reasonable service standards, particularly in urgent cases.

● (1555)

The second is in clause 9 of part 1, which speaks to education and information about the commission. We agree that the commission's existence and purpose need to be well known. It is our belief, though, that the mandate and processes of the PCRC must be specifically and clearly promoted at key points of individual contact with the CBSA and that the onus must be placed on the CBSA to satisfy this promotion requirement.

The Chair: I'm sorry, but could you wrap up?

Dr. David Edward-Ooi Poon: Yes.

All public CBSA stations should be required to post these rules. A CBSA agent cannot be allowed to outright misinform.

Finally, the appointed members should include not only indigenous representation but representation of international families as well.

The Chair: Thank you.

I'll now invite Ms. Hasan and Ms. Abdalla to make their opening statements for up to five minutes.

Dr. Nadia Hasan (Chief Operating Officer, National Council of Canadian Muslims): Thank you, Mr. Chair and members of the committee, for providing us with the opportunity to offer our thoughts on the committee's study of Bill C-20.

My name is Nadia Hasan and I'm a Ph.D. by training and the COO of the National Council of Canadian Muslims. I'm joined today by Fatema Abdalla, the communications coordinator for the council. I will be sharing time with Ms. Abdalla.

I would also like to acknowledge the work of our summer students Zena and Hasna, who have significantly helped in the preparation of the submissions that we'll present before you today.

At the outset I just want to say that we at the National Council of Canadian Muslims have been advocating for many years for CBSA oversight legislation. NCCM has heard countless stories over the last two decades about the challenges that Muslims face at the border. That is why one of our key battles over the last two decades has been in calling for oversight of the Canada Border Services Agency.

While we support the passage of this bill, we would like to see three key amendments, without which we have grave concerns that the impact of this bill will be a very limited first step rather than the kind of comprehensive reform we need to see now.

First, we suggest that the definition of national security in Bill C-20 needs further clarification. We believe the current language of the bill means that there could be an unforeseen consequence arising from subclause 31(2). As the bill is currently drafted, this subclause suggests that all national security matters should be referred to the National Security and Intelligence Review Agency or NSIRA.

Let me give you an example. There's a well-publicized case about an Egyptian human rights activist, Abdelrahman Elmady, who was deemed a security threat by a CBSA officer in Vancouver, where he was also subjected to detention and was not given medical support that he needed. For example, they took away his hearing aids.

If CBSA oversight legislation still required Mr. Elmady to go to NSIRA, we know that it would take years until Abdelrahman received a review of the alleged impugned conduct. More importantly, it would mean that Bill C-20 would not at all help Mr. Elmady and other Muslims allegedly unfairly targeted by CBSA agents for supposed "national security reasons" to get appropriate oversight and would simply add to the administrative burden NSIRA currently faces.

We agree with other voices before you that the commission should have jurisdiction to conduct reviews of activities that are in relation to national security in certain cases. We recommend, amongst other potential solutions, that an amendment to clause 31 be made to clarify that only complaints that require complex top secret clearance or documentation should go to NSIRA. All other matters around national security complaints arising from alleged CBSA misconduct should be dealt with by the commission.

Second, we recommend that clear timelines be enshrined. As you have heard from a number of other colleagues, there should be strict timelines for the CBSA and the commission to investigate and report on complaints. On the same point, regarding concern about delayed review, our concern is that without the installation of a set timeline in legislation, this new oversight body could take a lot of time to process and initiate reviews.

We recommend an amendment to subclause 8(1) to require a timeline of three months for the oversight body to deal with the first step of a review process for a complaint, rather than leaving it to the commission and the RCMP to establish the time limits.

I'll turn it over to my colleague Fatema to continue.

• (1600)

Ms. Fatema Abdalla (Communications Coordinator, National Council of Canadian Muslims): Finally, although the bill identifies the need to protect against unreasonable searches and seizures, we recommend a zero tolerance for racial discrimination provision. We have seen a number of Muslim clients mistreated with Islamophobic or racist conduct by the CBSA, whose misconduct has historically gone unchecked. Recently, research conducted in March 2020 found that over 75% of CBSA officers surveyed said they witnessed a colleague discriminating against travellers based on their national or ethnic origin.

To put it in clearer terms, we are aware that in one instance, a CBSA officer cited sources in a decision that drew on well-known Islamophobes like Daniel Pipes, and in one instance, cited information that linked to hateful accusations levelled against NCCM and other prominent Canadian Muslim organizations.

To the best of our knowledge, the CBSA has never publicly apologized for relying on such nonsense. As such, considering the history of the CBSA and the clear presence of Islamophobic prejudice in its work culture, a zero tolerance for hate clause should be instituted.

Thank you.

I note in closing that we will expand significantly on the submissions before you today in a follow-up brief to be submitted. Subject to your questions, that concludes our submissions.

The Chair: Thank you.

I now invite Ms. Anderson-Pyrz to make an opening statement of up to five minutes.

Please, go ahead.

Mrs. Hilda Anderson-Pyrz (Chair, National Family and Survivors Circle): Thank you so much for the opportunity to present today.

Good afternoon. My name is Hilda Anderson-Pyrz. I'm the chair of the National Family and Survivors Circle, and I'm joining you today from Winnipeg, Manitoba, located in Treaty 1 territory in the traditional lands of the Anishinabe, Ininew, Anishininew, Dene and Dakota, and the heart of the homeland of the Métis nation.

The National Family and Survivors Circle is composed of indigenous women and 2SLGBTQQIA+ individuals of diverse distinctions from across Canada who are directly impacted family members or the survivors of gender-based violence. We utilize our lived experience, expertise and self-determination as individual rights holders to advocate for ending gender-based violence against indigenous women, girls and two-spirit and gender-diverse people, and for the implementation of the 231 calls for justice.

Bill C-20 and all subsequent federal legislation must be drafted, studied, adopted, implemented and monitored with a view to its contribution to achieving the “transformative change” this government promised in “Federal Pathway to Address Missing and Murdered Indigenous Women, Girls and 2SLGBTQQIA+ People”.

It is recognized that, pursuant to subsection 4.2(1) of the Department of Justice Act, in June 21, 2022, the Minister of Justice tabled a charter statement regarding Bill C-20 to identify and examine legislation for inconsistency with the Charter of Rights and Freedoms.

Today, I remind this committee that the 231 calls for justice are legal imperatives that arise from international and domestic human and indigenous rights laws, including the charter, the Constitution and the honour of the Crown. As such, Canada has the legal obligation to fully implement these calls for justice from the National Inquiry into Missing and Murdered Indigenous Women and Girls final report.

Bill C-20 can be a step forward in fulfilling its legal obligations by aligning itself with call for justice 5.7. It states:

We call upon federal and provincial governments to establish robust and well-funded Indigenous civilian police oversight bodies (or branches within established reputable civilian oversight bodies within a jurisdiction) in all jurisdictions, which must include representation of Indigenous women, girls, and 2SLGBTQQIA people, inclusive of diverse Indigenous cultural backgrounds, with the power to:

- i. Observe and oversee investigations in relation to police negligence or misconduct, including but not limited to rape and other sexual offences.
- ii. Observe and oversee investigations of cases involving Indigenous Peoples.
- iii. Publicly report on police progress in addressing findings and recommendations at least annually.

While Bill C-20 replaces a “civilian” for a “public” complaints and review commission and expands to include the Canada Border Services Agency, the spirit of call for justice 5.7 is the same: the legal imperative to establish a robust and well-funded independent oversight body that is representative and inclusive, involves conse-

quential accountability mechanisms and is transparent. In its contribution to the national action plan, the National Family and Survivors Circle identified call for justice 5.7 as an immediate action for implementation.

Due to my limited time in this presentation, I will only highlight high-level concerns related to Bill C-20 in the areas of representativeness and inclusivity, trauma-informed approaches and accountability mechanisms.

In 2021, Minister Lametti stated:

We are confident that this Federal Pathway provides the needed principles and foundation to build a fairer, stronger, and more inclusive and representative justice system that respects the rights of Indigenous Peoples, and protects Indigenous women, girls and 2SLGBTQQIA+ people.... We are committed to implementing new actions and policies that address those inequities....

This is from the “Federal Pathway to Address Missing and Murdered Indigenous Women, Girls and 2SLGBTQQIA+ People”.

When it comes to Bill C-20, indigenous women, girls and 2SLGBTQQIA+ people must be represented and included as decision-makers and investigators. The indigenous gender lens is a specialized skill and expertise that can only be obtained through lived experience involving daily navigation of, and confrontation with, systems that have historically harmed us and continue to do so today. We possess critical insight into solutions for our safety, protection and dignity that no one who is not in our situations or circumstances can fully know and therefore fully address.

● (1605)

Proposed subclause 33(3) indicates that complaints against the conduct of an RCMP officer or CBSA employee must be made “within one year after the day on which the conduct is alleged to have occurred”.

This could be extended by the commission or the commissioner per proposed subclause 33(4), or the commission or the president per proposed subclause 33(5), if either “is of the opinion that there are good reasons for doing so and that it is not contrary to the public interest.”

The terms “good reasons” and “public interest” are not defined in the bill and would place the onus on indigenous women, girls and 2SLGBTQQIA+ people and other complainants to demonstrate they have “good reasons”.

The Chair: I'm sorry, but are you able to wrap up now?

Mrs. Hilda Anderson-Pyrz: Yes. Basically, we want to ensure there are spaces for indigenous women, girls and 2SLGBTQIA+ people to be involved in this process with equity, equality and decision-making and to ensure that the 231 calls for justice are included in this process.

I have more to say, but unfortunately, due to the time constraints.... Hopefully, I can share additional information through the questions that may be asked. Thank you for the opportunity.

This document is also shared.

Thank you.

The Chair: Thank you.

Thank you, all of you, for your statements.

We'll start our questions now. We'll start with Mr. Shipley.

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

Mr. Doug Shipley (Barrie—Springwater—Oro-Medonte, CPC): Thank you, Chair.

Thank you to all of our witnesses for being here today.

Chair, if you'll indulge me, I have a quick question for the clerk, if he confirm that Dr. David Edward....

You want to go by "David", but I'll struggle with that a little bit.

He was invited by which group to be a witness...?

• (1610)

The Chair: I don't know who invited him.

Clerk, if you wish to answer....

The Clerk of the Committee (Mr. Simon Larouche): His name was submitted by the Liberals.

Mr. Doug Shipley: Thank you.

The reason I say that.... I'm not doing it to be glib. I'm doing this so that no one thinks I'm doing some type of a political attack job here, as you weren't our witness.

Sir, we did a little research. You've been involved in this case for quite some time, and I commend you for all the work you've done on it in the past. Back in 2021, you were so frustrated with the system that you actually decided to run against Minister Blair as an independent because he refused to meet with you for 18 months regarding border restrictions and CBSA oversight.

Your exact quote from the Toronto Star was, "If it takes me running an entire campaign just to be able to speak to Bill Blair face to face, that shows how absurd the system is, that a person needs to run a federal election campaign just to speak to the man who needs to be accountable for those actions."

I'd love to give you a bit of time here to expand on that and tell me about the frustrations you must have obviously gone through, because I know how much it is to put your name out and run. Go ahead, sir.

Dr. David Edward-Ooi Poon: Thank you.

If I can offer a bit of my time...the people who have helped with the exemptions I'm so grateful to. There are many in this room who did help us, but there were many who did not offer us the time that I thought was appropriate given the circumstances.

Mr. McCall's wife, a nurse in Canada, died saying goodbye to her children through FaceTime, this from a system that did not care to give them more than a form letter. At the time, Minister Blair was the Minister of Public Safety and Emergency Preparedness. I ran that campaign asking him to just call John. That was in 2021. We asked him in 2020. Now it's 2023.

Yes, it was absurd that I had to run as an independent—not partisan—just to get that attention and that discussion, and I once again bring you John McCall, driving all the way in from his retired wonderful life in Madoc, to get a little face time and the small modicum of respect that a man deserves after suffering so much. His example allowed a family to reunite in Canada when their sister was dying because of the example he and Donna put together.

Yes, I do big things, but that's in honour of and as advocates for Donna. That's why we're here today.

Mr. Doug Shipley: Thank you for that.

Mr. McCall, would you like to add anything to that?

Mr. John McCall (Member, Faces of Advocacy): Yes, only that when I started this effort to try to get my children into Canada so they could be with us, my wife wasn't in imminent danger of death. She needed a liver transplant. I started out by writing to the Prime Minister and asking for some kind of exemption or consideration that might allow them to be with us together as a family before she got seriously ill and before she needed a transplant, before the transplant process took place. Her condition continued to deteriorate.

The original email that was sent to the Prime Minister was forwarded to Mr. Blair's office, who then made no response whatsoever there. I also wrote to Mr. Blair's office myself, asking for a response and, again, no response whatsoever there.... I also wrote to Minister Hajdu's office. I did get a response from them, when Dr. Njoo wrote back to me and said that Canada has no compassionate exemption. At that point, my wife deteriorated even further, and ultimately she died unexpectedly.

That went from March to August.

Mr. Doug Shipley: Obviously, we are very sorry for what you've been through and sorry to hear about your loss.

Since the reintroduction of Bill C-20, have you been able to speak to the current Minister of Public Safety?

The question is to either one of you.

Dr. David Edward-Ooi Poon: The current Minister of Public Safety, Marco Mendicino, or the previous minister Bill Blair, have not spoken to us. We have reached out many times.

Mr. Doug Shipley: Thank you.

My next question will be for Mrs. Anderson-Pyrz.

Recently, President Natan Obed and Grand Chief Abram Benedict testified at this committee. They noted that the theory of police investigating police may lead to issues of a lack of confidence in the system. Do you agree with that assessment?

Mrs. Hilda Anderson-Pyrz: Yes, I do. I think it has to be completely independent.

Through the loss of my sister, I experienced filing a complaint with the public complaints commission, and I didn't find that it was independent. It's difficult for individuals to investigate themselves.

When the letter was provided to my family that there was no negligence of duty related to the investigation into my sister's death, it created further harm. It was heartbreaking for our family to read that the investigative body was the RCMP and they investigated themselves.

We knew right from the beginning that there was a negligence of duty into the investigation of how my sister died. It created further harm for my family to know that individuals were able to investigate themselves and to report on the outcome.

• (1615)

The Chair: Thank you, Mr. Shipley.

Mr. Noormohamed, go ahead for six minutes.

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

I want to start by thanking all the witnesses.

Mr. McCall, I want to express, on my part, and I think on behalf of all of us here, our sincere regret for what you and your family went through. It's not okay. We can't change that, and we can't turn back the clock, but I do want to say that I was really sorry to hear what happened to you and your family.

Hopefully, through this process, we can make things better for others.

Mr. John McCall: That's my goal.

Mr. Taleeb Noormohamed: I want to start by digging in a bit, Dr. Hasan, and talking about the broader challenges that a number of families from Egypt have faced in Vancouver.

You and Ms. Abdalla are no doubt familiar with these challenges with CBSA guards who have been exercising a degree of authority of interpreting policies that perhaps may or may not have been in existence. This has created consequences for a large number of these Egyptian families who have been deemed inadmissible, with no ability for a process of recourse or, in particular, even being able to look into this with, obviously, the lack of oversight.

Where we are today, how would we actually ensure that doesn't happen again? How do we make sure that, in getting this bill right, those types of challenges don't happen again?

Dr. Nadia Hasan: The reality is that there are many more, in addition to the families you are referring to, who have had that experience. Sadly, the experience of crossing borders while Muslim is an experience that a lot of people are far too familiar with in the Muslim community.

Globally, and across Canada, it's unfortunate that it has now become a recognizable phenomena that people can actually be characterized in particular ways. It includes things like people feeling a lack of dignity and feeling fear and anxiety while coming to a place like Canada, which is supposed to be a multicultural society that is welcoming and a global guardian of human rights.

You're absolutely right that this is a problem. The fact that it is such a widespread problem, and the fact that we see it as such a common experience among Muslim communities and others, really points to the fact there are systemic issues here that need to be addressed. They need to be addressed appropriately. They need to be addressed with the proper resourcing and with the proper focus on organizational culture. We see problems, as my colleague, Fatema, referred to, in the types of references and the politics of citations within the decisions that CBSA agents make.

That is far too much power, with very little integrity in the type of knowledge being used, to make the kinds of claims they're making about these families. I do think there is a systemic solution needed here.

Mr. Taleeb Noormohamed: Let's dig into that a bit.

With a name like mine, I can tell you that I have been through precisely what you've talked about. There are moments when you ask yourself, "With a name like mine and a faith like mine, why should my experience be any different?"

I think there is a really important role for us to play—I've asked this in the past, and I'm going to ask it of you—in making sure that we actually make this an experience and make the whole question of oversight something that is embraced by individuals on the front line, particularly at CBSA. I am really keen to do whatever we can to ensure that, when this is implemented, it is implemented in such a way that it brings people along, rather than drags them along. I think it's really important for us to do this in a way that allows people to feel like they are part of a solution.

I would ask you what the things are systemically that need to happen such that those individuals who are on the front lines at CBSA.... I want to be very clear that it's not everybody. It's not an "everybody" problem. These are issues in the system that we need to deal with.

How do we make sure that those individuals have the training, the support and the awareness that are required to ensure that they aren't going down this road, whether wittingly or unwittingly, of treating Muslims or others from racialized communities differently?

• (1620)

Dr. Nadia Hasan: I think you're absolutely right. In an ideal world, we have everybody on board in addressing systemic racism and addressing Islamophobia within our systems in clear and direct ways, but I want to put a caveat on that. I think the existence of this body is also meant to be something that ensures a level of fairness, equity and justice, regardless of whether people are coming along for the ride. It is, I think, really important that we talk about those two things.

However, I think you're absolutely right. There's a systemic problem and it needs systemic solutions. That means everyone needs to be participating in solving the problem.

The Chair: You have 18 seconds.

Mr. Taleeb Noormohamed: I am going to give those 18 seconds back.

Thank you very much to all of you.

[*Translation*]

The Chair: We'll now turn to Ms. Michaud for six minutes.

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

I thank the witnesses for being here today.

Dr. Poon, I'm pleased to see you again. We met virtually a few times during the pandemic. Thank you for the work you do for all your members.

Mr. McCall, I offer you my most sincere condolences for what you went through.

I would like you to give me some real examples of what would have happened if, during the pandemic, there had been an entity or commission to process public complaints about the Border Services Agency.

Do you think that some people would have used it or filed a complaint because they were dissatisfied with their treatment by a border services officer?

Could you talk about specific cases or situations your members shared with you?

Could you also tell us about the usefulness of setting up this type of independent entity?

Dr. David Edward-Ooi Poon: Thank you very much.

I'm sorry I don't speak French.

[*English*]

Faces of Advocacy at the time acted as the intermediary when complaints were coming in. When we won our exemptions—we very clearly and publicly won our exemptions—it was on the website, right next to the order in council where extended family compassionate exemptions came in. The day of, I wrote a letter for every single member. It said, "Bring this with you, because we don't trust the CBSA to believe you." The fact is, they didn't. They could look up who I was and they could look up our exemptions, but our members were told the day of, "Oh, there's no such exemption. You can't bring in your family. You guys are liars."

If there was a sticker that said, "Hey, if you're being mistreated by the CBSA" in both English and French, they would be empowered to say, "Okay, buddy, give me your badge number. I'm going to go to this complaints office. They have a two-week turnaround, and this is what we're going to do."

We, a group of nobodies, were hearing these complaints and doing the best we could, and thank goodness a number of agents read the rules. However, for those who didn't and for those who were outside the scope of where they should be practising, that really harmed a number of people.

Now add that to the fact that a CBSA agent can arbitrarily deny someone at the border for the future as well. How scared are we? How terrified are we that we have to enter and risk never seeing our loved ones again?

We need Bill C-20 to be effective.

Thank you.

[*Translation*]

Ms. Kristina Michaud: You did in fact publish some posts on your Facebook page in favour of Bill C-20. I don't know if you read it; the bill is rather lengthy. I say that, but I have not yet seen a lot of bills during my career. Nonetheless, we just did Bill C-21, which was shorter, but more litigious. This time, all parties seem to agree on the importance of setting up this type of entity. However, there are a lot of details in the bill that could, if they are actually applied, lead to a lot of bureaucracy. I don't know if there are concerns about the timeline for applicants, those who will file a complaint.

Do you have any concerns in that regard? Should we try to ensure that it's easier and that people get answers faster?

If you have any comments on that, I'm quite ready to hear them.

• (1625)

[*English*]

Dr. David Edward-Ooi Poon: I'd like to publicly thank my director of operations, Sean Dillon, who read through that big pile of papers to make sure we understood it well.

In part 1, there is talk about joint timelines being created between the commission and the CBSA and RCMP. The issue here is that, if the timeline is made by both, that could mean the CBSA and RCMP, who have historically done this, could delay and kick the can down the road.

Are we afraid? Absolutely, but we're thankful—hopefully, the third time is the charm for this bill—that something is going to happen where it will be clearly labelled for regular people to know what their rights are and to know what they can do. Hopefully, creating this spotlight will no longer allow agents to work in the dark and do things that are inappropriate—or worse, do outright lies and misinformation.

That's our fear, which I believe SECU can help put some hope toward today.

[*Translation*]

Ms. Kristina Michaud: Thank you.

The committee received several briefs from organizations that made recommendations for small changes here and there in the bill.

For example, they pointed out the fact that the person presiding over the commission cannot decide to review a complaint on their own. The minister or complainant has to ask them to do so once it's gone through the RCMP's commission.

Do you have any changes like that to suggest? We are a little pressed for time. We're starting clause-by-clause study of the bill next week. That means we are preparing amendments now. If changes seem warranted to you, and you want to suggest some, I'll give you the floor.

[*English*]

Dr. David Edward-Ooi Poon: Thank you.

Essentially, I would ask the legislators here to think about this: If, God forbid, that happened with John's family again today, would the system protect Donna McCall? If the answer is "no", then the bill is not strong enough.

Specifically, then, it would be an urgent way, an escalation to a supervisor or someone who can make that decision, and an immediate turnaround if there's a discrepancy between what the CBSA officer says and what the order in council says. If these things exist to bolster citizens' rights, they'll allow stories like the McCall family's to be prevented.

He sacrificed so that we can do better. I am so grateful that you're taking the time to hear him out.

[*Translation*]

The Chair: Thank you, Ms. Michaud.

[*English*]

We'll go now to Mr. Julian.

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

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

Thank you to our witnesses. I'm saddened by your remarks. We just have to do better as a country.

I want to start with you, Ms. Anderson-Pyrz. You mentioned in your initial comments the importance in the calls for justice of a robust and independent oversight body. Does Bill C-20 achieve that? If not, what needs to change?

Mrs. Hilda Anderson-Pyrz: I have to be honest. We were invited last minute as a witness, so we didn't necessarily have the time to adequately review everything. However, from what we have reviewed, I think there can be gaps, especially when you're looking at who will be represented, how they will be represented and what that independence looks like. It's all really dependent on the different groups you're speaking to. I think it's critical to have diversity at the table. There also needs to be a gender balance. When you look

at policing, it was raised that there were issues from coast to coast during the national inquiry into missing and murdered indigenous women and girls and two-spirit and gender-diverse people, and also that the system lacked accountability.

I would need to have a more in-depth review of the bill, and any amendments related to the bill as well, to be able to provide a full-some response to that. Those are just some of my initial thoughts. Thank you for the opportunity to provide feedback.

● (1630)

Mr. Peter Julian: Thank you, and I'm so sorry about the tragic loss of your sister.

Mr. McCall, deepest condolences on the loss of your spouse.

These are tragic stories that underscore the importance of finally getting this done by getting it done right.

We've had previous testimony, Mr. McCall, and I'll ask you and Dr. Poon about the issue of management's not making the right decisions. I think both of your cases strike at poor management, poor integration of what should be clear direction, and also the issue of resources.

Are you concerned that Bill C-20 doesn't yet appropriately encompass the ability to tackle those systemic problems that are so important to resolve?

Mr. John McCall: I'm concerned about the ability of Bill C-20 to address the urgent needs. I don't think that throwing it to a committee is going to help people who are urgently needing to get to the bedside of a dying family member.

That wasn't my case, though. My case was not an urgent need. My case went from March to August. If anybody could have responded in a couple of months, it would have worked for my own case. However, does Bill C-20 address the urgent needs that are days or hours or weeks? I don't think so. I think we really need a process that not only supports the bigger pictures but also the acute cases that need to be addressed more quickly.

Dr. David Edward-Ooi Poon: We've been calling it "Donna's rule", the idea that in any time—war, trade, COVID, another pandemic—there must be something within, and entrenched within, Canadian policy to never allow the separation of family like what happened to the McCalls. If we are willing to have that discussion, I'd love to have it.

When it comes to Bill C-20 specifically, the idea that there is an evening of the power imbalance between the incoming traveller or immigrant and the CBSA agent... We believe that a strong, well-resourced and truly transparent—that means stickers at each booth—Bill C-20 will give the strength to those coming in and allow that proper procedures will be followed. This will help a lot of people if done properly.

Mr. Peter Julian: Thank you.

I'd like to turn to Dr. Hasan and Madam Abdalla.

You raised a number of key points, one being to ensure that national security isn't a reason simply to not respond to a case, to not hear the complaint.

I have two questions. Do you feel that the PCRC should have the same ability to tackle privileged information as NSIRA does to really effectively do its job? Second, you very eloquently spoke about attacking systemic racism, about zero tolerance for racism and discrimination. Can you offer some direction, some successful pieces of legislation that have accomplished that, perhaps, in other countries?

Dr. Nadia Hasan: Yes, in terms of your question around national security, the threshold that we are recommending is top secret clearance. Anything that is below that threshold should be within the purview of the PCRC. That includes access to information that would be needed to do the job effectively.

Again, our recommendations are based on the fact that NSIRA, as we all know, is heavily overburdened in terms of the backlog and the case load, and also on the fact that it is not fair to make people wait that long for complaints that could be dealt with in a much more timely fashion and could be resolved in a much shorter timeline.

The example I gave was of Mr. Elmady and his hearing aids, for example, which would be something that would be very easy to resolve through an effective institution like PCRC that could handle a case that has some intersection with national security concerns.

• (1635)

The Chair: Thank you, Mr. Julian.

That finishes round one. We'll start round two with Mr. Lloyd. I believe this will have to be an abbreviated round to end following Mr. Julian once again.

Mr. Lloyd, please go ahead for five minutes.

Mr. Dane Lloyd (Sturgeon River—Parkland, CPC): Thank you, Mr. Chair.

As others have said, my condolences for the loss that has been borne by all the witnesses here at the committee.

Specifically for you, Mr. McCall, we've seen, especially during the pandemic, so many families quite unnecessarily separated. It just really brings home the impacts that these have in cases such as yours.

To clarify, if Bill C-20 goes into place and this complaint mechanism is inputted, would that have changed your situation, do you think? If the compassionate leave was not in place as a policy in the first place, you can make the complaints but would it have led to a different outcome?

Mr. John McCall: Possibly. It may have given us an opportunity to get a different answer.

Keeping in mind that my children are the children of a Canadian-born citizen, their right to Canadian citizenship is by birth, by de-

scent. If they had been able to present their birth certificate and their mother's passport at the border, if we had the opportunity to make that case and we didn't have to wait on the IRCC to confer certification of citizenship on them, then I think, yes, it would have fixed this.

Mr. Dane Lloyd: Thank you.

This is a question for you, but I'll pose it to the other witnesses as well.

We can set up this complaints mechanism and it could work perfectly. It could work very well, but it's only as good as the knowledge and education about its intricacies of the people who need to use it. I imagine somebody who is not trained in government policies, or a refugee coming from abroad, would maybe not know, or maybe they don't speak English or French as their first native tongue. How are they going to know to make a complaint?

Do you, Mr. David, have any thoughts on ways we can amend the legislation to make an education aspect to ensure that underprivileged groups can know their rights?

Dr. David Edward-Ooi Poon: Again, I thank my director of operations, Sean, for this. Part 1, section 9, speaks to education and information about the commission. It is my understanding that there already is a section to get the information out there.

You're asking how we get to the disadvantaged groups. I'm saying very clearly, at Best Buy if they charge you an extra 10 bucks, they have a sticker that says, by law we have to charge you less by 10 bucks or you get it for free. We don't have that at the border for a complaints process where people's lives are being changed.

If in that section, in as many languages as possible, in whatever way we can do, we can operationalize that sticker, that's already one huge part.

The second bit is that there will be advocacy groups like us making sure that those refugees, those recent immigrants, those separated families hear it. If the government makes it very clear on a website, we will get it out there but it must be clear and the CBSA agents cannot say, "No such thing exists. You're banned for 10 years." That's the fear.

Mr. Dane Lloyd: Dr. Hasan, are you satisfied with how the legislation lays out the education section? What recommendations would you make if this is amended to serve your constituencies?

Dr. Nadia Hasan: I think for anything to be effective, it would need to be implemented with a lot of care. My colleague here has addressed the concerns that I would address the same way. The more education we have, the more transparency there is about the process and the easier it is for your everyday Canadians to navigate.

Mr. Dane Lloyd: Do you think there should be a legal obligation for CBSA officers to make people aware of their right to complain or do you think that a sticker is good enough?

Dr. Nadia Hasan: Obfuscating the process is obviously not something in good faith. Like we've talked about before, there are systemic issues around the ways that we know a lot of Muslims at the border are treated. That disparaging of people for asking for recourse is something that is concerning, and we would want it to be addressed pretty directly.

Mr. Dane Lloyd: Madam Anderson-Pyrz, what are your thoughts on the same question?

• (1640)

Mrs. Hilda Anderson-Pyrz: I think we really have to focus on accessibility. What is accessible to the average individual who may not have the privilege of being able to file formal complaints? As an example, we have many indigenous people in Canada who live in remote, isolated locations and have had traumatic experiences with police officers through police brutality and systemic and structural racism. We have to look at how we are going to provide those opportunities for accessibility. What does that look like?

It looks very different from someone sitting in a place of privilege compared to a lot of us in the general population who often fear systems and structures because of the violence we have experienced through racism. When I look at it, when I say "accessibility", it has to be safe. It has to provide opportunities like what one witness shared about the different languages.

There also has to be funding made available to different organizations that can support filing these complaints through independence. It's often us volunteers who try to champion change. Many volunteers are doing this in addition to carrying out their work-related responsibilities. It's often on a volunteer basis. We need to ensure that there are equitable, funded mechanisms to be able to support individuals who want to share their story of injustice, and to have the appropriate actions taken to create systems that are responsive and respectful as well.

The Chair: Thank you.

Thank you, Mr. Lloyd.

We'll go now to Mr. Chiang.

Mr. Chiang, go ahead, please, for five minutes.

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

Thank you to the witnesses for being here with us today. I will echo the same sentiment, Mr. McCall, about your family. My condolences to your family. Hopefully we can improve the system so that no one else has to go through what you have gone through in your life.

My question is directed to Dr. Hasan.

I just want to expand on what Mr. Lloyd has asked you in regard to public education, if you could expand on that.

How would you view it for different ethnic groups, people of colour or women? How would you look at public education? How can we improve on that? What would you say we should do better?

Dr. Nadia Hasan: I think, at a minimum, not obfuscating the process and not denying people legitimate information is important.

I'm happy to connect with either of your offices to send further information about what we think might be best practices, especially around serving the Muslim community at the borders.

Mr. Paul Chiang: If you could send your information to the chair of the committee, we will be happy to look at that.

My question is for Mrs. Anderson-Pyrz

As someone who interacts with family members of indigenous women who are missing or murdered, can you speak to the need for cultural competencies in the handling of complaints that may involve serious wrong-doings on the part of law enforcement?

Mrs. Hilda Anderson-Pyrz: Absolutely.

As I think you know, it's really critical that there's representation there—someone who understands the effects of systems that have impacted us as indigenous people. Look at Indian residential schools, the sixties scoop, the child welfare system or MMI-WG2S+. We've been impacted by so many systems. We have to ensure that we inform a culturally appropriate lens and trauma-informed approach.

It's also rooted in indigenous ways of knowing, being and doing. When I say that, I mean that we have to ensure the spaces feel safe to us as indigenous people and that the services provided are culturally appropriate as well.

We may have a ceremony attached to the individual who is filing the complaint so that we are adequately taking care of their well-being, their emotional and spiritual well-being, as well as creating that opportunity for healing. It's very traumatic when you think you are seeking supports and resources that are safe for you but have a negative experience. You know, it really impacts your life, and your trust of systems as well. We have to look at how we build those. They have to be independent of any political or government structure, and led by indigenous people.

• (1645)

Mr. Paul Chiang: Thank you so much, Mrs. Anderson-Pyrz.

I'm going back to Dr. Hasan.

Would you support a requirement that the annual PCRC report include a line on how many cases a year the commission refers to NSIRA and from which agency the complaint originated from?

Dr. Nadia Hasan: Yes. I think that's a common-sense thing to include in the report.

Mr. Paul Chiang: Do you feel like it should be an annual thing? How far back should it go?

Dr. Nadia Hasan: I can get back to you on that. I'll consult with our team.

I do think a routine establishment of that information would be important.

Mr. Paul Chiang: Is this something that, in your opinion, would need to be an amendment to the legislation, something that could be worked out through regulation or simply just a best practice?

Dr. Nadia Hasan: Again, I can get back to your office on that. I'd be happy to.

Mr. Paul Chiang: Thank you so much for your time.

The Chair: You have half a minute.

Mr. Paul Chiang: Okay.

If I can go back to Mrs. Anderson-Pyrz, through Bill C-20, there are new reporting provisions that require the CBSA and the RCMP to update the minister and, in turn, the House of Commons and all Canadians on their efforts to implement the recommendation made by PCRC.

Will this additional accountability mechanism be useful in holding the RCMP and CBSA accountable for the progress update they provide Canadians?

Mrs. Hilda Anderson-Pyrz: I think that, to a certain degree, it will be helpful and it will be useful. I really stress the importance of having a completely independent mechanism to be able to hold agencies and institutions accountable, to take corrective action and to implement mitigation strategies to prevent the same occurrence from happening ever again.

The Chair: Thank you, Mr. Chiang.

[*Translation*]

Ms. Michaud, you now have the floor for two and half minutes.

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

Ms. Anderson-Pyrz, you specifically represent women from various Indigenous communities who survived gender- and race-based violence. We can understand that, given their experiences, some people hesitate to file a complaint. In some cases, they're afraid their complaints won't be sent, or that they won't lead to any results. They don't want to relive a traumatic experience that thrusts them back into memories they don't want to go through again.

What do you think of the idea of allowing third parties, specifically organizations like yours, to file complaints on behalf of some people? It could even just be filing a complaint about a systemic problem that women may have told you about, such as the behaviour of Canada Border Services Agency or Royal Canadian Mounted Police officers.

Do you agree with this proposal, which some organizations made a few times? We're trying to see how we could include it in the bill. From what I heard, comments about it are rather positive.

What do you think of this proposal?

[*English*]

Mrs. Hilda Anderson-Pyrz: Yes, absolutely. I think it's critically important to ensure that.... We talk about accessibility and, from an indigenous lens, we understand that as victims of gender- and race-based violence, we often have multiple layers of trauma. It's very difficult for us to be able to file a complaint against systems that have perpetuated the systemic and race-based violence against us.

I fully support having an organization support filing complaints collectively or individually. I think this is an important step toward ensuring that voices that are impacted have the opportunity to share their experience and look for corrective action as well.

Thank you.

• (1650)

[*Translation*]

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

The Chair: Thank you.

[*English*]

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

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

Thank you to all of our witnesses. You've given us very valuable, wise counsel. I know we'll take this into consideration as we move through clause-by-clause in the coming days.

Dr. Hasan, you didn't have a chance to respond to my question earlier about systemic racism, zero tolerance against racism and discrimination, and how to integrate that into the bill. I also wanted to raise the concerns we've had about a lack of resources and indications that the federal government is financing perhaps about half the level that is really needed to adequately respond to complaints both through the RCMP and CBSA.

If you could take a moment now to answer those two questions, I'd appreciate it.

Dr. Nadia Hasan: Thank you.

I'm sorry that I missed answering that last question last time.

In terms of the zero-tolerance policies, it's a pretty basic idea. If a border service agent is found to be in violation of the CHRA—there's discrimination that has taken place on the basis of protected grounds, the rights that are protected in our Constitution—that person does not deserve the power that a border services agent has. We recommend disciplinary measures that are proportionate to the severity of that act.

Second, in terms of resourcing, one concern around the PCRC is, of course, that in order for it to be effective, it needs to be functional and it needs to be resourced properly. That's not only to meet the timelines, but also to take on the kinds of cases we are hoping the PCRC will be able to take on, including the national security cases I was talking about earlier.

Absolutely, I think resourcing is a key question here. If it's not properly resourced, we're going to have the same problems we had with other oversight bodies that became backlogged very quickly. It's simply not fair to make people who are already in vulnerable and precarious positions suffer any longer because of our lack of foresight in terms of the resourcing required to deal with a very big problem in Canada.

The Chair: Thank you, Mr. Julian.

Thank you, all.

That brings this panel to a close. We appreciate your time and your expertise. It will be most helpful to us in our study of this bill.

We will now suspend briefly and bring in the next panel.

Thank you very much.

• (1650) _____ (Pause) _____

• (1700)

The Chair: This meeting is resumed.

We're once again in meeting number 72 on Bill C-20.

Today, we have, as an individual, Dr. Christian Leuprecht, professor, Royal Military College of Canada. From the Independent Investigation Unit of Manitoba, we have Zane Tessler, civilian director, and Roxanne Gagné, incoming civilian director, by video conference. Finally, from the Saskatchewan Serious Incident Response Team, we have Greg Gudelot, executive director, by video conference as well.

Welcome, everyone.

Let's start with Dr. Leuprecht.

I invite you to make an opening statement of up to five minutes. Please go ahead, sir.

[Translation]

Dr. Christian Leuprecht (Professor, Royal Military College of Canada, As an Individual): Thank you for your invitation.

I will make my opening remarks in English, but I will be happy to answer your questions in both official languages.

[English]

I've written, as many of your know, at length about the CBSA and the RCMP on accountability and governance within the intelligence community. I sit on a police services board, and I lecture on police governance, so this is something that's dear to my heart.

I believe this is the third time this bill has been reintroduced. It's important this bill pass, not just for the sake of accountability but because there's growing awareness of inherent institutional bias and the importance of independent review bodies and publicly transparent follow-ons. The bill also offers an opportunity to remedy known shortcomings in the design of the current Civilian Review and Complaints Commission for the RCMP.

The PCRC mirrors comparable changes in some provinces. In Ontario, Justice Tulloch's "Report of the Independent Police Oversight Review" was the first and only independent systemic review in Canada of the police oversight system to tackle how complaints against police officers and discipline are handled. Justice Tulloch's report has 129 recommendations aimed at enhancing the public's trust in the system. In addition, Justice Murray Sinclair tabled a comprehensive report on the Thunder Bay police. I commend both reports to this committee as they directly inform the committee's work on this bill. Justice Tulloch and Senator Sinclair pulled back the veil and exposed inherent bias in systems and organizations.

Ontario recently established the new inspector general of policing, as well as the Law Enforcement Complaints Agency. LECA was intended to mitigate biases and, in so doing, bolster public confidence in investigative processes.

The rule of law is foundational to democracy. In line with the growing and evolving public expectations and scrutiny of law enforcement, the PCRC will provide an important mechanism to shore up public legitimacy by ensuring compliance and propriety among Canada's two largest law enforcement agencies, which together field about 26,000 uniformed members who are tasked with investigating many of the most important threats to Canada's national security and public safety. While compliance and propriety are the *sine qua non*, independent review should also assess for proportionality, necessity, reasonableness and efficacy.

Specifically, I recommend the following with regard to subclause 28(8):

One, that the legislation enshrine a six-month limit for the RCMP or CBSA to provide written comment on the findings of a complaint or public interest investigation unless there is genuine ongoing litigation or other court proceedings that such disclosures might compromise. Absent timely input from the RCMP or CBSA, the PCRC should have explicit authority in statute to release the public findings of an investigation. This is to avoid an agency needlessly delaying the public release of findings as is currently the case with the RCMP, as public reporting has shown that some CRCC reports have been languishing for up to four years.

Two, as I explained in my book, the actual concepts that inform a review should be written into the legislation, including but not necessarily limited to compliance, propriety, proportionality, necessity, reasonableness and efficacy. The point of independent review is not just to ensure compliance. Rather think of it as peer review that has as its objective to make the agency better at what it does instead of being reduced to a mere discipline instrument. Complaints and review thus aim to become a process of continuous institutional improvement and transparency about those efforts as a key feature of democracy.

Three, the public needs to have confidence that findings and recommendations are actually being implemented. Therefore, agencies should be required to report back annually on plans and progress in implementing the PCRC findings and recommendations.

Four, the bill currently lacks explicit wording to deconflict its mandate from that of the ERC, NSIRA and NSICOP. For public interest investigations only, the PCRC should be required to deconflict with these other mechanisms. Reviews are time-consuming and resource-intensive for agencies. Therefore, the RCMP and CBSA should not have to commit resources to answering the same queries from different agencies.

• (1705)

Finally, five, the RCMP and CBSA should receive financial compensation for the resources they need to expend on responding to PCRC complaints and reviews. Otherwise, additional onus of review comes at a net cost to operations for an agency.

[Translation]

Thank you.

I have more proposals, but I only had five minutes.

[English]

The Chair: Thank you.

We'll go now to the Independent Investigation Unit of Manitoba.

Mr. Tessler, you have five minutes.

Mr. Zane Tessler (Civilian Director, Independent Investigation Unit of Manitoba): I'll be very brief.

I am the civilian director of Manitoba's Independent Investigation Unit. I was the inaugural civilian director appointed in 2013.

I'm now just a few weeks shy of the end of my second term, or 10 years, in this position. Our mandate, in Manitoba, is to investigate and involve ourselves, providing an independent overview and oversight of all serious incidents involving the police within the province, including death, serious injuries or breaches of criminal or statutory codes.

In my time, in the last eight years, since we've been operational in June 2015, we have now surpassed some 500 notifications for our unit to become involved in the serious incident investigation process.

Hopefully, my experience can assist in better understanding and developing the proposals under Bill C-20.

• (1710)

The Chair: Thank you, sir.

We'll now go to the Saskatchewan Serious Incident Response Team.

Mr. Gudelot, you have five minutes.

Mr. Greg Gudelot (Executive Director, Saskatchewan Serious Incident Response Team): Thank you.

Thank you to the committee for the opportunity to appear today.

My name is Greg Gudelot. I am appearing as the civilian executive director of the Saskatchewan Public Complaints Commission and Serious Incident Response Team. My role today as a provincial agency head is not to advocate for a specific amendment to the federal legislation but to provide what I hope is helpful information on

Saskatchewan's police oversight regime and, hopefully, to answer any questions the committee may have on the basis of my time spent in the justice system and my experience in senior positions at two police oversight organizations in two provinces.

Saskatchewan's police oversight program is built around the Public Complaints Commission or PCC. The PCC was created through amendments to the Saskatchewan Police Act in 2005 as the successor to the office of the police complaints investigator.

The PCC is a five-person, non-police body appointed under the Police Act and is responsible for ensuring that all parties, both the public and police, receive a fair and thorough investigation into the actions of police officers. The act creates a number of requirements for the makeup of the five-person board. At least one person must be a lawyer, one must be of first nations ancestry and one must be of Métis ancestry.

In addition to these composition requirements, there are a number of mandatory consultations prior to appointment to the board. These mandatory consultations include representatives of both police services and members, as well as indigenous organizations.

The PCC provides intake, oversight and review functions to complaints relating to municipal police in Saskatchewan. Once a complaint has been received, the PCC can direct that the complaint be investigated by the originating police service, an external police service, or by the PCC through its investigation unit, the public complaints investigation branch, or PCIB.

Importantly, Saskatchewan prioritizes not just the independent intake or review of complaints, but also the independent investigation of complaints. It ensures that the majority of complaints are investigated by the PCC itself and independently investigated by the PCIB, which maintains offices in Saskatoon and Regina. In addition to police complaints, the PCC's mandate has recently been expanding to include non-police law enforcement, primarily in the form of provincially appointed special constables.

In 2021, the Saskatchewan legislature passed a series of amendments to the Police Act, creating the province's Serious Incident Response Team, or SIRT. SIRT is tasked with investigating incidents when someone may have been killed or seriously injured through the actions or omissions of police, or while in the custody of police, as well as allegations of sexual assault or interpersonal violence involving police.

Like the PCC, SIRT's mandate includes not just police but also certain other non-police law enforcement members appointed as special constables. Unlike the PCC, SIRT's mandate includes not only municipal police but RCMP in Saskatchewan as well. The creation of SIRT was unique in Canada as it was the first time that a serious incident investigation body was created under the same umbrella organization as the provincial police complaints body.

Although PCIB and SIRT are both parts of the PCC, they maintain operationally separate investigative teams and have different statutory decision-makers under the act, with the PCC chair being responsible for determining the outcome of complaints matters, and the civilian executive director responsible for serious incident investigations. This arrangement has allowed for the appropriate separation required by the different evidentiary standards employed by each team, while realizing certain efficiencies through some shared administrative or management resources.

The distinction between these two investigative units is important as it is based on the nature of the investigation conducted. While PCIB may conduct Criminal Code investigations following the receipt of a complaint, the body is primarily focused on disciplinary investigations under Saskatchewan's municipal police discipline regulations. SIRT, on the other hand, conducts exclusively Criminal Code investigations into serious incidents and is notification-based, rather than complaint-based.

With this distinction in mind, I will pause to note that the proposed section 14.3 of Bill C-20 seems to indicate that the CBSA itself would be responsible for conducting serious incident investigations. If the intent is for these investigations to be conducted by what I'll describe primarily as a border enforcement agency, rather than a full-scope police service or an independent investigation body, this would be a non-standard approach, keeping in mind the expectation that these investigations be conducted to a Criminal Code standard.

• (1715)

Overall, SIRT's legislation seeks to assist with our mandate of maintaining public confidence in policing through measures designed to ensure both inclusivity and transparency. The legislation requires the appointment of a community liaison any time the affected person in a serious incident investigation is of first nations or Métis ancestry, and it requires that the public be provided with a report on the investigation within 90 days of the investigation's being concluded.

Thank you. Those are my comments. I'm happy to answer any questions the members may have.

The Chair: Thank you.

We'll start our round of questions now with Ms. Dancho.

Ms. Dancho, please go ahead for six minutes.

Ms. Raquel Dancho: Thank you, Mr. Chair.

Thank you to the witnesses for being here and sharing their expertise. I do have a few opening questions for the two investigative units from Saskatchewan and Manitoba.

As we've been going through this Bill C-20 review process, there has been a bit of a reoccurring question theme about the pros and cons of the current model that the RCMP uses with the complaints commission and of more independent models—as, perhaps, I'll describe them—like your own, which we see at the provincial level. We are looking at whether Bill C-20 is taking the right approach, and those discussions will continue as we move forward.

I'll go Mr. Tessler first, and then Mr. Gudelot can weigh in as well.

In short, can you provide some insight on the pros and cons of the way that your board is set up? What are the benefits of having a more independent model?

Mr. Zane Tessler: I think what's key at the outset is that we have a very defined mandate. Our primary purpose is to investigate “all serious incidents” as defined in our legislation. All of the provincial agencies have virtually identical types of mandates in that we are dealing with deaths, serious injuries—as defined—or, for most of the provinces, Criminal Code allegations against officers.

Speaking for myself—Greg can chime in when he's able—I can say that our legislation does not deal only with the municipal police services created in the province of Manitoba. We are also specifically mandated to deal with all involvements of the RCMP within the province of Manitoba. That, in itself, has required us to ensure that there is consistency in the approach between the various provinces, given that most of us—particularly those in western Canada—will be dealing with the RCMP. There needs to be a standardized approach so that officers stationed in one province know what they are facing if they are transferred to another province for their service.

Ms. Raquel Dancho: Thank you.

You can go right ahead and wrap up. Then we have just a few minutes left for Mr. Gudelot to weigh in as well.

Again, I know we saw this with the Nova Scotia mass killing a few years ago. Their SIRT was triggered, obviously, to review the goings-on there.

When the RCMP union rep came here, he did flag that there are some challenges with having the RCMP investigate itself with regard to other complaints that don't involve the Criminal Code and issues that would go to you. Officers investigating each other does not necessarily invoke public confidence. It also is not great for morale in a small office when officers are having to investigate each other for complaints.

With that background, you can wrap up with a final comment, and then we'll go to Mr. Gudelot to weigh in on that.

Mr. Zane Tessler: Actually, I'm going to defer to Mr. Gudelot. His office will involve both the conduct and serious incident involvements.

In Manitoba, we've been very successful in providing the necessary independent oversight expected in the investigation of all serious incidents involving all police agencies within the province.

• (1720)

Mr. Greg Gudelot: Thanks, Zane.

I suppose in terms of the pros and cons, or the issues with police investigating police, there will always be an issue with the acceptance of that investigation, no matter how well it's done. The goal of these investigations and the goal of building an independent oversight unit is to enhance public confidence in policing and to give the public confidence that, if a police officer is cleared following an incident, they were cleared following a fulsome investigation, or if charges result, the charges are prosecutable and, again, properly investigated.

That can only come when the public fully trusts the investigative process, and one of the difficulties with the direct involvement of police officers in that process is perhaps a diminished ability of the public to accept the results of those investigations.

I think the other issue that you referred to, in terms of the morale issue, is a real one as well. Not every police officer signed up to investigate their colleagues. I think there is a morale issue there, or there is at least a perception of the willingness to engage in that type of investigation.

The advantage to independent investigative agencies, even when those agencies make use of seconded police resources, as some across Canada do, is that every member of that agency, every investigator at that agency, has made a conscious decision or has made a decision to willingly be part of an investigative team that is primarily focused on the investigation of police-involved incidents.

In terms of the other question, the pros and cons of the legislation or the makeup of my individual team, I think the pros from the legislation that we have.... I'm speaking specifically of the SIRT legislation, and there is a distinction between our complaints investigation body and our serious incident investigation body. In terms specifically of the SIRT legislation, I think the biggest pro for me, or the biggest advantage, that we have baked into that legislation is the flexibility in terms of engagement. SIRT has a number of options in terms of how it engages in a serious incident investigation, so once something has been deemed within the mandate or within the scope of SIRT's authority, we have a number of ways we can engage on that investigation.

The first is obviously to investigate that ourselves and to take the lead investigative role in that matter. We're also able to review those matters, oversee an investigation conducted by someone else, observe an investigation conducted by someone else, assist or conduct a collaborative investigation, or simply monitor it to ensure if further involvement is needed. That gives us the ability to match our resources and match the needs of an individual file to the capabilities of the team and to what's required to achieve public confidence in that particular case.

The Chair: Thank you, sir. I'm going to have to cut you off there.

Ms. Raquel Dancho: Thank you very much to both of you.

The Chair: Thank you, Ms. Dancho.

Ms. Damoff, please go ahead for six minutes.

Ms. Pam Damoff (Oakville North—Burlington, Lib.): Thank you, Chair.

Dr. Leuprecht, I'm going to start with you. First, I'd like to thank you for the input you've provided this committee for a great many years on various pieces of legislation and on studies that we've done. I know when you testified on systemic racism, some of the recommendations you made to us at the time were around putting together the CRCC. I just want to sincerely thank you for the input and advice that you've provided.

I don't know if you were listening to the previous panel. One of the recommendations from NCCM was that the new commission also look at incidents that would normally go to NSIRA. I'm just wondering what your thoughts are, given your experience, research and expertise on this matter.

Dr. Christian Leuprecht: My hunch is that, the way the division of labour has been shaking out between NSICOP and NSIRA, NSIRA does the more operational pieces and NSICOP does the broader strategic pieces.

Here, I think we have an opportunity with the PCRC to focus more on the tactical items. I think NSICOP, with 16 agencies and departments plus the Department of National Defence, has plenty of work already.

We also want to make sure that people don't try to double-dip or triple-dip in the system. We want to have a clear direction for what types of complaints go where and a mechanism for, if something ends up with NSIRA, then NSIRA has some direction as to what then gets pushed, for instance, to the PCRC to investigate.

You probably have a broader and a much more diverse skill set with NSIRA than you might have in the PCRC, but I feel that the PCRC would have the opportunity to contract in order to coordinate with other departments for skill sets or to contract those skill sets themselves. I'm not sure that NSIRA would necessarily be in a position to better do the work that is intended for the PCRC, but ultimately this is for the committee to deconflict.

As you saw, I raised other deconfliction issues. I think this is just a matter of providing clear directions because it's resource-intensive.

• (1725)

Ms. Pam Damoff: I have another quick question for you.

When Mel Cappe was here, he said that "you have to keep the responsibility for doing these investigations on the agency." As you know, he did a lot of work prior to the legislation being brought in.

What are your thoughts? We have heard a lot about police investigating police. Should these investigations start within the agency before they go to the PCRC?

Dr. Christian Leuprecht: The provincial agencies tend to have a streaming mechanism as to what conduct investigations are done by the local forces and what investigations fall within the remit of the provincial agency. I think there's probably an opportunity here for perhaps lower-level conduct investigations to be done within the agency. They might be more effective and efficient if it stays within the agency.

At the same time, as you likely know, CBSA has been preparing for quite some time for the PCRC, not just in terms of its processes but also in terms of the institutional culture. I think there's not going to be significant push-back either way in terms of the decisions that you make, but I think here's an opportunity to provide and get advice.

I think what this does hint at—and we got this with Ms. Dancho's question as well—is that one key issue is the transparency of what happens when agencies investigate themselves. I do think, by and large, that these investigations are very well done, but there's very little transparency on what happens on the results of these, even for the complainants. If it's done internally, there needs to be public transparency as to the outcome to legitimize the process.

Ms. Pam Damoff: Thank you.

I'm going to turn to the Saskatchewan SIRT. It's very impressive what you're doing in Saskatchewan, I have to say.

I want to keep on that same theme because you do serious incident response. How do you differentiate between what we were talking about with conduct...?

One thing we heard when the chair was here—and others have testified about this—was that most of these investigations get dealt with within the agency. Someone's had more minor interactions, as I would classify them. When it gets to you, how do you differentiate between those that are not serious incidents that go to you...?

Mr. Greg Gudelot: The key—as I think Zane alluded to earlier—is a well-defined mandate: death; serious injury, with serious injury outlined in our regulations down to specific injuries or specific components that will qualify for inclusion under the term “serious injury”; as well as sexual assault; interpersonal violence.... Then there is a somewhat seldom used catch-all for matters of significant public interest.

That clearly outlines what falls within the SIRT side. There will be some crossover between the two sides.

Part of the trick of running an agency that covers both complaints and the serious incident side is the appropriate separation and staging of those incidents. On a certain matter that might also constitute a complaint or might also constitute something with some disciplinary jeopardy to a member, we have the option to park that complaint or park the consideration of disciplinary jeopardy until the conclusion of the serious incident investigation.

At the conclusion of a serious incident investigation, our act allows me to either direct the matter over to the PCC side for further investigation if necessary, or direct it to the head of a police agency for the imposition of major or minor discipline, if necessary.

That approach allows us to appropriately stage the investigation and to conclude the serious incident investigation, which is the

criminal investigation, first, before any consideration is necessary on the disciplinary side. There are also some companion protections for the members in there to allow the police officers involved the decision to participate in one of those investigations without necessarily providing a statement in the other investigation, because there are differences in terms of the compelled or voluntary statements that are required in each of those investigations.

• (1730)

The Chair: Thank you.

Thank you, Ms. Damoff.

[*Translation*]

I now give the floor to Ms. Michaud for six minutes.

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

I thank the witnesses for being here.

Mr. Leuprecht, you unfortunately ran out of time during your opening statement. You had some proposals for the study of Bill C-20. I gather you're in favour of it.

You talked a lot about accountability and reporting, as well as how important it is for this future entity to be independent, so it can do the work we're asking of it.

I would like you to tell us more about the proposals you had for us. As I was saying earlier to another witness, we are a bit pressed for time. We are drafting our amendments and will start clause-by-clause study next week.

If you have any proposals to make to improve this bill as much as possible, we will take them. I give you the floor.

Dr. Christian Leuprecht: Thank you, Madam, for offering me the opportunity.

The bill contains disciplinary measures for members of the CBSA and RCMP. It seems to me that disciplinary measures for members of the RCMP, even the most severe ones, are still too lenient. You risk creating frustration among the general public. There will be some very good investigations, but weak disciplinary measures imposed on some members will frustrate the public. We know that the RCMP Civilian Review and Complaints Commission investigated certain members several times. That might require some looking into.

Another problem stems from the fact that staff members under investigation still get their salary during the process. Ontario and other jurisdictions have now implemented certain measures, according to which a member cannot receive their salary during an investigation. Indeed, it does not bode well for discipline when a member targeted by severe sanctions during a criminal investigation receives their salary for years at a time. I would therefore propose a measure according to which, if a staff member is found guilty, taxpayers can reclaim the salary, which is often paid out for years. Furthermore, staff members often get retirement benefits. Some measures are therefore required.

[*English*]

It's the issue of special constables, which is currently under debate in Ontario as to whether special constables do or do not fall under the regime and under what measures within that regime. I think that is also something that perhaps might need to be clarified either in law or in regulation.

[*Translation*]

Ms. Kristina Michaud: When you talk about special constables, are you referring to RCMP reservists, who aren't affected by this bill?

Dr. Christian Leuprecht: Exactly. It includes everyone who wears a uniform and is not a regular member of the RCMP or CB-SA.

Ms. Kristina Michaud: Thank you.

What you said is a comment we've heard already, specifically from a representative of an Indigenous community. They said that, in their community, it's almost all reservists. If there can't be any accountability, as long as there's no way to file a complaint against reservists stationed there, the public loses some trust in the system. We therefore understand the urgent need to act on this matter.

Earlier, you talked about national security with Ms. Damoff. In the briefing from the Canadian Bar Association, or CBA, I read that in certain sections, it includes activities "related" to national security. Other sections include activities "closely related" to national security. Sometimes, it's about the particulars of the French language. In French, this could be two very different things. I will be sure to ask the analysts and law clerks what they think of it.

We heard from some groups that it might be necessary to define national security and what it could include within the framework of this bill.

Do you have an opinion on the matter? The content of the bill is rather technical. However, when it comes to national security, it's necessary to thoroughly understand the ins and outs.

● (1735)

Dr. Christian Leuprecht: Regarding your comments on special constables, we must keep in mind that the RCMP is overrepresented in small communities where minority community members in Canada are often underrepresented. This bill could lead to very real impacts on this issue.

When it comes to national security, we have to look at the activities included in the RCMP's mandates, which include federal policing and national policing services, instead of the mandates from the

RCMP's various contracts. I believe the distinction is in the type of activities the police service is carrying out at the time.

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

The Chair: Thank you, Madam.

[*English*]

We'll go to Mr. Julian, please, for six minutes. Everyone else has had almost seven, except for Kristina, so maybe take six and a half, and it will probably stretch to seven.

Go ahead, please.

[*Translation*]

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

I also thank the witnesses.

Mr. Leuprecht, I'd like to come back to the answers you just gave in response to Ms. Michaud's questions.

You said—this is important—that the public could feel frustrated by the outcome of a founded complaint if it leads to minimal consequences. You raised the possibility that, if an officer gets their salary while being investigated for failing to respect the public, it could be taken from them afterwards.

Can you give examples of other countries where review and complaints commissions do this type of thing, that is to say, impose financial penalties by taking back the salary of a public safety officer who fails to uphold the position's standards and values?

Dr. Christian Leuprecht: To my knowledge, the only jurisdiction to actually do so is Ontario. Ontario spent a lot of time discussing conditions to make it happen. It's a matter of deciding if a suspension without salary can happen from the very beginning, or when a certain threshold is reached, or if taxpayers will have to collect the salary payments made during the process.

Disciplinary procedures can take several years. However, it seems to me that nothing encourages people to behave better when they know that, even if their behaviour is grossly inappropriate, they will still get their salary for years at a time. So, it's a difficult topic, but currently, I think the Royal Canadian Mounted Police Act does not reinforce trust from the general public.

● (1740)

Mr. Peter Julian: Thank you very much. I'm sorry, but I have other questions to ask.

[*English*]

Mr. Tessler, one of the issues and concerns that have been raised is the lack of resources actually budgeted for this new complaints commission. Given the rise in the number of complaints, it is very clear, from the testimony we've had, that the funding is wholly inadequate.

I'm interested in the funding that exists in Manitoba. You mentioned 500 notifications. Those are not complaints from the public.

Are these notifications coming through local police authorities?

Mr. Zane Tessler: That is correct.

Mr. Peter Julian: Is that over a 10-year period?

Mr. Zane Tessler: It's eight years.

Mr. Peter Julian: The public cannot raise complaints that go to the independent investigation unit.

Mr. Zane Tessler: That is correct.

Mr. Peter Julian: With those 500 notifications, would it be fair to say you have had 500 investigations?

Mr. Zane Tessler: It's been probably in excess of 400 investigations.

As Greg mentioned during his discussions, Manitoba, like the Saskatchewan operation, also has the ability to monitor investigations. We have the ability to be the direct lead investigation body in a majority of cases, but on the discretionary matters, or things less than serious injuries, certain types of Criminal Code or other statutory violations, we may assume a monitor role to provide that degree of oversight as well. About 80% of our notifications do result in investigations led by our unit.

Mr. Peter Julian: What is your overall budget? How many investigators do you have? Are they permanent, or are they seconded to you?

Mr. Zane Tessler: Currently, all of our investigative staff are full-time employees of IIU. We have eight senior investigators, two team commanders or supervisors, and a director of investigations who oversees that end of the operations. In the end, all of the investigators are under my sole and direct supervision.

Mr. Peter Julian: What is your budget?

Mr. Zane Tessler: Our budget is currently \$2.8 million.

Mr. Peter Julian: Okay. Really, in terms of notifications over eight years, you're talking about 50 investigations a year on average with a \$2.8 million budget—

Mr. Zane Tessler: Yes.

Mr. Peter Julian: —and we are talking about potentially up to 10,000 investigations through the CBSA and RCMP with a \$19-million budget. I just don't see that budget having any relationship with reality.

Mr. Zane Tessler: Any operation that is to provide an independent oversight role has to be properly funded and properly resourced. It is so easy to have your resources outstripped by the matters that come before it.

We have no control as to when we're going to deploy or become involved in an investigation. It happens when it happens. Our team has to respond immediately, regardless of where in the province of Manitoba the event occurs. We have to be there with the same degree of dispatch as you would in downtown Winnipeg. It's so easy to lose your resources if you don't have sufficient ability to maintain them.

Mr. Peter Julian: Yes, by a quick calculation, the federal complaints commission would have about six times your budget but about 200 times the volume of complaints.

Does that sound realistic to you at all?

Mr. Zane Tessler: Not in the least....

Mr. Peter Julian: Yes, this is a major problem.

If the chair is a little flexible, I would like to ask the same question of our guest from Saskatchewan.

• (1745)

The Chair: Everyone else had almost seven minutes, so go ahead.

Mr. Greg Gudlot: The only distinction I would make when answering that question, though, is that we can't equate a complaints investigation with a serious incident investigation. A serious incident investigation is for cases that result in a death—a homicide investigation. It's conducted in accordance with the principles of major case management. It is conducted by major crimes investigators or independent investigators operating with very much the same skill set as major crimes investigators.

That's not to diminish what a complaints investigation is, but complaints investigations are approached and resourced differently. To take that 10,000 number and say that it equates to 10,000 serious incident investigations is probably not an accurate comparison.

In terms of the overall point or overall principle, effective civilian oversight does need to be appropriately resourced. Whatever that number happens to be, depending on what the individual requirements of those 10,000 files are or those 50 files are, you have to be able to meet the public expectation, even with flexibility built into our act in terms of how we respond on the serious incident side or how Zane can monitor with his IIU program.

Even with flexibility built in, I think that one of the observations you'll see over time as you grow a civilian oversight program is that expectations start to run toward the top of that engagement list. Even though you have the ability to observe a police service's own investigation or review a police service's investigation, when you build the civilian oversight unit, the expectation of the public will rapidly become that your unit will conduct that investigation and that it will be an independent investigation rather than one simply monitored or reviewed.

Building in an engagement list like that can help mitigate some of those resource concerns. At the end of the day, the public expectation and the need to develop and build public confidence are always going to require your pushing towards the top of that list.

Will I ever say that there are enough resources? There are never enough resources. You can always do more. You can always take more files and raise them up in that engagement list, but it is a zero-sum game, and it's a pool. You're playing with finite resources and significant demands in terms of public expectations.

The Chair: Thank you. I think we need to cut it off right there.

We have very little time left. I'm wondering if the committee is interested in a lightning round of two minutes per party.

I'm not seeing a lot of interest in that.

Ms. Raquel Dancho: We can try if you want. Chair, I'm fine to try.

The Chair: Let's try that, starting with Mr. Motz.

Mr. Motz has to leave as soon as he asks his question. I've undertaken that we won't do any substantive votes once he's gone, although that's a good opportunity.

You have two minutes, please, sir.

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

Thank you, gentlemen, for being here.

Mr. Julian took a lot of the line of questioning I wanted. It was great testimony. I really appreciate it.

For me to sum up, we would be naive to believe that a PCRC is going to investigate every complaint that comes into them about either the CBSA or the RCMP. We know that. It would be reasonable to also suggest that, for those minor complaints, a threshold would have to be determined as to what a minor complaint is and what gets passed on and will be investigated by the agency.

My concern is that, as has been mentioned—I've asked several witnesses this over several panels—the funding. It's not enough. The PCRC is set up now to deal with the RCMP, a modified version of what they have currently but now we've added the CBSA.

Dr. Leuprecht, do you think we're going to be able to make things work as indicated in the legislation by adding the CBSA? You talked about organizational change already occurring. Is that enough with the expectations the public has and the right balance we have to strike?

Dr. Christian Leuprecht: I think it would be a mistake to think about this as additive. The interactions that CBSA has with the public are qualitatively different and are quantitatively different from that of the RCMP. Also, the CBSA has a very different training regimen. It is, I would say, much more robust than what the RCMP does at depot.

Even in most cases when there is, for instance, an arrest to be carried out, CBSA will call in the RCMP to carry out that arrest. CBSA will usually engage only in the detention piece, so I think you won't see the types of extremely resource-intensive and onerous investigations that you might see with the RCMP.

• (1750)

Mr. Glen Motz: I have just one last quick question, if I may.

I am familiar with ASIRT in Alberta, the SSIRT in Saskatchewan and the IIU in Manitoba.

Dr. Leuprecht, do you think this act clearly defines the threshold we require to determine when PCRC is going to begin or get involved, and when the agency should?

My final statement is just that transparency and investigations are key, and I think that will solve a lot of problems.

The Chair: Respond very quickly if you can, sir.

Dr. Christian Leuprecht: I'll need to think about that and give you a written response.

The distinction is important, and then of course to avoid any asymmetry across the country in the treatment of sworn members is also critical so that we have one systematic process and the proper triage.

Lots of provinces do the triaging, so this is not rocket science. We can figure this out.

The Chair: Thank you, Mr. Motz.

Mr. Gaheer, please, you have two minutes.

Mr. Iqwinder Gaheer (Mississauga—Malton, Lib.): Thank you, Chair.

Thank you to the witnesses for their testimony.

My question is for Dr. Leuprecht. I think you've touched on this already, but I want to give you more time to clarify.

One of the issues we've looked at during this study on Bill C-20 is the interplay of the PCRC and other provincial police review and oversight agencies. Can you talk about the interplay between these two different jurisdictional reviews and oversight bodies, and how they can actually work together to ensure more police accountability?

Dr. Christian Leuprecht: It's a super question. It's probably a question that requires resolution more in regulation and in policy than in legislation.

However, the issue the public is going to have is that they don't know what all these different agencies are. They don't know if they can make a complaint to the local police service. There is a provincial agency. There is the PCRC.

What we need is a proper mechanism to make sure that wherever the public shows up.... It's not like the health care system where we send you to 15 different physicians to try to figure out what's going on. If you show up at your local service and you want to lodge a complaint, you're going to get the same answer as you would get if you would go to the provincial agency, which is the same answer you would get from the PCRC, and we don't have the local agency telling them, "Sorry, we're not responsible and you're going to have to go to these folks in Ottawa," and whatnot. That would be one concern I have.

The other concern I have is, of course, that in terms of anything that is pushed down from the PCRC to other entities, we need to make sure absolutely that there is a uniform regime across the country for sworn RCMP members and anybody who is seconded to the RCMP. This is because the last thing we want is, obviously, different treatment in different provinces according to different types of standards and so forth.

It's about how we work out the asymmetries in a country with eight different contract policing, plus territorial policing, plus indigenous policing and then national and federal policing. There is a bit of the devil in the details to make sure this is done systematically.

I am sure the RCMP association will be delighted to help make sure there is equity in the treatment of members.

The Chair: Thank you, Mr. Gaheer.

[*Translation*]

It's now Ms. Michaud's turn.

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

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

Mr. Leuprecht, I'm thinking back to what some witnesses told us. Bar associations, who represent migrants and refugees, often find it rather strange for a border services officer to have so many powers.

For example, a police or RCMP officer has certain powers, and probably has the training to go with them. Maybe it's not quite the same for border services officers. In some cases, we've seen abuses of power.

The day that a commission can receive complaints about the Border Services Agency of Canada, the CBSA, do you think the number of complaints will skyrocket from people who suffered injustice? How do you see it, especially in terms of the power or the perception of power that some border services officers have?

• (1755)

Dr. Christian Leuprecht: In my opinion, there should be basically two types of complaints: those for CBSA detentions and those for the land border.

At the maritime border, there are very few interactions. When arriving in the country by plane, and you are neither Canadian nor American, you have to fill out an electronic travel authorization. Abuses of power are therefore less likely to occur.

It is true that CBSA officers have extraordinary powers, but those powers are comparable to those granted to most of our partners in democracy.

In fact, entering a country is a privilege. When people have to interact with the country's police, I think that type of interaction is different, because they've already obtained the right to be in the country. It could explain some complaints filed against the CBSA, which previous witnesses talked about.

Complainants have experienced very serious personal consequences, such as being denied entry into the country. If a person whose phone gets seized thinks it's not warranted, for example, they have to wait for the CBSA to give it back to them, and too bad if it takes months.

The Chair: Thank you, Madam.

[*English*]

Mr. Julian, take us home, please. You have two minutes.

Mr. Peter Julian: Thank you very much, Mr. Chair. You were very generous in my last round, so I won't abuse it this round.

The Chair: I fell asleep. It was my fault.

Voices: Oh, oh!

Mr. Peter Julian: Thank you. It was 10 minutes, and it was awesome.

Dr. Leuprecht, we've just been speaking about the resource issue. You mentioned in your opening statement as well the importance of having public confidence, yet there seems to be a clear gap between what is required to effectively do the job for this new complaints commission and the actual funding that's required. We've heard testimony that the funding requested was far higher than what is actually being provided.

How important is it that this be adequately resourced? What are the consequences if it's not adequately resourced?

Dr. Christian Leuprecht: As you know, at RMC I'm not just a professor. I also happen to be a civil servant. For the task that I currently have for National Defence, I have a small budget. I have a small staff. When you want to change your staff or you want to change your budget, there's a proper business process. There's a proper business plan.

My suggestion would be to just make sure that the new PCRC has a proper business planner and that they know how the business, financial and staffing processes in the federal government work. This is not obvious. It is a bit of a mystery how you make them work, but there are people who can make them work despite all the rules we have in place.

This is not a prohibitive issue. With proper business planning, this is readily resolvable should the PCRC find itself in a situation where it does not have sufficient positions or a sufficient budget or is not able to match positions and budget.

Mr. Peter Julian: We know from the get-go that it's under-resourced. What are the consequences in terms of public confidence if the process is so slow that it simply doesn't provide the response that the public would want to see?

Dr. Christian Leuprecht: The more reasons you provide or the more inquiries you're going to get, the more strain you're also going to provide on the agencies. Ultimately, this is for the government of the day to figure out. We probably need to have a proper assessment process. For instance, one thing that's missing in this country is regular reviews of legislation like this. Maybe the committee can propose that within a certain number of years we can review the legislation. At that point, there's an opportunity to voice concerns about the functioning of the legislation, the budgetary situation, the staffing situation and the like.

This legislation is too important to be held up on whether or not we have exactly the right amount of staffing or the right amount of dollars allocated.

The Chair: Thank you, Mr. Julian.

Thank you to all our witnesses. You've given us a great deal to think about and have been most helpful to our study.

Thank you to the committee for putting up with the erratic time-keeping of your chair.

Voices: Oh, oh!

The Chair: With that, we are adjourned.

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