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# Standing Committee on Public Safety and National Security

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Chair: Mr. Ron McKinnon





## Standing Committee on Public Safety and National Security

Wednesday, October 25, 2023

• (1700)

[English]

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

Welcome to meeting number 78 of the House of Commons Standing Committee on Public Safety and National Security.

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

Today's meeting is taking place in a hybrid format, pursuant to the Standing Orders. Members are attending in person in the room and remotely using the Zoom application. Just as a reminder, all comments should be addressed through the chair.

We have a budget for this study. We need to amend the budget. I believe everyone has a copy of the budget.

Can we quickly get approval to go ahead with this budget?

**Ms. Jennifer O'Connell (Pickering—Uxbridge, Lib.):** I'll move it.

**The Chair:** All in favour?

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

**The Chair:** Good.

**An hon. member:** [*Inaudible—Editor*]

**The Chair:** This means hot food. That's all.

**Mr. Doug Shipley (Barrie—Springwater—Oro-Medonte, CPC):** Did you say what time we have translation until?

**The Chair:** We can go to 7:30 p.m., I understand. That's two full hours.

**An hon. member:** We “can” go. We don't “have to” go.

**The Chair:** We get two hours. We can go until 7:30 p.m.

Let's carry on. I will once again welcome the officials who are with us. They're available for questions regarding the bill, but they will not deliver any opening statements.

From the Canada Border Services Agency, we have Cathy Maltais, director, recourse directorate.

From the Civilian Review and Complaints Commission for the Royal Canadian Mounted Police, we have Joanne Gibb, senior director, strategic operations and policy directorate; and Lesley McCoy, general counsel.

From the Department of Public Safety and Emergency Preparedness, we have Randall Koops, director general, international and border policy; Martin Leuchs, manager, border policy division; and Deidre Pollard-Bussey, director, policing policy.

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

Thank you to all for joining us today.

Where we left off...

Yes, Ms. O'Connell.

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

Before we go to where we left off, we realized after our last meeting that we had amended NDP-6 to remove their newly proposed provision, which would have required the conclusion of all investigations to take place within a year, but when we removed that, we did not restore some language—the original language that would have been proposed in the original act.

I can explain further, but I would ask for unanimous consent to go back to NDP-6.

Then I would like to make an amendment. I know I can't speak to that yet.

**The Chair:** Thank you.

Do we have unanimous consent?

**Some hon. members:** Agreed.

**The Chair:** Go ahead.

**Ms. Jennifer O'Connell:** I have tons of copies in both official languages. Thank you.

As I was saying, just to clarify, with NDP-6 we removed language that deals with investigations within the one year. However, we did not then go back to restore the language or return the language to the original found in the legislation. There would be no legal obligation for the PCRC, RCMP and CBSA to establish those service standards on complaint-related times.

When you all get your copies, the proposed new language to restore back to the bill is in green. It would read:

28(1) or section 29 are to be conducted and

This is the new part:

the time limits within which each of them is to deal with complaints made under this Act and

In the second part, under “28(2) are to be conducted”, this is to be added:

the time limits within which each of them is to deal with complaints made under this Act and

It's simply to restore language that pertained to the time limits. When we defeated NDP-6, we did not go back to restore this language. It's a bit technical.

• (1705)

**The Chair:** I'll give the legislative clerk a little time to absorb this, because there are no line numbers or whatnot in there.

**Ms. Jennifer O'Connell:** In the meantime, Chair, do any officials want to discuss why restoring this language is needed?

**The Chair:** Please go ahead.

**Ms. Lesley McCoy (General Counsel, Civilian Review and Complaints Commission for the Royal Canadian Mounted Police):** As it stood at the end of the last meeting, the bill would have read that there were service standards required only for specified activities reviews, which is one of the roles of the PCRC. The other role is the investigation of complaints.

As it stood, the requirement to have service standards for the public complaint process was removed. The amendment introduced right now would restore that, so there would be a requirement for the PCRC, the RCMP and the CBSA to jointly establish service standards for both specified activities reviews and dealing with public complaints.

**The Chair:** I'll suspend.

• (1705) \_\_\_\_\_ (Pause) \_\_\_\_\_

• (1710)

**The Chair:** I resume the meeting.

**Ms. Jennifer O'Connell:** Chair, to simplify it—and thank you for the legislative clerk's assistance—the easiest thing to do that would create the same outline as what has been shared around is to subamend NDP-6 to remove (b) and (d).

**The Chair:** You're moving a subamendment to remove (b) and (d) from NDP-6.

**Ms. Jennifer O'Connell:** Yes.

This would give the language, then, that has been passed around in yellow and green.

**The Chair:** Okay.

Is there any discussion?

Mr. Julian.

**Mr. Peter Julian (New Westminster—Burnaby, NDP):** I think I probably would be tempted to propose that we just restore NDP-6 in its integrity, because it was a very good amendment. I understand that ship has sailed.

The reason I voted against the amendment that was originally offered was for that very reason—the complications. Then, eliminate both the issue of the service standards, which I understand the committee has voted on—they don't necessarily agree with the NDP's approach on having service standards established—and ensure, also, that we have union representatives as part of how those standards are established.

I would ask our witnesses, through you, Mr. Chair, if they follow the bouncing ball on this, so that we can understand what Ms. O'Connell is proposing now. I certainly agreed with her first approach. I'm less positive about her second approach. I would like to see both approaches.

Hopefully, the witnesses have the original Liberal amendment to restore some of the components of NDP-6.

No, you don't have that.

I think it would be appropriate for them to have copies of that, so they are better able to advise us on the two approaches and what the differences would be in those approaches.

**Ms. Jennifer O'Connell:** Mr. Chair, could I offer a suggestion?

I was asked to also make sure that this language gets clarified. Just to keep the meeting moving, perhaps we could just park NDP-6 to allow us all to get the materials in front of us, but just with the commitment to come back to it before we complete the study. I don't want us to suspend for a significant amount of time for getting documents. As long as we just have a commitment.... I think we all have the right intentions. We just want to make sure the language is right and makes sense.

Could we just park this with the commitment to come back to it?

• (1715)

**The Chair:** I am advised that we can't park a single amendment. We have to park the whole clause. We can park clause 8 and come back to it.

Do we agree to park clause 8?

Mr. Julian.

**Mr. Peter Julian:** I would agree with that suggestion, because as we finished our last meeting there was an issue around whether CPC-5 and CPC-6 were impacted by the amendment that passed on NDP-6. I think the clause as a whole needs to be considered, including those two amendments, because when we come to clause 8, then hopefully we will have clarified all the impacts of the various amendments.

**The Chair:** Has the committee agreed to park clause 8?

(Clause 8 allowed to stand)

(Clauses 9 to 11 inclusive agreed to)

(On clause 12)

**The Chair:** This brings us to clause 12. First up for clause 12 is NDP-7.

We have Mr. Julian, if you please.

**Mr. Peter Julian:** Yes, and this comes, as well, as part of the recommendations from Breaking Barriers Together. Currently, the bill, as read, basically gives the minister the option to “provide a copy of the report or summary to the Commissioner or President if the Minister considers it appropriate to do so.” NDP-7 would ensure that “The Minister must provide a copy of the report...to the Commissioner and the President on the same day as the Minister receives the report or summary.”

It's a matter of transparency, and it is also, I think, a principle that needs to carry through in this bill, so I'm humbly moving that amendment.

**The Chair:** Okay, is there any further discussion? No.

All in favour of NDP-7?

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

(Clause 12 as amended agreed to on division)

(On clause 13)

**The Chair:** We'll go now to clause 13, and first up is G-1 in the name of Ms. May.

Ms. May is online.

Can we invite you to turn on your camera?

Oh, it's G-1. I was confused. I stand corrected.

• (1720)

**Ms. Elizabeth May (Saanich—Gulf Islands, GP):** I know we're the Green Party, Mr. Chair, but ours are PV for Parti vert.

**The Chair:** We'll go with G-1, which is...not what I thought.

Go ahead, somebody.

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

Again, thank you to the legislative clerk.

I move the amendment that will be in clause 13. We are proposing that “The Chairperson must, within six months”—not three months—“after the end of each fiscal year, submit to the Minister a report of the activities of the Commission under this Act”.

The rationale for this—just very quickly—is the timing. Perhaps the officials can explain it if I can't do so clearly. Essentially, currently the PCRC's annual report would be due back at the same time as the annual reports for the RCMP and the CBSA are also due. Therefore, that extension of time would allow for those reports to not go at the same time, so that they could incorporate anything. I don't know whether perhaps there's anything added. Essentially, it's just changing the timing so that it's not at the same time, so that the information can be incorporated if needed.

I don't know if Ms. Gibb wants to correct anything or to clarify that.

**Ms. Joanne Gibb (Senior Director, Strategic Operations and Policy Directorate, Civilian Review and Complaints Commission for the Royal Canadian Mounted Police):** I could just add a little more detail.

This clause, when you read it in line with subclause 72(1), which is that the RCMP and the CBSA have to report to the minister on how they've implemented the PCRC's recommendations.... If our reports go at the same time, the PCRC doesn't have the benefit in its annual report of actually being able to comment on the degree to which the agencies have implemented our recommendations. Extending it by three months would allow us time to take those reports, comment on them, look at them further and include them in our report to Parliament.

**The Chair:** Mr. Shipley, you're first, and then it's Mr. Julian.

**Mr. Doug Shipley:** I agree. That cleared it up a bit, as I thought there was some confusion. I was going to ask for a straightening out of the timeline, so that makes more sense.

Is six months going to be enough time?

**Ms. Joanne Gibb:** We might have to work overtime, but we'll get it done.

**Mr. Doug Shipley:** Thank you. That's clear now.

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

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

I support the amendment. I think it makes good sense.

What I'd like to do is subamend the proposed amendment to the bill by incorporating NDP-8, which specifies “March 31 each year”, as opposed to “after the end of each fiscal year”. That's for further clarity and transparency.

**The Chair:** Mr. Julian, could you expand on that, so we know exactly what we're seeing here?

**Mr. Peter Julian:** Instead of reading, “after the end of each fiscal year”, it would read, “six months after March 31 each year”.

**Ms. Jennifer O'Connell:** But if ours is passed, then NDP... There's a conflict.

[Translation]

**Ms. Kristina Michaud (Avignon—La Mitis—Matane—Matapédia, BQ):** Mr. Chair, I have a question about Mr. Julian's proposal. I don't think it would make a difference to the commission if we were to say "March 31". Can the officials help me understand this?

**Ms. Joanne Gibb:** It amounts to the same thing, I believe.

**Ms. Kristina Michaud:** Thank you.

[English]

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

**Mr. Peter Julian:** It was recommended by Breaking Barriers Together to provide for more transparency.

**The Chair:** NDP-8 just adds a line after this line. Is that what you're saying?

**Mr. Peter Julian:** I'm offering it as a subamendment, so we can hopefully get both done in one shot.

**The Chair:** We'll get the French version.

• (1725)

[Translation]

**Mr. Peter Julian:** The wording would be "six months after March 31 each year".

[English]

**The Chair:** Mr. Julian, the clerk would like to ask you a question.

[Translation]

**Mr. Philippe Méla (Legislative Clerk):** Do you want to keep "after the end of each fiscal year" or make it just "each year"?

**Mr. Peter Julian:** I'm not sure what line in the bill you are referring to.

**Mr. Philippe Méla:** It's at line 18 on page 8 in the French version.

**Mr. Peter Julian:** We would keep the words "within the first six months" as proposed in the government's amendment, but then the words "after the end of each fiscal year" would be replaced by "after March 31 each year".

**Mr. Philippe Méla:** Okay.

[English]

In English, it would be the same thing. You would replace "after the end of each fiscal year" with "after March 31 each year".

**Mr. Peter Julian:** Yes.

**Mr. Philippe Méla:** Thank you.

**The Chair:** I think we're clear about the wording.

Is there any further discussion on this amendment?

Go ahead, Ms. O'Connell.

**Ms. Jennifer O'Connell:** Can I just get clarity that "within six months after March 31 of each year" is going to be added to our amendment and is going to replace NDP-8?

Okay. That's perfect. We're fine with that.

(Subamendment agreed to)

(Amendment as amended agreed to)

**The Chair:** That means that BQ-0.2 cannot be moved, because it is identical.

That bring us to NDP-9.

Mr. Julian, go ahead.

[Translation]

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

This amendment applies to clause 13, with respect to specifying the number of complaints filed, by replacing line 32 on page 8 with the following:

plaints, including those, if any, disposed of through the reconciliation process with Indigenous peoples;

Breaking Barriers Together also made this recommendation. It applies to the Canada Border Services Agency. Needless to say, it raises the manner in which issues related to the RCMP are addressed; in the bill, it is dealt with mainly at the provincial level. What I am proposing here is to mention the agency, the way complaints are handled, and the reconciliation process.

• (1730)

[English]

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

Is there any discussion on this?

Mr. Shipley, go ahead.

**Mr. Doug Shipley:** Very briefly, yes, we think this is a good amendment. I will be supporting this.

(Amendment agreed to)

**The Chair:** That brings us to LIB-1.

Go ahead, Ms. O'Connell.

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

This amendment will add (e.1) and it will read:

set out the number of matters or complaints that were referred to the National Security and Intelligence Review Agency under subsections 31(2), 52(8) and 53(4)

To quickly speak to this, this was in response to a request that the annual report would require the chairperson to include a line about how many investigations were referred to NSIRA. It was indicated in testimony that this is already being done, but requiring it would have the benefit of transparency.

(Amendment agreed to)

**The Chair:** This brings us to G-2.

Again, we have Ms. O'Connell.

**Ms. Jennifer O'Connell:** Or anyone.

**The Chair:** Or anyone. I'm sorry. Share the load.

**Ms. Jennifer O'Connell:** I'll look forward to that, anyone.

This adds under proposed paragraph 13(2)(f)... If the legislative clerk wants to, he can let me know if that's wrong. It contains data about complaints, including disaggregated data. The change is:

demographic and

**The Chair:** Is there any discussion on this amendment?

**Ms. Jennifer O'Connell:** Again, it's just to ensure that it's not just race-based data. It's that demographic data also be disaggregated. It should be pretty clear.

**The Chair:** That's fair enough.

(Amendment agreed to)

(Clause 13 as amended agreed to on division)

(On clause 14)

**The Chair:** On NDP-9.1, go ahead, Mr. Julian.

[Translation]

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

I think it would be easier to adopt this amendment given that we have just adopted the principle for the Canada Border Services Agency. It's now a matter of extending the principle to the RCMP and the annual reports from the provinces.

This amendment does in fact aim at precisely what we have just adopted. The wording would therefore refer to complaints that have been disposed of, "including those, if any, disposed of through the reconciliation process with Indigenous peoples".

The principle underlying this amendment is indeed connected to these reports and to the reconciliation process.

[English]

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

Is there any discussion?

(Amendment agreed to)

(Clause 14 as amended agreed to on division)

(Clause 15 agreed to on division)

(On clause 16)

**The Chair:** On NDP-10, go ahead, Mr. Julian.

• (1735)

**Mr. Peter Julian:** This is another recommendation from Breaking Barriers Together. It deals with the ongoing issues with the RCMP, as identified in the Merlo Davidson lawsuit and also referenced during the mass casualty inquiry, that it was difficult to get important material.

If we have a complaints commission that has the ability to ensure that the appropriate materials are released, this would ensure that a failure to comply with production of this material, these documents, would constitute an offence under subclause 90(1).

**The Chair:** Thank you.

Is there any discussion?

**Mr. Peter Julian:** I should add that the complementary amendment is NDP-58, which we'll probably see many days from now—who knows? I wanted to flag that they are essentially part of a similar approach from recommendations coming from Breaking Barriers Together.

**The Chair:** Thank you.

Mr. Bittle, you have the floor.

**Mr. Chris Bittle (St. Catharines, Lib.):** Thank you so much.

Though we appreciate the amendment, I think it goes a little too far in applying potential criminal penalties against individuals who are not willfully obstructing investigation. Clause 89 of the bill already deals with offences related to harassment, obstruction and destroying documents, so there's already a provision for that. Unfortunately, I cannot support it.

**The Chair:** Go ahead, Ms. Michaud.

[Translation]

**Ms. Kristina Michaud:** I'm wondering how often the failure an agency or organization to comply with an obligation becomes an offence. If so, what are the consequences? Who is the offender: individuals or the commission itself? What happens in such cases? I would imagine that if there is a failure to comply with an obligation, it must be for a good reason.

Can someone clarify that for me?

[English]

**Ms. Lesley McCoy:** Well, there are instances in which the current Civilian Review and Complaints Commission doesn't receive information in as timely a fashion as it would like—information from the RCMP—but I would say that, in the commission's experience, it is rare for that to be a willful intent to obstruct the process. However, as noted, there is an offence already in the bill for willful obstruction, in the event that it were to occur.

**The Chair:** Thank you.

Mr. Motz.

**Mr. Glen Motz (Medicine Hat—Cardston—Warner, CPC):** Thank you. I appreciate that explanation.

What I'm curious about now is.... I was going to ask it the other day, but we were moving along so quickly that I forgot about it. We mention the RCMP a lot. We are now adding the CBSA to this exact same legislation, aren't we? Why are we silent on CBSA bringing this information forward? We've mentioned only the RCMP, and the whole purpose of this is to say that we're going to now amalgamate two agencies under one to report back to a complaints commission, yet we don't mention them at any point so far.

I'm wondering whether.... We say "the Agency", but that isn't...to me, unless in the definitions we mention that "Agency" means CBSA, but I don't think it does. I'm just curious to know if it's an oversight or whether it's listed somewhere else and I've missed it.

Never mind. “Agency means the Canada Border Services Agency.” Thank you. I missed it.

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

**The Chair:** It's good to have these problems solved so readily.

Is there any further discussion on Mr. Julian's amendment?

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

(Clause 16 agreed to)

(On clause 17)

**The Chair:** Once again, Mr. Julian, you're up.

• (1740)

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

I certainly appreciate members of the committee in their consideration of this. I'm glad we're getting into this. I do hope, Mr. Chair, that we'll be able to schedule additional meetings in the next few days so that we can get through this important legislation. We have a lot of amendments to consider.

In this particular case, NDP-11 would add “privileged” in terms of allowing the commission to have access to privileged information. The ability of NSIRA, for example, to investigate is in part because of its ability to access this privileged information. The reality is that the PCRC needs to have access to that privileged information if it's investigating national security issues.

The objective of this amendment is to allow for that access to information, so the new PCRC can be on par with NSIRA in its abilities to review activities and handle complaints for both the RCMP and CBSA.

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

Mr. Shipley, go ahead.

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

I'm not comfortable with this amendment. This is just giving a bit too much power to the chairperson. They would be able to see some solicitor-client privileged information.

Would any of the witnesses be able to, perhaps, guide us on this? Would this information be required to fulfill some of these investigations?

**Mr. Martin Leuchs (Manager, Border Policy Division, Department of Public Safety and Emergency Preparedness):** The PCRC would be able to access privileged information. My understanding of this amendment is that it is a consequential amendment to NDP-16 that would actually provide the PCRC with access to excluded information under clause 19, which would entail solicitor-client privileged information for employees, for instance, solicitor-client information that is shared with the RCMP and the CBSA when they have to deal with the commission, or information that the RCMP and CBSA prepare for meetings with the commission.

The exclusion is in place, I think, to provide for procedural fairness, among other things.

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

**Mr. Glen Motz:** I want to continue on that question. I too have concerns about this term and also the extension of it.

We have NSIRA for a reason—for exactly this reason, is my understanding—so that the complaints commission does not have to and should not be exposed to national security or...not necessarily cabinet confidences, because they can have access to those in the right circumstance, obviously, but on some things that are of a nature to compromise national security. I think that's what NSIRA is for. Unless I hear otherwise, I certainly can't support this extension of powers to this complaints commission.

**The Chair:** Was that a question? Was that just a statement?

**Mr. Glen Motz:** I think he answered my question.

**The Chair:** That's fair enough.

I have Ms. O'Connell.

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

We also have concerns about privacy and the right—whether it's of individuals, the RCMP, the CBSA—to have solicitor-client privilege. We think this goes too far in that. Should there ever be a situation where that information is crucial, there are legal mechanisms to go through, but to—almost as a right—allow client-solicitor privileged information to be shared automatically or to be able to access that if requested, we think, goes too far, and there are other avenues if there were really a case that required that. We can't support this change.

**The Chair:** Thank you.

Is there any further discussion?

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

**The Chair:** The amendment is rejected. It's defeated.

I've been listening to the Speaker. I don't like the thought of your being defeated. It's a spiritual thing.

Carry on. We have NDP-12.

• (1745)

**Mr. Peter Julian:** Thank you very much, Mr. Chair. I think that two days ago what you said was “not quite adopted” or “not passed”. I prefer that language rather than “rejected”. That sounds very harsh.



NDP-12 would include that medical information, including information from mental health professionals, would be included as information that is accessed. This is something that we heard from Breaking Barriers Together would be important. Requesting medical information that is only physical does not provide for a full and comprehensive review of an individual's situation, and "namely information from mental health care professionals" would be included in this. I believe there may be a subamendment on this.

**The Chair:** I have Ms. O'Connell.

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

We do have a subamendment. I have copies in both official languages.

We agree in principle. What we would propose is "medical information", then striking out "namely" and changing it to "including", so it's "including information from mental health care professionals". The reason for this is that I think the intention is that it could be included and be allowed to be included, but it would not be the only example. The option is there. It's just changing the language to make it a little clearer.

**The Chair:** Thank you.

The discussion is on the subamendment.

I have Madame Michaud.

[*Translation*]

**Ms. Kristina Michaud:** I'm wondering again about the appropriateness of the proposed change. It seems to me that the meaning of "medical information" is perfectly clear. I don't know why it's necessary to add a reference to mental health. Furthermore, the amendment restricts medical information to information from a mental health professional. The intent of the subamendment is to alter the amendment to make it clear that the expression "medical information" includes information from a mental health professionals, when it was already implicit. I feel that such added details are not necessary.

I'm not sure whether I'm the only one who is interpreting it in this way, but when I read the words "medical information", I understand that mental health information is included. I would therefore leave the wording of the bill as is. That's my opinion.

[*English*]

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

(Subamendment agreed to)

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

**The Chair:** Mr. Julian gets to work once again.

We're on NDP-13, please.

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

I appreciate everyone's patience as we move through these amendments. We've gotten them from all parties, though, so I may be speaking on them more often today, but in coming days that will switch as we move through this bill.

I'm very happy that we are all working together to improve aspects of this bill. There is no doubt that Bill C-20 will be much better coming out of committee than it was going in. That's really what we are paid to do.

I want to move NDP-13. This would delete the ability for the commissioner or president to refuse access to privileged information sought by the commission under this section. It would basically delete subclause 17(6), which requires the commissioner or president to indicate why they're not giving the information. This gives the complaints commission the ability to access that information, which is fundamentally important.

This would delete subclause 17(6) of the bill.

• (1750)

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

Is there any discussion?

Mr. MacDonald.

**Mr. Heath MacDonald (Malpeque, Lib.):** Maybe it's a question for our witnesses. Would the RCMP and CBSA deputy heads have the opportunity to refuse to share privileged information, with proper justification, to protect the integrity of a case or operational information?

**Ms. Lesley McCoy:** I understand the intent of the removal of subclause 17(6) is to prevent the commissioner or the president of CBSA from refusing to provide certain information. In fact, that provision doesn't allow the commissioner or the president to refuse, it merely says if they do refuse, this is what they need to do in refusing it. They need to provide the commission with the reasons they have determined that the information is not both relevant and necessary, and give an indication of the nature and the date of the information.

This would then enable the PCRC to determine whether or not the commission actually needs the information and whether to pursue other options, such as perhaps a judicial review application to the Federal Court, to try to obtain the information.

**Mr. Heath MacDonald:** There's a mechanism in place already for that.

**Ms. Lesley McCoy:** Yes.

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

Mr. Shipley.

**Mr. Doug Shipley:** I won't be able to support this today. It's just deleting the ability of the RCMP and CBSA to refuse to give the commission access to privileged information.

It's not something we want to see in this, so we won't be supporting this today.

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

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

**The Chair:** You have one more shot, Mr. Julian. Go ahead on NDP-14.

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

I have actually quite a few other shots to come, Mr. Chair, but I'll try to keep them as brief as possible because I know everybody has reviewed the amendments. I know each member basically has the ability to vote on it, after the clarifying questions. It doesn't require a big lead-in as an introduction.

NDP-14 is a recommendation from Breaking Barriers Together, to ensure that memorandums of understanding are rendered public.

This would ensure that there is the transparency that is so important to ensure the success of this new complaints commission.

**The Chair:** Thank you.

Is there any discussion?

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

**The Chair:** Mr. Julian, I saw your hand up on both sides. I assume you voted for it.

**Mr. Peter Julian:** It was a lingering vote.

**Voices:** Oh, oh!

**Mr. Peter Julian:** I was doing a kind of victory lap with my hand.

**The Chair:** That's fair enough.

(Clause 17 as amended agreed to)

(On clause 18)

**The Chair:** Mr. Julian, go ahead on NDP-15, please.

**Mr. Peter Julian:** To facilitate the work, given the number of amendments we have, I believe both NDP-15 and NDP-16 were voted on already in previous clauses of the bill.

I wanted to ask the clerk, through you, whether in his opinion we've already discussed those two items. If that is the case, then I would withdraw both NDP-15 and NDP-16. We certainly have had the discussion around NDP-16. I believe we've had it around NDP-15 as well.

• (1755)

**The Chair:** I think the concern that Mr. Julian mentioned is that a previous amendment was linked to these.

**Mr. Peter Julian:** We discussed the subject matter. I believe I'm correct in saying that both NDP-15 and NDP-16 should be withdrawn, because they were defeated in a previous incarnation, in one of the previous clauses.

**The Chair:** You're certainly free to withdraw them, if you wish.

**Mr. Peter Julian:** Yes. I will do that.

**The Chair:** Okay.

(Clause 18 agreed to on division)

**The Chair:** NDP-16 has been withdrawn.

(Clause 19 agreed to on division)

**The Chair:** There are no amendments to clauses 20 through 25. We can vote on them all in a block if we have unanimous consent to do so.

(Clauses 20 to 25 inclusive agreed to on division)

(On clause 26)

**The Chair:** I recognize G-3 as a government motion. I would invite someone from the government side to move that.

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

Paragraph 26(1)(b) would read as follows:

use information obtained by the Commission under a review conducted under subsection 28(1) or (2)

—the amendment is striking out “section 28” and replacing it with “subsection 28(1) or (2)”—

or section 29 of any activity that was, is or may be carried out by the RCMP 25 or Agency if

Subparagraph 26(1)(b)(i) would read:

(i) the information is relevant and necessary to the conduct of a review under subsection 28(1) or (2) or section 29

—the amendment is adding “or section 29”—

of any similar activity that was, is or may be carried out by the RCMP or Agency, and

The rationale for this change is simply to allow another specified activity review—the information contained within that—to be part of an investigation that the PCRC would do. It's already included in the legislation that other information can be included in the PCRC review; however, it does not include information from what might be a provincial review, and in some cases where, for example, the jurisdiction does actually fall under our provincial counterparts. This simply includes that if there were another activity review, that information could be included in the work that the PCRC is doing.

**The Chair:** Thank you.

Shall amendment G-3 carry?

(Amendment agreed to)

(Clause 26 as amended agreed to on division)

(Clause 27 agreed to on division)

(On clause 28)

**The Chair:** We are on amendment NDP-17.

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

This is actually a slightly more complicated clause, because I think what we have is a number of amendments that are seeking to make the review of specified activities in section 28 broader. This would be in keeping with the comments we've had from organizations such as Amnesty International and others, which have raised concerns about ensuring that reviews other than the review that is currently in the legislation can be initiated.

I actually, curiously, will have a question for the witnesses. We have amendment NDP-17, which talks about the request of ministers initiating a review. In amendment NDP-18 we talk about union representatives as well, and then we have Ms. Michaud's amendment, which talks about non-governmental organizations. I think the goal we all share is to enable these reviews to be undertaken from a variety of different standpoints.

My question to the witnesses is this: In your opinion, does amendment BQ-1, which talks about non-governmental organizations, incorporate the union representatives from amendment NDP-18, or do you believe the language needs to be specific for all three of the amendments? If that is the case, then, Mr. Chair, how do we incorporate all three elements to ensure that transparency and the ability to request those reviews?

• (1800)

**The Chair:** I should have mentioned that if amendment NDP-17 passes as written, then amendments NDP-18 and BQ-1 cannot be moved due to a line conflict. If NDP-17 does not pass, NDP-18 can be moved, but then there would be a line conflict with BQ-1.

Are you proposing to amalgamate these three in some manner?

**Mr. Peter Julian:** Well, first I'd like to hear back from our witnesses as to whether their understanding is that non-governmental organizations would include unions or not. I believe it's not the case, but I want to double-check.

**Mr. Randall Koops (Director General, International Border Policy, Department of Public Safety and Emergency Preparedness):** We think it could. There could be other wording that might better serve both interests.

The intent in clause 28 is not to restrict who may ask the minister or the chairperson of the commission for a specified activity review; it's not intended to narrow that or to specify who may or may not ask or who may be excluded from asking for, recommending or suggesting a review. The intent of clause 28 is to provide a means for the minister, who would otherwise not have the authority to direct or make a request to the commission, to undertake something, where he believes it is in the public interest and where he, for reasons of his own accountability, can answer to this place that he has brought a matter to the attention of the commission. The commission draws very broadly on all sorts of sources, from both within and outside of government, in formulating its plan for what may benefit from a specified activity review.

As drafted, clause 28 does not restrict any organization whatsoever from engaging either with the minister at the political level or directly with the commission about where it believes a specified activity review would be warranted.

My colleagues from the commission may have more detail.

**Ms. Joanne Gibb:** I agree.

Under our existing legislation we get requests somewhat regularly from non-governmental organizations, asking for systemic review.

**Mr. Peter Julian:** Thank you for that. That is very helpful, but it still means that, ultimately, at this point, the minister or the commission would make the decision. I think what we're looking for in these amendments is to provide an ability for a trigger, for lack of a better word, to ensure that the review could take place.

I know Madame Michaud wants to speak. I guess I'll bookmark the problem with you, Mr. Chair. Whether or not that's something like Ms. O'Connell did, in a very inspired way. She parked a clause, and whether we would want to park this clause and come back to it

when we work off-line is something I'm certainly open to, if other members of the committee are in agreement.

[*Translation*]

**The Chair:** Ms. Michaud, go ahead.

**Ms. Kristina Michaud:** My understanding is that the intent of amendments NDP-17, NDP-18 and BQ-1 is to also allow other organizations to request a review of specific activities. If I've understood what you just said, they can already do so, but it's not stated in the act. These groups therefore asked that it be mentioned.

I don't know whether there is a way of adding this information so as to include not only the groups that Mr. Julian was talking about, but also the non-governmental organizations mentioned in amendment BQ-1. If we were to just use the term "third party", would that amount to the same thing? These groups can already ask for a review of specific activities, but doing this would actually put it into the act.

In other words, if we drop amendments NDP-17 et NDP-18, keep amendment BQ-1, and replace "non-governmental organization" with "third party", will that amount to the same outcome?

• (1805)

**Mr. Peter Julian:** Is that question for the officials or for me?

**Ms. Kristina Michaud:** It's for everyone.

Would Mr. Koops or anyone else care to answer?

**Ms. Joanne Gibb:** I was rather thinking of another form of wording that would make it clear there was nothing in the act that would prevent other parties from requesting a review. You could write something like that rather than specifically mentioning things like committees or unions.

**Ms. Kristina Michaud:** All right.

[*English*]

**The Chair:** Mr. Julian, I don't think I actually heard you move NDP-17 yet, so it's still in flux, whatever is going on here.

[*Translation*]

**Mr. Peter Julian:** I think we need to be flexible if we want to get through this.

I think that if we refer to a "third party", it doesn't necessarily include the fact that a union representative, or a House of Commons or Senate committee, could request such a review.

The fact is that with the current wording, decision-making authority rests with the department, the minister or the commission. We would like to extend this authority. That's why we want to propose these amendments.

It strikes me that the best thing for the time being would be to hold discussions behind the scenes. We could set aside section 28 and discuss these matters among ourselves rather than take up too much of today's meeting time. That might lead to a solution much more quickly.

[English]

**The Chair:** Okay, I'll take that as a motion to park clause 28 for the moment.

Do we have agreement to do that?

**Some hon. members:** Agreed.

(Clause 28 allowed to stand)

**The Chair:** That takes us to clause 29.

(Clause 29 agreed to on division)

(Clause 30 agreed to on division)

(On clause 31)

**The Chair:** That brings us to clause 31 and NDP-20.

Mr. Julian, go ahead, please.

**Mr. Peter Julian:** As I mentioned earlier, we've already dealt with the issue of national security as a committee. I respect that most members of the committee did not agree with that approach, so I'll withdraw NDP-20.

**The Chair:** NDP-20 is not moved.

Shall clause 31 carry?

(Clause 31 agreed to on division)

(Clause 32 agreed to on division)

(On clause 33)

**The Chair:** We have Madame Michaud with BQ-3.

If BQ-3 is adopted, NDP-21 and PV-1 cannot be moved, due to a line conflict.

[Translation]

Go ahead, Ms. Michaud.

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

This amendment would enable third parties like non-profit organizations to file a complaint. At the moment, under the act, such a complaint may only be filed by the legal representative of a complainant or someone who has obtained written consent from the complainant. The amendment would therefore open the door to further options.

Several of the groups that came to the committee to testify made this request, including the Quebec Immigration Lawyers Association, which often encounters situations of this kind.

This amendment would require a number of consequential amendments to ensure consistency later on in the bill.

• (1810)

[English]

**The Chair:** I have Mr. Shipley, then Ms. O'Connell.

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

We will not be able to support this today. It seems unnecessary and may lead to an enormous number of requests, bogging down the whole process.

We won't be supporting this.

**The Chair:** Thank you.

Go ahead, Ms. O'Connell.

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

We can support this in principle, but we would like to put forward a subamendment. I have copies, but I don't think they will be needed. It's quite simple.

Instead of "non-governmental organization" in both subclause 33(1) and subclause 33(2), we would change that to "third party".

The rationale is that, at the end of the day, the commission would still have the ability to determine... Hearing these concerns, complaints or allegations coming forward from other parties is fine. They should be considered, and it sounds like it already happens. We just don't want to limit it to non-governmental organizations.

We think "third party" is cleaner for keeping that ability open.

**The Chair:** Thank you.

The discussion is on Ms. O'Connell's subamendment.

Go ahead, Mr. Motz.

**Mr. Glen Motz:** Can the officials confirm whether they already deal with complaints from third parties?

Do you not?

**Ms. Joanne Gibb:** Yes, we accept third party complaints with the authorization of the individuals involved. We don't take a third party complaint if someone watches YouTube, sees RCMP enforcement and files a complaint. There's no connection there. They just watched it on YouTube. We would not take that complaint, because it's third party.

**Mr. Glen Motz:** That's reasonable.

**Ms. Joanne Gibb:** Yes.

If an individual wants to make a complaint on behalf of someone else and has their authorization, we accept that third party complaint. That would include a non-governmental organization, which could file a complaint on behalf of an individual.

**Mr. Glen Motz:** Okay.

**The Chair:** Is there any further discussion on the subamendment?

**Mr. Doug Shipley:** I'd like some clarity on this. If this amendment goes through, would the NGO need the third party to be involved in that and have their written authority to do that?

**Ms. Jennifer O'Connell:** It would take out "NGOs" and replace it with "a third party". It wouldn't be both. It would be one or the other.

**Mr. Doug Shipley:** I'm sorry. What I'm trying to get clarification on is this. If there is a complaint by the third party, do they need the affected person to give their approval to go forward with that?

Can any third party be making the complaint?

• (1815)

**Ms. Lesley McCoy:** The bill as written doesn't require consent, but there is discretion for the PCRC to refuse to deal with the complaint if the individual making the complaint—the third party—is not sufficiently connected to the incident or doesn't have the approval of the individual. As an example, they're not the parent or guardian. It's that sort of thing.

**Mr. Glen Motz:** I'm sorry. With that explanation, would we not be setting ourselves up for the potential of some frivolous and vexatious types of complaints, when all we'd have to do is clear up the language here and say, “with authorization, a third party may”?

I know it's your practice and that's what you expect, but if the act doesn't say it.... People are always going to go back. They'll appeal your decision if you decide not to take their complaint, because the act says they can. It doesn't say anywhere in the act that they have to have authorization.

If you require the aggrieved individual to authorize it, then it would make sense that we put something like that in the act. Otherwise, you're opening yourselves up to a world of hurt and tying up your processes with people who just want to tie up your processes without any skin in the game. They just want to tie up the process and cause aggravation.

I hope there is some understanding of that. We're trying to make it easy for the public who have a complaint to have it be dealt with, but we all know that in our society, there are those who are litigious, frivolous and vexatious in their complaints and have zero impact on the people who may be aggrieved.

I think it would behoove us to ensure that if we're going to change any language, we add language that clarifies that it's “with authorization from the aggrieved individual”, or whatever wording you want to put in there.

Otherwise, I think by expanding this to include the CBSA and RCMP.... I would defer to some of my former law enforcement colleagues to talk about that—even CBSA colleagues. Will leaving out that clarity cause the potential for workload...?

We're not actually improving what we intend to improve with this legislation, and that is to make sure that those who have been aggrieved are heard, that their investigation is dealt with appropriately and in a timely fashion, and that they get a response back from the investigating body—whether it's the RCMP, the CBSA and/or the commission—but with the understanding that, if I'm a third party and I want to make a complaint, I have the aggrieved individual's permission to do so.

I'd be more than happy to hear from officials about their take on that.

**Mr. Alfredo Bangloy (Assistant Commissioner and Professional Responsibility Officer, Royal Canadian Mounted Police):** Certainly, if we're expanding the pool of people who can make complaints beyond those who are affected or impacted, it will cause

further resources to be drawn to investigate those complaints and deal with those complaints, both at the RCMP and the PCRC.

**Mr. Glen Motz:** In some cases, it would be frivolous.

**Mr. Alfredo Bangloy:** In some cases it would, yes.

As was mentioned, a YouTube video and a complaint of actions on YouTube, where they're not directly involved or implicated or have no connection to that incident, potentially could create an increase in complaints in which the individuals themselves who are impacted aren't complaining but other people are. It could lead to a rise in overall complaints and resources to be drawn to investigate and deal with those.

**Mr. Glen Motz:** CBSA.

**Ms. Cathy Maltais (Director, Recourse Directorate, Canada Border Services Agency):** Today in our process we do require the signature, because, if you watch the reruns of *Border Security* on TV, whenever there are reruns in the season, we get an increase in complaints. People are watching the show and complaining about whatever they're seeing on TV, even though it has no impact on them.

Yes, it would increase volumes if people who are not actually affected....

• (1820)

**Mr. Glen Motz:** It's true.

**The Chair:** Thank you.

We go next to Ms. O'Connell and then Madame Michaud.

I'd point out that this amendment requires a grammatical correction to the French.

[*Translation*]

The wording would now be “Any individual or any third party” in both entries.

[*English*]

Was that your point?

**Ms. Jennifer O'Connell:** No. Thanks, Mr. Chair.

My point was that I think the intention of this was to ensure that a complaint couldn't be rejected simply because it was in the original version an NGO but in our proposal just a third party.

Ultimately, and correct me if I'm wrong, but even given the example just provided in regard to CBSA and the increase in complaints, ultimately the PCRC would still have the discretion to decide whether to move forward or not, and this is simply an amendment to ensure that it doesn't get automatically excluded simply because it's a third party making that complaint.

If there are processes in place such that there needs to be a connection.... I think we've heard testimony or we've heard before that if it were a public interest situation that is garnering attention, ultimately the decision-making authority of whether or not to move forward with an investigation still exists, but it wouldn't automatically be excluded simply because it was a third party making the initial complaint.

Is that a fair assessment of what this amendment would potentially do?

**Ms. Lesley McCoy:** Yes. In Bill C-20 there's already the discretion for the PCRC to refuse to deal with complaints if the individual making the complaint, as I indicated, doesn't have a sufficient connection to the incident.

As well, there's also a provision for the commission to refuse to deal if the complaint is considered frivolous, trivial, vexatious or made in bad faith.

**Ms. Jennifer O'Connell:** In the example of people watching reruns and complaints going up, then, there's still no obligation to automatically investigate those complaints, because it's already protected in terms of the discretion.

**Ms. Lesley McCoy:** That's correct.

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

[*Translation*]

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

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

With respect to the intent of this amendment, I would like to draw the attention of my colleagues mainly to the fact that currently, the complaint must be filed by the complainant's legal representative or by someone who has obtained written consent from the complainant.

Groups like the Canadian Association of Refugee Lawyers came to tell the committee that sometimes, owing to an immigration process that is under way, a person may be removed from the country, making it complicated for that person to file a complaint against the Canada Border Services Agency. There is a concern that the case might be put on hold because a complaint has been filed. Moreover, if the person is already out of the country, it's rather difficult to obtain that person's signature or written consent.

The intent of using the expression "any third party" is not to give anyone the right to file a complaint just because they saw something on TV. In any event, it's understood that the commission would be entitled to refuse to deal with such a complaint. It's really more to allow an association like the Canadian Association of Refugee Lawyers to file a complaint on behalf of a complainant without obtaining that person's written consent in instances where it would be difficult to do so.

That then is the true intent of this amendment. I don't know whether that might clarify things for some colleagues to help them decide.

**The Chair:** Thank you.

[*English*]

Mr. Julian.

[*Translation*]

**Mr. Peter Julian:** I believe it's extremely important for us to be able to address broader issues. As Ms. Michaud just said, the Canadian Association of Refugee Lawyers was very clear about the fact that there is currently no way of dealing with systemic problems or procedures. Nor is this clearly addressed in the current bill.

The commission already has the power to reject groundless complaints, which I find reassuring. I do not find this problematic.

However, at the moment, the process is not open to people who might be experiencing systemic problems, thus making it impossible to examine these problems.

My view is that the subamendment and the amendment are worth adopting. The only qualification I would add is that they do not provide for addressing Canada Border Services Agency policies or procedures, or the services it provides. In my view and that of some of the witnesses we have heard, the capacity to do so is essential.

To make sure that I have understood correctly, I would like to ask the clerk a question through you, Mr. Chair. I believe you said that if amendment BQ-3 were adopted, then amendment NDP-21 could not be moved. Is that correct?

• (1825)

[*English*]

**The Chair:** That's correct. If BQ-3 is adopted, NDP-21 and PV-1 cannot be moved, due to a line conflict.

[*Translation*]

**Mr. Peter Julian:** What's missing is the addition of a provision like the one in amendment NDP-21 that would allow people to file a complaint against the agency's policies or procedures, or the services it provides. That's something that was frequently mentioned by witnesses. I believe it's an important aspect in connection with complaints.

A second subamendment cannot be moved. Accordingly, if that subamendment is carried, I'm going to try to move another one that includes such a provision.

I'm not worried that this would open the door to too many complaints. What I'm worried about is that there are not enough resources. That's something that became clear in our meetings, in particular in our discussions with the former minister.

I think that the very principle underlying the commission's role ought to be its capacity to accept not only individual complaints, but also complaints on behalf of people who may have left Canada and are accordingly unable to file complaints in person, or when there are systemic problems.

[*English*]

**The Chair:** I'm going to stick my neck out here a bit.

My advice is that NDP-21 will not be admissible. I can't make that ruling until it's moved, but if it were moved, I would have to rule it inadmissible. It would be that and PV-1 as well.

I'm thinking that if you happen to decide against BQ-3 because of NDP-21, you might want to factor that into your consideration.

[*Translation*]

Ms. Michaud, you have the floor.

**Ms. Kristina Michaud:** I'm not sure I've understood what Mr. Julian said, but we could adopt the Liberal subamendment that replaces “non-governmental organization” with “third party”. We might then introduce a new subamendment that would add the provision proposed by Mr. Julian to amendment BQ-3.

[*English*]

**The Chair:** Okay, I think discussion on the subamendment is winding down. Is there any further discussion on Madam O'Connell's subamendment?

Seeing none, all in favour of the subamendment?

I'm sorry. Ms. May, before you speak, we're going to have to get the clerk to test your audio.

**The Clerk of the Committee (Mr. Simon Larouche):** Madam May, could you turn off your video feed and say one or two sentences, please?

• (1830)

**Ms. Elizabeth May:** Can you hear me all right?

Thank you very much. I've been enjoying hearing you all working so collaboratively. It's been delightful.

**The Clerk:** Yes, it works now.

**The Chair:** Thank you, Ms. May.

Go ahead with your comments.

**Ms. Elizabeth May:** Thank you. I didn't mean to interrupt the vote on this subamendment to BQ-3.

[*Translation*]

As was previously mentioned, if amendment BQ-3 is adopted, then amendment PV-1 could not be moved.

[*English*]

I just want to make a brief comment to speed your work along. As you may remember, because of the strange motion that each committee passes that requires that I show up at committee if I want to present amendments, I don't move my amendments; they are deemed moved.

In every case, as far as I can see, our Green Party amendments are drawn from the testimony and evidence of a group I used to belong to, which is the Canadian Association of Refugee Lawyers. I wanted to put forward as a helpful suggestion—since my amendments, I think in every case, are identical or very similar to the NDP amendments—that adding additional comments will just slow you down. However, I can't withdraw my amendments. I don't have that power. They are deemed moved as you come to them.

I just wanted to offer that, and perhaps Peter Julian can take it forward.

I will stay silent on all my amendments. Know that I care about them a lot. I hope you pass them, but since they're identical to NDP

amendments, I will save you time now by flagging that I don't want to be in the way. As you can tell, I may be on less of a secure connection than if I were stationary in my own office.

Please pass them, but I'm not going to speak to them.

With that, I will go back on mute. Thank you.

**The Chair:** I'm a little unsure of how to proceed here.

If you don't want them to be automatically moved, we can, as a committee, agree to act in this way.

Mr. Julian looks puzzled.

Go ahead, please.

**Mr. Peter Julian:** I am puzzled, Mr. Chair, because I thought Ms. May was saying that they would be moved in the case where there's no corresponding amendment from another party. I don't believe she was withdrawing all of her amendments.

**The Chair:** I just want to clarify.

I am suggesting that as a committee we will give due deference to Madam May's request, and we will move them or not according to whether we think it is appropriate to do so.

Madam May, is that acceptable to you?

**Ms. Elizabeth May:** I'm just trying to help your work. I care about these amendments, but I don't need to speak to each one of them. It seems to me there are very similar amendments in the same motions each time. I don't have the power to withdraw my amendments from consideration. I think they're good amendments; I like them a lot. I would love it if they were carried, but I'm in your hands on that.

If you want to just move ahead each time, the automatic impact of the motion you passed is that as you go along, all of my amendments will be deemed to have been moved. It's up to you at this point how you want to handle them.

I'm not withdrawing them. I think they're great. I just won't be speaking to them.

**The Chair:** We'll muddle forward and do our best to try to sort this out as we go forth.

Mr. Shipley, go ahead.

**Mr. Doug Shipley:** Just quickly, looking through our charts, every one of the amendments I see is the same as an NDP amendment. When you say “muddle through”... They're pretty straightforward. They're already in there as someone else's, and Mr. Julian is here.

Is that what we're saying—that maybe we can just...?

**Ms. Jennifer O'Connell:** Well, we can't withdraw them.

**Mr. Doug Shipley:** Can we not even do unanimous consent? There is no way...?

**The Chair:** I think we can decide as a committee, because Ms. May is speaking of routine motions we passed at the outset. We passed them, and I think we can set them aside.

We're getting a little far afield, at the moment. Let us carry on with the business at hand, which is BQ-3 and Ms. O'Connell's subamendment. Can we do that?

(Subamendment agreed to)

**The Chair:** Now, go ahead, Mr. Julian.

• (1835)

**Mr. Peter Julian:** I am going out on a high wire here, with the indulgence of the committee, and offering another subamendment taken from NDP-21, which would add a paragraph (b).

We have subclause 33(1) and subclause 33(2), and that would simply add paragraph (a) in 33(2). Then add paragraph (b) from NDP-21:

the policies or procedures of the Agency or the services it provides

It just extracts that reference in the CBSA investigation review regarding the hearing of complaints, and expands it to include “the policies and procedures of the Agency or the services it provides.” It was the recommendation—as Madame Michaud said, and as I said—of the Canadian Association of Refugee Lawyers to expand the ability for complaints to come in from third parties, as well, allowing the policies and procedures of the agency to be the subject of complaint.

**The Chair:** Paragraph (b) from NDP-21 cannot be added, because it would be inadmissible. It changes the spirit and scope of the bill. This is one of the reasons. If you were to move NDP-21—if we get to that point—I'd have to rule it inadmissible.

Other than that, I'm not quite clear what you're suggesting.

**Mr. Peter Julian:** Well, you are obviously very clear on what I was suggesting, Mr. Chair. I hadn't realized you were prepared to rule on it being out of scope. That surprises me, because this is certainly something we heard from the Canadian Association of Refugee Lawyers and others very clearly.

However, your ruling is that it is out of scope for the bill.

**The Chair:** I haven't actually made the ruling. I can't do that until it's moved.

**Mr. Peter Julian:** I am moving it as a subamendment, so....

**The Chair:** Okay, that subamendment would have to be ruled out of scope. It seeks to introduce a process regarding complaints about the policies and procedures of the agency, which is a new concept that goes beyond the scope of the bill as adopted by the House at second reading.

An amendment to a bill that was referred to a committee after second reading is out of order if it is beyond the scope and principle of the bill.

That's my information about NDP-21, which I am now applying to paragraph (b), if you're trying to add that.

**Mr. Peter Julian:** Okay.

Mr. Chair, I like and respect you very much, but I would not be doing justice to what we heard from witnesses, who very clearly

talked about this. I would suggest that if it's out of scope, then the idea of having third parties could potentially be ruled out of scope.

I will, in the nicest way possible, and having great respect for your abilities—Mr. Bittle knows where I am going on this—challenge that ruling and allow the committee to make a decision as to whether or not they perceive it as out of scope.

**The Chair:** That's fair enough.

The question is, shall the decision of the chair be sustained?

Voting yes means that you're supporting the decision of the chair that this particular subamendment is out of scope. If you vote no, then you're saying it remains in scope.

(Ruling of the chair sustained [*See Minutes of Proceedings*])

• (1840)

**Mr. Peter Julian:** I congratulate you, Mr. Chair, on that victory. You have been sustained, so I cannot offer the subamendment. That's the committee's decision.

That should mean we then vote on BQ-3, which I will be supporting.

**The Chair:** Thank you.

Is there any further discussion on this most interesting amendment?

Mr. Shipley, go ahead.

**Mr. Doug Shipley:** It's just a quick point of order.

I'm curious. We're making good time here today, Mr. Chair. I know some members on our side have other commitments later.

I want to know for sure what time we're going until today.

**The Chair:** We suspended briefly. We're expected to extend for that amount of time. We can go home at seven.

Go ahead, Ms. O'Connell, on a point of order.

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

As much as it pains me to suggest this, I request that you and the clerk look into additional meeting time, given the amount of time we're going to need for this bill. The committee has already agreed to other studies. In order to finish this, we're going to need additional committee time. I would suggest that you at least come forward with some options that everyone could then look at.

I'm fine with leaving tonight at seven, but we need some options for additional committee time in order to get through this study.

**The Chair:** That's fair enough.

Mr. Motz, go ahead.

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



I think we can get through it. I agree with seven o'clock tonight.

I'm sure I'll be outvoted, but I don't necessarily think we need extra meetings. However, if you decide to have them, I would ask that the subcommittee meet to determine those, as opposed to your arbitrarily selecting them. I think that would avoid a whole lot of hassles. That's what I would recommend.

If we vote to agree to have you extend the extra meeting times—I'm opposed to that, but if you do, and if that's the vote—I would ask that whatever dates you and the clerk come up with are run past our subcommittee, in order to ensure they fit with the schedules of our people, so we can get the proper people here.

**The Chair:** We can't vote on this right now, because we have a motion on the floor.

**Ms. Jennifer O'Connell:** It was just on the point of order in terms of timing. I'm not asking for a vote, in fairness. I would like some options on how we figure that out.

**The Chair:** I will talk to the clerk. He'll see what's available, then we'll come back to the committee. I don't want to do a subcommittee meeting, because that takes up a meeting slot. Perhaps we'll do it more informally.

Mr. Julian, go ahead.

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

I completely agree with Ms. O'Connell on this. Having extra meetings makes a lot of sense. I think that's something you could do in consultation with the four parties. You have the ability to call those meetings with the proper notice. That will allow us to move through.

The NDP has a lot of amendments. When we have debated, discussed and made a decision, I will be withdrawing the subsequent amendments on the same issue. For those who are daunted by the number of NDP amendments, that number will be much smaller, ultimately. As we go through each of these issues, I will withdraw further amendments on the same topic. If the other parties agree to do the same thing, then hopefully, with a few extra meetings next week, we should have this bill improved and back into the House.

**The Chair:** Very well, I'll let you advise us as we go forward on which amendments—when we get there—you want to withdraw.

For the moment, let us carry on with this amendment. I think we ended the discussion on Ms. Michaud's BQ-3 amendment, as subamended by Ms. O'Connell.

(Amendment as amended agreed to)

**The Chair:** This renders NDP-21 and PV-1 moot, in any case.

That brings us to BQ-3.1.

[*Translation*]

Go ahead, Ms. Michaud.

• (1845)

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

This amendment is related to the one we just adopted. It goes a little farther by also enabling members of the public, hence any individual, to file a complaint.

I don't believe any further explanations are required.

[*English*]

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

Mr. Shipley.

**Mr. Doug Shipley:** We feel that's redundant and not necessary. They can already do that.

To the witnesses, do we not have that process already?

**Mr. Randall Koops:** We would agree it appears to be redundant, since the bill already provides for that.

[*Translation*]

**The Chair:** Go ahead, Ms. Michaud.

**Ms. Kristina Michaud:** That being the case, I could simply withdraw the amendment with the consent of my colleagues.

[*English*]

**The Chair:** Do we have unanimous consent for Madame Michaud to withdraw the amendment?

(Amendment withdrawn)

**The Chair:** We get to NDP-22.

Are you withdrawing this amendment?

**Mr. Peter Julian:** No, I'm not, Mr. Chair.

**The Chair:** Oh, okay.

**Mr. Peter Julian:** Are you really out of order?

**An hon. member:** Is that a challenge to the chair?

**The Chair:** I am just so excited that you're going to move another amendment.

**Mr. Peter Julian:** This is actually a new subject, but an important one in terms of the complaint timelines.

Currently the bill proposes that “The complaint must be made within one year after the day on which the conduct is alleged to have occurred”. What we received from witnesses from the Canadian Council for Refugees and Breaking Barriers Together was that they wanted to make that time limit similar to what happens with civil litigation laws in Canada.

Given that some of these complaints are dealing with severe trauma from misconduct, it may take time for complainants to come forward. That's certainly why a two-year timeline is what exists in civil litigation. NDP-22 would essentially replace the one-year time limit and make it a two-year time limit, in keeping with civil litigation laws.

**The Chair:** Thank you.

I should point out that if NDP-22 is adopted, BQ-4, BQ-4.1 and BQ-4.2 cannot be moved due to a line conflict.

Mr. Motz, go ahead.

**Mr. Glen Motz:** Having said that, it almost is worth accepting it. Then we can get rid of three more.... Anyway, I'm just saying.

I would like to ask the officials this. We're talking about a time limit extension doubling from the time a complaint can be laid after the alleged offence or grievance has occurred. Do you have a practice now—either the agency or the commission—that allows for a complainant to make a complaint after the one year in special circumstances?

I'd like each of you to respond to that.

**Ms. Cathy Maltais:** Currently, we generally say one year, but we will accept on a case-by-case...over the one-year limit. There has to be enough information for us to still be able to investigate. There has to be a reasoning as to why it wasn't done. For example, if somebody was in detention for a year or a year and a half and was not able to make the complaint, then, yes, we would accept that. For somebody who just watched the TV show and decided that four years ago they weren't satisfied, and then they complained—they don't have the name of the officer, the location—then, no, we would not accept that, because we're not able to investigate it.

**Mr. Alfredo Bangloy:** We don't have lots of these types of complaints, but we have a similar process. We assess the information on a case-by-case basis and make a determination on whether we should investigate.

**Ms. Joanne Gibb:** The commission has the discretion to extend the time limit. We have a policy, on our website, on the circumstances under which we'll do that.

**Mr. Glen Motz:** It really exists, and as such I really don't see the need to have the time limit extended like this, to two years. It's just another arbitrary date that you could be extending again. I don't see, Chair, any reason to accept this, given what the commission, the CBSA and the RCMP have informed us of.

**The Chair:** Ms. O'Connell.

• (1850)

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

I'm just curious as to whether, through the passing of BQ-3, there are then line conflicts with NDP-22. I know what would happen if this were passed, but our notes say there would be a line conflict, since we did pass BQ-3. I stand to be corrected, but that's my understanding.

**The Chair:** You're speaking to a line conflict with which...?

**Ms. Jennifer O'Connell:** Because we passed BQ-3, NDP-22 has a line conflict, doesn't it?

**The Chair:** We passed BQ-3. I don't have an indication of a line conflict.

**Ms. Jennifer O'Connell:** Okay. That's fair enough. We're just double-checking. We don't have an issue with this.

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

**Mr. Peter Julian:** I'm going to push back a little back on my friend Mr. Motz, because the reality is that there's a difference be-

tween a person's having the ability to make a complaint up to a two-year period, particularly in the event of trauma, and their applying for an extension that may or may not be accepted after the one year has expired. Although he is right to point out that there are provisions that may allow that individual to still file the complaint, the reality is that the power is taken away from the individual.

If we don't accept this amendment, we are not empowering people who, for a variety of reasons, may have difficulty stepping forward to make the complaint in the first place. That's why I'm proposing the two-year timeline, which, as I mentioned before, was recommended by Breaking Barriers and the Canadian Council for Refugees.

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

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

**The Chair:** This passes. This renders BQ-4 moot, as well as BQ-4.1 and BQ-4.2.

That brings us to BQ-5. We have eight minutes left. I'm wondering if we want to pause here, or whether we want to try to tackle BQ-5.

**An hon. member:** Let's go for it.

**The Chair:** Let's do it. Okay.

[*Translation*]

You have the floor, Ms. Michaud.

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

Normally, a copy of any communications from the commission is sent to the complainant. We would also like a copy to be sent to the complainant's legal representative.

For example, as I said earlier, in some instances complainants may have been removed from Canada and we don't have their address. If the legal representative had access to the documents, it would go some way towards facilitating the process for complainants.

That's the intent of this amendment.

[*English*]

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

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

**The Chair:** That's carried. This brings us to CPC-7.

Look at this—six minutes to go. Can we do this in six minutes?

Go ahead, Mr. Shipley.

**Mr. Doug Shipley:** I would like to move CPC-7. It's fairly straightforward. We just want to delete lines 3 to 5 on page 23 and also lines 20 to 23 on page 23. We just don't think the ability to complain directly to an RCMP detachment.... We want to make the complaints to the commission. Some of these detachments and border patrol areas have one or two officers. It would just tie them up too much, so we feel that this is a good way of alleviating that issue.

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

I have Mr. Julian.

**Mr. Peter Julian:** I have a note that I wanted to follow up with. I want to ask our witnesses whether the adoption of this would have consequences around the discussion that we're still having around clause 8 and NDP-6. It appears that there is a bit of a conflict between what is proposed here and what we have yet to fully adopt in clause 8.

Maybe through you, Chair, to the clerk or to our witnesses...?

• (1855)

**The Chair:** If someone wishes to answer, go ahead.

Mr. Julian, maybe you need to be more specific about who answers that question.

**Mr. Peter Julian:** As we are working through it, I believe that NDP-6 does have an impact on this provision. That being said, I intend to vote against it for that reason, but I also don't agree with the principle that's contained within it.

**The Chair:** Thank you.

Go ahead, Ms. O'Connell.

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

We also don't support this change. This would essentially get rid of the existing complaint process whereby the RCMP might handle a complaint initially. We think that this wouldn't work, that the idea is that the initial complaint should be investigated as is, and that, if resolution can be done there, that's great. If not, then the PCRC can then take on that additional role, if needed. This would essentially make the PCRC solely responsible for handling RCMP-related complaints at the first instance. We think this would be overly burdensome, so we don't support this.

**The Chair:** Mr. Shipley, you have the floor.

**Mr. Doug Shipley:** Chair, I committed to you that we could finish this one by 7:00. Hearing some discussions going around, we'd like to ask for UC to withdraw that amendment.

**The Chair:** Do we have unanimous consent to withdraw the amendment?

(Amendment withdrawn)

**The Chair:** The last amendment on this clause is G-4.

Does someone...?

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

I'd like to propose this amendment as deeming under section (8.1):

For the purposes of subsections (7) and (8), a complaint that is referred to the Commission under regulations made under subparagraph 87(0.1)(ii) is deemed to be a complaint made to the Commission.

Very quickly, if I can explain.... Hopefully it's self-explanatory. For example, if proceedings occurred and a referral of complaint were conducted between the PCRC and NSIRA, it would be deemed as having received this complaint. For example, if NSIRA had done some work and then referred the matter to PCRC, it would be deemed that a complaint had been made. It's a bit technical, but it's to accept that that process can happen.

**Mr. Glen Motz:** Chair, may I speak?

**The Chair:** Yes, go ahead.

**Mr. Glen Motz:** I agree with that.

What about timelines following that, Ms. O'Connell? Are there any conditions? Is it when NSIRA or some other agency got that complaint, or is it when the commission received it? When do those start? What would be reasonable, so that we can maybe consider that?

**Ms. Jennifer O'Connell:** My understanding of this is that it would not change anything else in the act. All of those other timing conditions would still apply. This was just to make it so that a complaint from or a referral from NSIRA is deemed a complaint made. Everything else in the act in terms of timing and process would remain the same.

I see heads nodding, so I haven't totally messed that one up, but that was my understanding.

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

Mr. Julian, go ahead.

**Mr. Peter Julian:** I want to ask our witnesses about their interpretation of this clause, but I understand that it's now 7:00. Maybe that's where we should leave off for tonight.

**Ms. Jennifer O'Connell:** Can we just finish it?

**Mr. Peter Julian:** I would be voting against it.

**A voice:** That's okay.

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

• (1900)

**Mr. Peter Julian:** I would like to ensure that the witnesses can answer that first.

**The Chair:** I think we could take a couple of minutes to hear an answer to this question.

**Mr. Peter Julian:** I'm interested in what you believe the impacts of this amendment are and to what extent it shifts the power relationship between the PCRC and NSIRA, if it does.

**Mr. Randall Koops:** In case my nodding didn't make it on the record, I will say that this does not change the timing or the deadlines, as the parliamentary secretary pointed out. It may be helpful to look at amendment G-4 in the context of a government amendment later to come, G-8, which is related to the authority to make regulations. This is actually consequential to that.

This is about the Governor in Council having the authority to delineate where and how complaints are dealt with between the two bodies. It's necessary to make some other consequential amendments earlier in the statute before we get to the provisions coming later in relation to regulations. This is one of those. As the parliamentary secretary pointed out, it simply ensures that there is coherence between the handling of complaints under the two.

**The Chair:** Okay. Is there any further discussion? No.

(Amendment agreed to)

(Clause 33 as amended agreed to on division)

(Clause 34 agreed to on division)

**The Chair:** When we resume, we will resume at clause 35. We have two clauses that have been allowed to stand. Hopefully we can work behind the scenes to get those resolved.

Once again, thank you to the officials. Your help is most appreciated.

Thank you to our clerks and analysts.

Thank you, all.

We are now adjourned.

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