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Thursday, September 6, 2007

—
Chair

The Honourable Shawn Murphy

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• (0905)

[English]

The Chair (Hon. Shawn Murphy (Charlottetown, Lib.)): I'd like to call the meeting to order. Welcome, everyone. *Bienvenue à tous*. I do hope everyone had a good summer. We're back on duty here.

First of all, I want to point out that we have two full days of hearings on this matter, and that is the study of the RCMP report, the *Report of the Independent Investigator into Matters Relating to RCMP Pension and Insurance Plans*, pursuant to the Auditor General's report of November 2006.

This morning, colleagues, we have the first panel, which is from 9 a.m. to 11 a.m. We're pleased to have with us Assistant Commissioner Sandra Conlin, who is presently the ethics advisor. We also have back with us Mr. John Spice, retired assistant commissioner, who was the previous ethics advisor.

Welcome back, Mr. Spice and Ms. Conlin.

I understand Mr. Sweet has a motion before we proceed. Mr. Sweet.

Mr. David Sweet (Ancaster—Dundas—Flamborough—Westdale, CPC): Mr. Chairman, I would like to move a motion, and I seek unanimous consent from the committee for this motion: That the Standing Committee on Public Accounts of the first session of the 39th Parliament do commend, in alphabetical order, Staff Sergeant Mike Frizzell, Staff Sergeant Ron Lewis, Chief Superintendent Fraser Macaulay, Ms. Denise Revine, Assistant Commissioner Bruce Rogerson, and Staff Sergeant Steve Walker for their continued efforts to expose the mismanagement of the Royal Canadian Mounted Police pension and insurance plan administration in the face of great personal and professional hardship, for their unwavering commitment to justice and accountability, for their dedication to ensure the Royal Canadian Mounted Police remain a cherished national symbol with the full confidence of both its members and the Canadian public, and for their embodiment of the core values of the Royal Canadian Mounted Police: integrity, honesty, professionalism, compassion, respect, and accountability.

I would also move that this motion, Mr. Chair, be reported to the House.

The Chair: Thank you very much, Mr. Sweet.

As everyone knows, to go anywhere at this point in time, that motion would need the unanimous consent of members at this meeting. Does Mr. Sweet have unanimous consent to proceed with the motion?

Some hon. members: Agreed.

The Chair: Mr. Sweet, is there anything further you want to say on the motion?

Mr. David Sweet: No, that's fine, Mr. Chair. I'll present it to the clerk.

The Chair: Does anybody else want to speak on the motion?

Perhaps if I may say so, Mr. Sweet, I certainly think it is an appropriate motion for this committee. I do hope the committee passes it. It's been a long, difficult road for each one of the individuals you did mention.

Perhaps I should add that there have been others who haven't been mentioned, who were involved in this investigation also, who took a stand when perhaps it wasn't the popular or the expedient thing to do. They took a stand, and it was the right thing to do. Looking back, I think they all should be very proud of the actions that they did take. I don't vote on the motion, but I certainly think it is appropriate.

Mr. Wrzesnewskyj.

Mr. Borys Wrzesnewskyj (Etobicoke Centre, Lib.): I would like to say a few words to the motion as well.

I would like to begin by thanking Mr. Sweet for bringing this motion forward. It's an acknowledgement that's been due for quite a while. I'm sure it will help in providing us with a perspective as we go forward. The sessions through the winter and the spring were at times difficult. It was difficult to bring those very people before this committee as witnesses. I'm glad this acknowledgement has been made that in fact it was appropriate not only to bring these witnesses forward but also to acknowledge the personal difficulties they've experienced within the RCMP. It wasn't easy to bring them here, and it wasn't easy for them to testify before this committee.

The Liberal members wholeheartedly support Mr. Sweet's motion.

Thank you.

• (0910)

The Chair: Thank you very much, Mr. Wrzesnewskyj.

If there are no further comments, I will put the motion to a vote.

Mr. Laforest.

[Translation]

Mr. Jean-Yves Laforest (Saint-Maurice—Champlain, BQ): Could you read the motion again, please?

[English]

The Chair: Yes. Thank you very much, Mr. Laforest.

Mr. Sweet said:

Mr. Chairman, I would like to move a motion, and I seek unanimous consent from the committee for this motion:

That the Standing Committee on Public Accounts of the first session of the 39th Parliament do commend, in alphabetical order, Staff Sergeant Mike Frizzell, Staff Sergeant Ron Lewis, Chief Superintendent Fraser Macaulay, Ms. Denise Revine, Assistant Commissioner Bruce Rogerson, and Staff Sergeant Steve Walker for their continued efforts to expose the mismanagement of the Royal Canadian Mounted Police pension and insurance plan administration in the face of great personal and professional hardship, for their unwavering commitment to justice and accountability, for their dedication to ensure the Royal Canadian Mounted Police remain a cherished national symbol with the full confidence of both its members and the Canadian public, and for their embodiment of the core values of the Royal Canadian Mounted Police: integrity, honesty, professionalism, compassion, respect, and accountability.

(Motion agreed to)

The Chair: The motion was carried unanimously. Thank you very much. According to the wording of the motion, that motion will be reported to the House.

We're going to go back to the orders of the day. We have with us Sandra Conlin and John Spice.

I'm going to go to you, Ms. Conlin. Go ahead, the floor is yours.

A/Commr Sandra Conlin (Assistant Commissioner, Ethics Advisor, Royal Canadian Mounted Police): Mr. Chairman, thank you for inviting me here today to assist the committee in its ongoing work related to the RCMP pension and insurance plans.

[Translation]

I would like to give the members of the committee a very brief overview of my previous professional involvement and of my present role as RCMP Ethics Advisor. I served as a regular member of the RCMP for 31 years. In March 2007, I was appointed to my present position of Ethics Advisor by former commissioner Beverley Busson.

Before that, from 2001 to 2007, I was Director General of Criminal Intelligence Services Canada at RCMP Headquarters. In the course of my career, I have held several operational positions in Ontario and Quebec. Most of my work has been in the RCMP's A, C and O Divisions.

[English]

The mandate of the RCMP's Office of the Ethics Advisor is to ensure our organization's shared mission, visions and values become ingrained in the day-to-day activities of all employees. In light of a number of recent internal and external factors, the responsibilities of this office have been expanded, and I expect they will continue to evolve.

Since I assumed my role as ethics advisor five months ago, one of my first priorities has been to build capacity in the Office of the Ethics Advisor in order to deliver on policy and programs that help drive a climate of meaningful accountability, control, values, and ethics. This work has been started, and it is ongoing.

Another priority of the Office of the Ethics Advisor has been to study and understand how ethics and compliance issues fit into the RCMP's overall strategic direction. This is an important step in creating appropriate mechanisms and structures that will contribute to an ethical environment and instill value-based behaviour across the RCMP over the long term.

● (0915)

[Translation]

My office is also responsible for overseeing RCMP compliance with, and obligations under, the Public Servants Disclosure Protection Act, which went into effect in 2007.

We are working hard to remove any obstacle that would dissuade or prevent RCMP employees from coming forward if they have reason to believe that serious wrongdoings have been committed. Our goal is to put in place policies, and training and communication strategies in order to foster an environment in which employees may honestly and openly raise concerns without fear or threat of reprisal.

[English]

I wish to inform this committee that the Office of the Ethics Advisor has the full support of Commissioner Elliott and the RCMP senior executive committee. The commissioner's expectations are that my office will lead efforts to strengthen the climate for ethics and integrity at all levels of the RCMP.

I would also like to take this opportunity to acknowledge the ongoing work of the task force chaired by Mr. Brown. Members of the task force can expect my assistance when and where it is needed. I am looking forward to the task force's final recommendations and reports being published, as they will no doubt touch on the work of my office.

In conclusion, I can tell you that the RCMP is fully committed to providing its employees with the leadership, the tools, and the work environment they need in order to perform their duties in accordance with the highest ethical standards.

I am now happy to answer any of your questions.

The Chair: Thank you very much, Assistant Commissioner Conlin.

Do you have anything to add, Mr. Spice? You were here before, I believe. Do you have any opening comments that you want to make?

Mr. John Spice (Assistant Commissioner (Retired), Ethics Advisor, Royal Canadian Mounted Police): Nothing at all, Mr. Chair. I'm just happy to be here.

Thank you.

The Chair: We're pleased to have you.

We're going to go to the first round of eight minutes. Mr. Wrzesnewskyj.

Mr. Borys Wrzesnewskyj: Thank you, Mr. Chair.

Welcome back, Mr. Spice, and welcome, Ms. Conlin.

On April 16, when former Commissioner Zaccardelli appeared before this committee, I asked him whether or not he had indicated to Mr. Ron Lewis that he would like to have a criminal investigation begun. He responded, "I never ordered a criminal investigation".

As well, Mr. Christopherson put a similar question to the former commissioner. Mr. Christopherson said, "At that meeting, did you give directions to Mr. Lewis to initiate correspondence that would have the effect of starting a criminal investigation? Yes or no."

Former Commissioner Zaccardelli, who was under oath before the committee at that time, responded forcefully and clearly by stating, “absolutely not”.

Former Assistant Commissioner Spice, do you have any information that contradicts Mr. Zaccardelli's statement?

Mr. John Spice: I've had a conversation with a serving member of the force who said that this conversation did take place. When I spoke with him last night, he told me it was hearsay. I believe it would be prudent to contact the former criminal operations officer of A Division, Chief Superintendent Wayne Watson, to make a determination as to any communication that he had with former Commissioner Zaccardelli and/or retired Staff Sergeant Lewis.

Mr. Borys Wrzesnewskyj: Mr. Spice, this conversation was with whom specifically?

Mr. John Spice: I had a conversation with Superintendent Denis Constant. He was a superintendent at the time. He no longer is.

• (0920)

Mr. Borys Wrzesnewskyj: Thank you.

Prior to the November 2003 audit findings, in September you received an e-mail, signed by Denise Revine and sent by Chief Superintendent Fraser Macaulay, with all of Ms. Revine's serious allegations. Once you had had a chance to read through that letter, did you believe that a criminal investigation might be warranted?

Mr. John Spice: I don't know that I formed an opinion that a criminal investigation was warranted. I certainly believed there should have been an audit conducted to make a determination. In fact, I had a conversation with the director of audit, Mr. Brian Aiken, regarding that. We went over the fact that should he find anything criminal while doing the audit, he would then suspend the audit and call for a criminal investigation, which was the process at the time.

Mr. Borys Wrzesnewskyj: So you spoke with the auditor, Mr. Aiken. Did you speak with former Commissioner Zaccardelli as well, after receiving this e-mail?

Mr. John Spice: Yes, I did.

Mr. Borys Wrzesnewskyj: And what was Mr. Zaccardelli's response?

Mr. John Spice: I suppose I would characterize it as being concerned. In fact, once seized with it, he was going to deal with it.

Mr. Borys Wrzesnewskyj: You mentioned that you spoke with Mr. Aiken. When Mr. Aiken appeared before this committee, I'd heard from other sources that when he began his audit, one of the things he said was that he had never seen so many red flags go up. In your conversations with him, did he say anything similar?

Mr. John Spice: Yes, he did.

Mr. Borys Wrzesnewskyj: And specifically did he say he had never seen so many red flags?

Mr. John Spice: Yes.

Mr. Borys Wrzesnewskyj: Looking back at your previous appearance on May 14—and I'll read from your testimony—you stated:

The process, for example, is that if you call for an internal audit—and I worked in audit many years ago, but I believe the principles still apply—you do the audit, and as soon as you determine that any criminality is involved or that there are

code of conduct violations, you suspend the audit and proceed with the criminal investigation.

Why did this not happen in this particular case? Mr. Aiken said he'd never seen so many red flags go up. You clearly outlined what the principles are—you just restated it—that you suspend and you begin a criminal investigation. That did not occur in this case. Are there any particular reasons why?

Mr. John Spice: I have no idea. You'd have to ask Mr. Aiken.

Mr. Borys Wrzesnewskyj: Thank you.

During this timeframe, a number of people who were very concerned about the pension insurance fund approached you. In your previous testimony, you expressed great frustration with what was occurring and, in fact, with a few of the principals involved. Did you at any point say to an individual, “Go outside the RCMP. It's not going to happen”, meaning the criminal investigation?

Mr. John Spice: I probably did.

Mr. Borys Wrzesnewskyj: What would have led you to arrive at that conclusion?

Mr. John Spice: When I was the ethics advisor, I was also the senior officer for internal disclosure on wrongdoing in the workplace. It was a Treasury Board policy. The way the policy was structured—and the RCMP was to apply the policy—if a matter had gone to the level it required and nothing was done, then the next step was to go outside the organization to the public service integrity officer, at that time Mr. Ted Keyserlingk.

Mr. Borys Wrzesnewskyj: Preparing for retirement, you left your position in November of that year. Mr. Zaccardelli, the former commissioner, appointed a new ethics assistant commissioner, Mr. Séguin. Mr. Séguin, it turns out, was Mr. Crupi's boss. We've heard in testimony that Mr. Crupi ran the so-called rigged contracting scheme at the centre of this. Mr. Séguin worked directly under Mr. Ewanovich. We heard, in fact, that he was in a lot of ways his operations person. We heard Mr. Zaccardelli state that he wanted those individuals fired as a result of the audit, yet the person in the hierarchy immediately above Mr. Crupi and working for Mr. Ewanovich ends up being appointed the new ethics assistant commissioner, the very person that whistle-blowers or, as in your words, public servants doing their duties would have to turn to.

When you take a look at the pattern that had been established—the strategic secondments, as in the case of the chief superintendent and, for instance, the constructed dismissal of Denise Revine—wouldn't it seem to have put a chill through the organization to see people removed and at the same time to see the person they're supposed to turn to, the ethics assistant commissioner, as potentially a person of interest in these investigations? Did you have any feelings or any thoughts on that particular appointment, and why that would have occurred?

• (0925)

Mr. John Spice: Are you asking for my opinion on that? I don't know what rationale was used to arrive at that decision.

Mr. Borys Wrzesnewskij: Would you have arrived at the same decision?

Mr. John Spice: No. No, I wouldn't have.

The Chair: Thank you very much, Mr. Wrzesnewskij.

[*Translation*]

Mr. Laforest, you have eight minutes, please.

[*English*]

Mr. Borys Wrzesnewskij: Thank you.

[*Translation*]

Mr. Jean-Yves Laforest: Thank you, Mr. Chair.

Good morning, Mr. Spice and Ms. Conlin.

The committee has held 14 meetings on the administration of the RCMP's pension and insurance plans. In my view, the meetings today and tomorrow are so that that the committee can make recommendations to the government. From the outset, we have been trying to understand what happened, with a view to making recommendations so that it never happens again.

I feel that the role that you played, Mr. Spice, and that you are playing now, Ms. Conlin, is very important in the process. When we look at what happened and call a spade a spade, we realize—and I am referring to your comments, Mr. Spice—that you were almost powerless. You were able to observe significant harassment abuse as a result of whistleblowing. People came to you blowing whistles, but you had very little power. In your evidence to the committee, you suggested the establishment of an oversight committee or the appointment of an ombudsman.

I said earlier that you had a crucial role that you were not able to play. I feel that if the Ethics Advisor's role is crucial, he or she must clearly be given the authority that will better protect and empower all members of the RCMP. It makes no sense that we are where we are. The public is clearly exasperated by what has happened and by the fact that the system has not been able to punish those responsible.

You also proposed that the act be changed to make the limitation period longer.

My question is to both Ms. Conlin and Mr. Spice. What is the best solution? You mention an oversight committee and an ombudsman. Will that be enough? Do we not eventually have to consider unionizing the only police force in Canada that has no union? That could have positive effects. It would prevent abuses like the ones we now know about all too well or when favouritism is shown to a subordinate by a supervisor. These are rules of ethics. They are part and parcel of the values that the RCMP has to uphold.

There have been major abuses that people had no way to stop. Everyone can see that. Now we have to come up with ways to prevent similar situations. I am not saying that unionization is the only way to resolve the problems. People may say that it could well create other problems. Maybe so, but it also has a lot of merit, especially when it comes to protecting people.

I would like to hear what you each have to say on the subject.

• (0930)

[*English*]

A/Commr Sandra Conlin: First of all, sir, I think the RCMP's SRR program is a very good program, which we fully support. The Office of the Ethics Advisor is working very closely now with the SRR program.

With regard to the reprisal issue and coming forward, I am the senior officer for the Public Servants Disclosure Protection Act. I also have the full commitment from Commissioner Elliott, and had the full commitment from Commissioner Busson as well, to be engaged in this and to ensure that any reprisals as a result of disclosure will be addressed immediately from my office.

Mr. John Spice: On the issue of a union, I agree with Assistant Commissioner Conlin regarding the relationship with the division staff relations representatives. The SRR program has worked very effectively over the years, since the early seventies. In fact, I was placed in the position of ethics advisor based upon a recommendation from the division staff relations national executive committee members.

I don't know that a union per se would head off any of the issues we've been talking about here, quite frankly. I think it goes to the courage of conviction to do the right thing. Whether you're in a union or a non-union area, you still require people to behave appropriately and to adhere to the values of the organization.

[*Translation*]

Mr. Jean-Yves Laforest: Ms. Conlin, you said that the commissioner assured you that you would have all the authority necessary to ensure that matters and events reported to you would be brought to his attention and dealt with. Were specific ways of doing this suggested? When you say the commissioner, I assume that you mean the new commissioner. Has a new procedure been put in place so that your work can be truly effective?

In his statement, Mr. Spice said that his ability to act was very limited. He also mentioned that the Ethics Advisor's office is very prominently located and that people coming there for meetings can be easily recognized in the headquarters. If only for that one reason, is any thought going to be given to changing the situation?

[*English*]

A/Commr Sandra Conlin: With regard to your first point, sir, I would like to clarify. I have not been given any special powers. The Public Servants Disclosure Protection Act is the act we work under; however, we are working right now at revising some of our policies.

We are working with the public sector integrity commissioner's office as well as the SRR program, the RCMP legal services, and the professional standards and external review directorate. We are looking at our existing policies now to ensure that we meet the obligations of the Public Servants Disclosure Protection Act and that we have the processes in place to deal with these matters in an efficient and effective manner.

With regard to the movement of my office, sir, my office is still located where it was. I don't think it is the location of the office that makes the difference; I think it is the feeling of trust the people have to come forward to the office. That's an issue of credibility; I don't think location is really the issue.

• (0935)

[Translation]

Mr. Jean-Yves Laforest: So you are telling us for certain that nothing has changed. If policies and ways of doing things have not changed, does this mean that, for everyone working in the RCMP, changes will happen simply because the commissioner has changed?

A/Commr Sandra Conlin: First, the act came into effect in 2007. As you heard me say at the beginning of my remarks, the first thing I did was to staff my office. At present, we are studying all the policies. We are working with other government organizations to find out what their policies are and how we can ensure...

You asked me if this was because we had a new commissioner. Well, when he talked to me, Mr. Elliott offered his complete support for the work I had to do, and so did the RCMP's senior executive committee.

Mr. Jean-Yves Laforest: Thank you.

The Chair: Thank you very much, Mr. Laforest.

[English]

Mr. Lake, you have eight minutes.

Mr. Mike Lake (Edmonton—Mill Woods—Beaumont, CPC): Thank you, Mr. Chair.

I want to talk a little about moving forward here. As Mr. Laforest mentioned, the committee objective is to ultimately ensure that this doesn't happen again.

In your opening statement, Ms. Conlin, you talked about working to address any gaps. Can you talk a little about the main gaps that you've identified through this process and about what you're doing to address them right now?

A/Commr Sandra Conlin: The work is ongoing, sir. I have been in the position for five months, and we are working with different policy centres as well as different organizations to ensure these gaps are addressed.

If you recall, on April 25, former Commissioner Beverley Busson stated to this committee that we would have an outreach initiative. One of my main objectives over the last few months has been to ensure that we have an outreach initiative in place for dealing with concerns or complaints that have come forward, perhaps as a result of wrongdoings or even just concerns that people have. This is one of the things that were put in place right after the April 25 committee meeting. Thirty-two people have brought concerns to our office, so I've been very busy working on that.

We also provide ethics education as part of our mandate. We have been working very closely with the RCMP HR learning and development section to ensure that the supervisory development course, the management development course, and the officer development course have an ethical component to them. We have a two-day ethical component.

The supervisory development course was piloted about a year ago, and it is rolling out nationally as we speak. We have a management development course that was piloted in August of this year. As I said before, these are all ongoing projects.

One of the other roles, which is very paramount, is the Public Servants Disclosure Protection Act. I now have someone in my office who has taken the lead on this. We are working, as I said before, with different organizations like the Public Sector Integrity Commissioner's office, as well as Treasury Board and the different policy centres within the RCMP, to ensure that our policies reflect the laws and that the members feel they can come forward without fear of reprisal.

These are the things I have been doing in the last five months. There's a lot that is ongoing, as you heard.

We are looking forward to some of the recommendations as a result of Mr. Brown's task force.

We know there is ongoing work to be done. What we need to do now is look at where we are, where we need to be, and then put a strategic plan with initiatives in place to drive and implement those. I don't know exactly what they all are now, because it is ongoing, but these are the things I have done in the last five months since I've taken over.

Thank you.

• (0940)

Mr. Mike Lake: Mr. Spice, do you want to add something to that?

Mr. John Spice: Yes, thank you.

I think it's important to recognize that what Assistant Commissioner Conlin is doing presently was being done by my office.

The element that has to be there is being able to hold people accountable. That was not my role. I could call for an investigation or an administrative review under the internal disclosure on wrongdoing policies if things were not going as they should. And we did have occasion to do that. But at the end of the day, the individual who has to hold people accountable is the commissioner of the organization. You require his support and acknowledgement of his role to ensure it's effective. I think that whether the office of ethics and integrity is effective is very much contingent upon the willingness of the commissioner to follow through with his or her—

Mr. Mike Lake: I think what you're saying is that you can make all the changes you want to the office and the role of the Integrity Commissioner, but ultimately if no one listens to what's said, it doesn't mean anything. Right?

Mr. John Spice: In short, yes.

Mr. Mike Lake: I want to talk a bit about the culture and challenges of the RCMP and senior management and contrast that with where we are and where we're going.

Could either of you particularly speak to where we are right now? What has changed to this point that gives you more impact in the roles you're in?

Mr. John Spice: Understanding of course that I've been away for several years, I don't know what's going on. I could tell you what the culture was when I was there. I hope it has changed significantly, but I'll defer to Assistant Commissioner Conlin in that regard.

A/Commr Sandra Conlin: Sir, we have opportunities to learn from experiences. I take note of Mr. Brown and the findings in his report on culture. We are reviewing both our formal and informal systems to ensure that they're aligned to provide a culture based on ethical behaviour. I think it all goes to values.

This is not just the work for one area, such as the ethics office; this involves many areas. It involves HR and learning and development. What we need to do is look at developing managers as role models of ethical behaviour in the organization. We also need to be able to communicate the benefits of aligning our behaviour with the values of the organization.

We also have to ensure that our managers respond quickly and effectively to the issues in front of them, because the front-line managers have the most influence over the people who work with them. We also need a culture in which we welcome issues and deal with them, as opposed to trying to push them up the chain.

So right now we are looking at working with academia, and at working and seeing best practices. These things are what we're all looking at right now. We don't have a plan in place yet; nothing has been decided at this point in time. We are exploring all avenues now, but these are the things we're looking at, in concert with different people.

• (0945)

Mr. Mike Lake: I have one final question.

A lot of the language sounds like my old human resources classes in university. I want to put a practical application to this. The best way to do this is to say that if the same thing happened—if Mr. Lewis came forward with information about something similar to this, and Mr. Macaulay brought forward some information today—what would happen differently?

A/Commr Sandra Conlin: Things would be dealt with, sir.

Mr. Mike Lake: How so?

A/Commr Sandra Conlin: First, as Assistant Commissioner Spice (Retired) said, there is the will at the senior executive level to deal with the issues. I have the commitment that we are prepared as an organization to do so. We have learned from our experiences, and we are prepared to deal with the issues. I have full confidence that if those issues were to happen again and I went up to Commissioner Elliott, I would get the support from senior management that I require.

The Chair: Thank you, Mr. Lake.

Mr. Christopherson, you have eight minutes.

Mr. David Christopherson (Hamilton Centre, NDP): Thank you very much, Chair.

Thank you both for your attendance this morning.

Starting from the structure, help me understand how you currently deal, and previously dealt, with the issue of wrongdoing, for instance. Someone comes forward under the Public Servants

Disclosure Protection Act. Part of your responsibilities now, Assistant Commissioner, would be to provide advice to employees who are considering disclosing wrongdoing.

Normally wrongdoing is not something that helps the organization in question; it's going to be negative. As part of the senior ranks, you are ultimately answerable to the commissioner and officers above you, and their primary concern—beyond the public interest, of course—is always the interests of the institution of the RCMP, and rightly so. But somebody coming forward has interests in exactly the opposite direction, and you might be asked to give advice.

How do you deal with the potential conflict of advising an individual on what the steps are for disclosing potential wrongdoing, which could do harm, and your line responsibility back to the commissioner to protect the RCMP?

A/Commr Sandra Conlin: I don't believe my role is to protect the RCMP. My role is to bring forth issues and wrongdoings that are brought to my attention. I'm not here for the organization; I'm here to make sure behaviour is ethical and that we do the right thing. That's my role in this job.

Perhaps sometimes the news I bring is not the news that people want to hear, but this is the role that I have to play. I have to bring that, because if I don't, who will?

Mr. David Christopherson: Mr. Spice.

Mr. John Spice: Well, I agree with Sandra. Certainly the role of the ethics advisor is not to protect the organization; it's to ensure that, at the end of the day, we do the right thing. Now, whether or not it was the internal disclosure on wrongdoing policy or the present act—and I haven't read the present act—I can only presume that it's not terribly dissimilar from what I was working with as a policy.

But if somebody came forward with an issue, it was my role to take it, before it went outside the organization, to the Public Service Integrity Office. My role was to ensure that we had done everything we possibly could have internally, with the structure and mechanisms in place to deal with the complaint. Following those best efforts, if I was unable to advise the individual who had come to me with the complaint that something was being done, then I encouraged them in fact to go to the Public Service Integrity Office.

So there was never a protectionist view, from my perspective. I was there to do the right thing at all costs, notwithstanding friendships and other things.

Mr. David Christopherson: Thank you.

My concern would be that we would have to rely on the integrity of the individual in the position. Structurally, it still gives me some concern that somebody may come forward and ask for advice on how to do this without blowing their career, or for advice on all the things you would ask. Meanwhile, in the back of the assistant commissioner's mind, they're still thinking of the accountability I have to the commissioner. It just seems to me that the whole structural thing, where you're part of the command mechanism, doesn't necessarily lend itself to giving people the best advice vis-à-vis actions that might hurt the organization.

I don't have a lot of time, so can you incorporate your answer into that, if you don't mind?

I want to come back to the issue of what would be different. Mr. Lake asked the question I was looking at.

Assistant Commissioner, I appreciate and respect your answer, but I didn't hear a lot of meat. I didn't hear of steps. What I'd really like to hear, which I think is what Mr. Lake was seeking, is this. If this unfolded the same way—and we all know the story now, but with things being different in your office—what steps would there now be, different from what they were in the past, that might prevent us from getting to this point in time?

• (0950)

A/Commr Sandra Conlin: Well, I think the policies are basically very similar. Really, the person would come to my office and they would make a disclosure. I would work with the SRRs, or in concert with the SRRs. We would bring it up to the level we needed to bring it up to. The difference here is that I have the confidence that the senior executive and the Commissioner of the RCMP are prepared to act on any information that I bring forward.

Mr. David Christopherson: I appreciate that.

A/Commr Sandra Conlin: That is really the difference.

With regards to policies, the policies are very clear. But as I said earlier, we are working now with the different offices—the Public Service Integrity Commissioner's office, Treasury Board, professional standards, and all those areas—to look at whether our policy is meeting the needs today. If it isn't, we need to change it.

But as I said before, sir, these are some of the things that are ongoing. To say that the policy is written and changed to date, I can't say that. But all those avenues are being explored right now, as we speak.

Mr. David Christopherson: Mr. Spice.

Mr. John Spice: You talked about the integrity of the individual, and that's really what it comes down to. You can have policies, you can have legislation, you can have any number of guidelines in place to deal with these sorts of issues, but without people with the integrity to ultimately take those forward to deal with the issue, you can't guarantee this wouldn't happen again. It's very much personnel-centric, if you will.

Mr. David Christopherson: I appreciate that and understand that we can't change everything overnight. But part of the goal here is to structurally change things so we can minimize the possibility that we'll end up in a fiasco like we're in now.

I'm disappointed, Assistant Commissioner, with respect, that I'm not hearing anything concrete. Saying that you have the support of the commissioner.... I've got to tell you, if you sat in my seat and heard all the people who swore under oath that they were full of integrity and everything was appropriate, and if you asked their kids, they'd say they were people with great integrity...but that wasn't the issue. The fact of the matter is that the system failed the officers of the RCMP just as much as the individuals did. It's our job to try to shore up the structural part, and I'm just not hearing that.

On the incident case now, I want to ask you one more time to please, very clearly, give me something concrete. Don't just tell me that everybody's concerned. I've heard that many times. We had Chief Superintendent Macaulay, Staff Sergeant Frizzell, and Denise Revine. These people were royally shafted. If they came to your

office, or if this issue came up during your time, what would be different in terms of protecting these three RCMP employees—Canadian citizens to boot—to prevent them from facing the same sort of turmoil they have?

A/Commr Sandra Conlin: I think Assistant Commissioner Spice said it very eloquently: it is all about the leadership at the top. It is the integrity of the people who are there.

I can't tell you today that the policies have changed; they haven't. But we are reviewing them right now. I realize that is probably not the answer you would like; however, this is an ongoing process. We are looking now at the Public Servants Disclosure Protection Act, which came into effect in April 2007, with the reprisal mechanism. We are working with the different areas to ensure that our policies are going to be reflective and that these types of issues get the attention they require.

As I said, it's the integrity of the people who are in the office, and that's paramount to it.

• (0955)

Mr. John Spice: When I was here in May, I indicated that I believed there was a need for an ombudsperson role to deal specifically with these sorts of situations. You can't have individuals going forward presuming that they're going to be heard when nothing is being done, careers are being ruined, and so forth, because people always allow their egos to get in the way. Yes, if we have altruistic people in positions, if their integrity is never in question and something is going to be done, that's great. The ethics office is critical to the organization, but I believe there is a need for an ombudsperson, or whatever moniker you want to give it. There's a necessity to have something outside to oversee those decisions and ensure that everything is as it should be.

The Chair: Thank you, Mr. Christopherson.

Before we go to Ms. Jennings, I have a question I want to follow up on from the last answer, Mr. Spice—and to you, Assistant Commissioner Conlin.

You answered a number of questions by saying it depends on the integrity of the people in the office. You people have obviously been following this sequence of events over the last six or eight months. We had an ethics officer. The evidence was, Mr. Spice, that they came to you. You didn't have much in the way of resources or capacity, and there wasn't much done. That was reflected in Mr. Brown's report:

The Ethics Advisor had no established role, very limited resources to support the function and no regional presence. Further, the high turnover rate—six individuals in six years—further limited the confidence members could develop in the person of the Ethics Advisor.

I want to get a comment from you on the structure of the organization. I disagree with Assistant Commissioner Conlin about the integrity of the people. There may be integrity now, but you have to have a system that protects the system. There has to be governance and a challenge function.

The basic establishment of the RCMP is paramilitary or command and control—whatever you want to call it. It's probably fair to say that it has worked over the years, but when things go wrong they go very wrong, and there's nothing to bring the train back onto the rails. That's what we've seen here. I really disagree that it depends on the integrity of the individuals. There has to be an organizational structure so that when things veer off, there's a self-correcting system and they veer back onto the road. We haven't seen that here. Certainly there's a lot of power in the position of the commissioner, and when things go wrong they go very wrong.

Have you watched this, Mr. Spice, retired assistant commissioner, over the last six months? Do you have any comments as to how the organization could be better structured so this will never happen again? As Mr. Lake pointed out, I think that is the objective of everyone in this room.

Mr. John Spice: Frankly, Mr. Chair, I haven't been watching it perhaps to the extent that I ought to have been. It's not that you aren't doing great work; it's just that I've had other things on my plate.

As I said earlier to Mr. Christopherson, I believe that the role of the ethics advisor within the RCMP is a critical one and it should remain a high-profile position. I forget what you called it, Mr. Christopherson, but it's an advisory position; it's not part of the hierarchy of the SEC. You're there as an advisor to the SEC and not as part of the decision-making process.

Having said that, I'd only be regurgitating what I've indicated. I agree with you; there have to be checks and balances. There has to be some structure apart from the force in those rare cases. Hopefully, they'll be like the Maytag repairman. In the instances when there has to be some scrutiny, you need a body to do that. You can't continually come back to the Standing Committee on Public Accounts, for example, to deal with these issues.

Those are my comments.

•(1000)

The Chair: Do you have any comment, Assistant Commissioner Conlin?

A/Commr Sandra Conlin: One of the roles of the ethics advisor is to also perform that challenge function. That is one of the roles, and it was there when the retired assistant commissioner, John Spice, was there as well. My role is to challenge, to play that challenge function with the commissioner as well as with the senior executive committee. But you're right; my role is an advisory role.

The Chair: Before I leave, you say that it was there when Assistant Commissioner Spice was there. But it didn't work when Assistant Commissioner Spice was in his office. These people went to Assistant Commissioner Spice. Ms. Revine went there. Chief Superintendent Fraser Macaulay went there. The system was totally dysfunctional.

On your answer to the questions on the integrity of the people involved, that is not going to work unless there is some systemic overhaul of the system, and I don't see that. I don't want to be confrontational, but from your evidence, you're saying that it depends on the integrity of the people involved and that we like the commissioner now. That's all very well, but if a governance structure is not correct—and I don't see anything in your office or any changes

that would give me confidence that this is coming—then I think there's a possibility, and I do hope that it's not the case, that we could be back here in two years with a very similar situation.

A/Commr Sandra Conlin: If I may say so, sir, we are also looking at the different models and structures. This is some of the ongoing work. I realize that I'm repeating myself when I say that this is all ongoing, but as a result of Mr. Brown's report, these are some of the things the organization is looking at. The organization is looking at how we are structured. What is the governance?

For me to say that we have this structure all down pat would be premature. This is an ongoing work in progress, but these are all things we are looking at with the SRRs. We are researching the position of an ombudsperson. These are all things that are open to us, sir. We haven't closed the door on any possibilities, but right now they are in the research stage. We are working with a myriad of people inside and outside the organization to look at these things. I know I'm repeating myself when I say that we don't have anything down pat yet, but we are looking at this. These are the possibilities we have. It's too premature for me to say which model we will adopt at the end of the day, but it will be done in consultation with the SRRs and the employees. It will be done.

The Chair: Thank you very much.

We'll go to Ms. Jennings for eight minutes.

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Eight minutes? Why, thank you, Chair. I like this committee.

The Chair: First of all, I'll welcome you back, Ms. Jennings.

Ms. Jennings was a member of this committee in, I think, the 37th Parliament. We certainly enjoyed having her.

We welcome you back, Ms. Jennings.

Mr. Brian Fitzpatrick (Prince Albert, CPC): Welcome back, Ms. Jennings.

Hon. Marlene Jennings: Thank you.

Thank you, Mr. Fitzpatrick.

Thank you both for your presentations and your open and frank responses to all of the questions that have been asked of you.

One thing that has become clear from your testimony is that the role of the ethics advisor is precisely that: an advisor. You have no authority to actually implement or to force implementation of decisions that you believe are the proper ones, procedures that you believe should be carried out and followed, etc.

Mr. Spice, given your experience, I assume you are familiar with oversight bodies and systems that exist in other jurisdictions here in Canada as well as in other countries.

There is the Canadian Association for Civilian Oversight of Law Enforcement here in Canada, which regroups members of civilian oversight bodies. One of the primary goals of that association is to convince governments to create independent civilian oversight bodies with actual legislative power. We have that in Quebec. We have had that in Quebec since 1990.

I was the deputy commissioner for police ethics for the province of Quebec. Under that legislation there is a code of ethics, which is in the legislation itself, that applies to all members of police services in Quebec who come under provincial jurisdiction, including special constables, and any person, including a police officer or a civilian working for the police or a member of the public, can bring a complaint to the police ethics commissioner if they believe there have been possible violations of the code of ethics. That covers a wide variety. It could be excessive force, it could be abuse of power, it could be nepotism, you name it. Everything is pretty much covered.

The commissioner has exclusive jurisdiction to investigate that and has the powers to actually go into police stations to get all of the documentation necessary, to require the cooperation of the members of the police force, civilian and police, and if, upon investigation, the commissioner believes there is sufficient evidence that there have been violations of the code, to cite the individuals concerned and bring them before an independent police ethics tribunal.

That system has existed in Quebec for 17 years. It celebrated its 17th anniversary on September 1 of this year.

In British Columbia they also have a system of investigating complaints against the police. Those complaints could be from members of the public, from fellow police officers, or from civilians working for the police.

It's clear from your own testimony when both of you have repeatedly stated that it's the integrity of the individuals—I think the chair pointed that out. That's all very well and good, but at some point there needs to be some oversight mechanism with real teeth. If, God forbid, the RCMP finds itself again in a position where you have members of that force who are not necessarily people of integrity or who do not have the courage to withstand pressure that's being brought to bear possibly by superiors and therefore are in fact committing acts of conduct that are not acceptable, there needs to be some kind of mechanism outside that has the teeth in order to go in and determine that, so that two years from now it will not be in front of the public accounts committee.

Mr. Spice, you talked about a possible ombudsman. The problem with an ombudsman, as you know, is that the role itself has only the power of recommendation. It does not have the power to actually impose either sanctions or policy changes, etc. I would ask what your view is about a possible recommendation from this committee that the RCMP be actually significantly reformed so that there is the creation of a civilian oversight mechanism with authority.

• (1005)

I'm just going to end by saying that Mr. Paul E. Kennedy, who's the chair of the public complaints commission of the RCMP, has publicly stated that his commission does not have the teeth to provide a real independent oversight mechanism of the RCMP.

Mr. John Spice: Thank you. I was wondering whether or not there was a question anywhere in there, but I'm pleased that you finally got to one.

Hon. Marlene Jennings: I'm noted for my own soliloquies, but I usually do manage to end it with an actual question.

Mr. John Spice: And it was very informative. Thank you.

I certainly have no role to play in this, but I agree totally as far as the ombudsperson and the whole notion of making recommendations and so forth is concerned.

When I was here in May, one of the recommendations that I made to this committee was to re-examine, reopen the RCMP Act. I do believe a variety of things can be done by reopening the RCMP Act.

Monsieur Laforest, you spoke about the limitation of action. You indicated it was decreasing. My recommendation was to increase the limitation of action. We're worse off if we decrease it.

But yes, I agree with you that something ought to come from this group, and reopening the RCMP Act and making amendments to it would fit in that vein. That would be an excellent idea.

Hon. Marlene Jennings: Thank you.

A/Commr Sandra Conlin: Madam, I'd like to inform you that we spent two days...Inspector Barb Hayduck, from my office. As I said to you before, we are researching all options to look at a model that could work for us. The last two days of last week were spent with la Sûreté du Québec and le Service de police de la Ville de Montréal exactly examining the systems they have and the roles they play. So it is one of the areas we did go to and we are researching them.

• (1010)

[*Translation*]

Hon. Marlene Jennings: At that point, I advise you not to simply stop at meetings with the Sûreté du Québec and the Montreal Police Service, but also to meet with the Quebec Police Ethics Commissioner, the Public Complaints Commissioner in British Columbia and the director of the Special Investigations Unit,

[*English*]

the Special Investigations Unit of Ontario, go and meet with the actual people who have the authority to implement legislative dispositions concerning alleged misconduct and ethical lapses on the part of members of police services across Canada.

A/Commr Sandra Conlin: That was just our first stop, madam, in many of our areas that we will be researching, and it came to light when we did speak to la Sûreté de Québec and le Service de police de la Ville de Montréal. As a result, those are some of the areas we are further investigating.

Thank you.

The Chair: Thank you, Ms. Jennings.

Mr. Fitzpatrick, eight minutes.

Mr. Brian Fitzpatrick: Thank you very much, Mr. Chair.

I'm going to follow up on the theme that seems to be emerging here. I'm a firm believer that if there's a failure in an organization, it's a failure of the system.

Dr. Deming, who in the world of private management is probably viewed as the equivalent to Einstein in science, was a firm believer that if you're getting bad results out of an organization, it's defects in the system, and you've got to change the system if you want to get better results. It was his view that good people stuck in a bad system, no matter what they do, are helpless to get the system changed and get the results done. In this episode I think we see many examples of bad results and failures of the system.

When I look at Mr. Brown's report—and I've read the report three times—I think he's going at it the right way. He looks at the issues in the system, and he's looking at systemic changes so that these problems will not occur in the future. It's not based on just changing people in the system; it's changes.... I'm referring to chapter 8, "Rebuilding the Trust", and a task force dedicated to dealing with these systemic problems. One of his main points for the task force is "ensuring that the RCMP's workplace disclosure policy is appropriate and that mechanisms are in place with adequate resources to ensure protection from reprisal and a commitment to clear and decisive corrective measures".

It seems to me that we're on the path to making good systemic changes to the RCMP. I think everybody on this committee understands that it's the system that has to be dealt with. Knowing Dr. Deming as I do, I think you're not going to get good systemic changes without really good, strong leadership at the top who are dedicated to bringing those changes on.

I would like to ask Assistant Commissioner Conlin whether she believes Commissioner Elliott is up to the job.

A/Commr Sandra Conlin: I firmly believe Commissioner Elliott is up to the job. He has my full support and he has the full support of the senior executive committee.

Mr. Brian Fitzpatrick: I think a good solid task force has been set up to deal with these issues and make specific proposals for systemic change.

Mr. Spice, I think you have some good ideas in this area. Are you willing to maybe make submissions to this task force, providing some of your input on how the Office of the Ethics Advisor could better function within this paramilitary organization?

•(1015)

Mr. John Spice: Would I be willing to?

Mr. Brian Fitzpatrick: Yes.

Mr. John Spice: I have not yet been asked, so I suppose it's moot. If I'm asked, I'll certainly be willing to speak to them.

Mr. Brian Fitzpatrick: Those are all the questions I have.

But I do reiterate that when I read the Brown report, I think the emphasis is on systemic change. There are problems in the culture and the governance of this organization, and they're well on the road to getting at the defects in that structure and addressing them. I think that's the news we want to hear, because everybody in this country, whether front line, RCMP, or the public at large, wants to know that they can trust their national police force and that it's doing the job and the mandate we expect of it. I think we're on the right track with where we're heading.

That would be the extent of my comments on the matter. Mr. Sweet?

Mr. David Sweet: Assistant Commissioner Conlin, it sounds to me as though the task force is going to be reporting in December 2007. That's going to be the ultimate benchmark on decision-making in terms of what kind of governance modification is going to have to happen, not only in the ethics advisor's office but also in a number of other situations, in order to have some accountability. I think your term was "accountability with teeth", or something to that degree, or "real accountability".

Are you planning on making a submission to the task force yourself? You've been in the position now for five months, so you're going to have a good idea of the capacity you need to build, because you said one of the things you're doing is capacity-building.

First, are you going to be making a submission? Second, can you enlighten us on some things you'd be submitting that you feel the office requires in order for it to be effective and have accountability with teeth?

A/Commr Sandra Conlin: Well, I have had the opportunity to speak with Mr. Brown, and what I've done is this.

As I said to you before, what we need to look at as well is where we need to be. Until just recently, I needed to build capacity. What I need to look at now, based on the issues that Mr. Brown's report will bring out as well as internal issues within the RCMP, things I see that we may have to change, is alternatives. That's why all this research is being done by the people on my staff; we're looking at alternatives. We're looking at how our office can effectively perform the duties it needs to do. We are looking, for example, at re-establishing an ethics council. These are all things that are put on the table.

We need to consult also with the employees of the organization. We need to consult at all levels to see what the requirements of an ethics office are for the front-line members of the Royal Canadian Mounted Police. What do they expect from our office? Then once we have those inputs, we need to know how we are going to deliver the requirements and what financial or human resources we are going to need to be able to attain those goals.

We have put forward some initiatives. For example, there is the ethics education, which is the big piece. That is a big piece, where we start from Depot right through to senior management. So those are the things we are enhancing and continuing as we speak.

The outreach initiative that I spoke of earlier, which former Commissioner Beverley Busson put in place, is something we're dealing with on an ongoing basis with people who are coming in—their concerns and how we're dealing with them.

Mr. David Sweet: Maybe I should stop you right there. I really wanted to try to get something specific from you that you're going to direct to the task force, but it doesn't look like I'm getting there.

Let me ask you this question. This outreach initiative has been going on for just a couple of months, is that correct?

A/Commr Sandra Conlin: Yes.

Mr. David Sweet: So it looks as if there was a logjam and it kind of burst forward, because people are now feeling comfortable. So there is some credibility in what you say, that there is a trust rebuilding in the organization. Thirty-two people have come forward. I think that's a huge capacity.

Would that be correct, Mr. Spice? You wouldn't get those kinds of complaints within two months on a regular basis, would you—32 individuals?

Mr. John Spice: Actually, when I began my tenure as the ethics advisor, we kept numbers, and yes, I think that would indicate that the trust is rebuilding, if that's your question.

Mr. David Sweet: Good.

•(1020)

The Chair: One little question.

Mr. David Sweet: Thank you, Mr. Chairman.

I guess what I'm looking for is this. Specifically, you've had five months, and you've now had 32 people come into your office. Number one, have you got more staff to handle this surge? Number two, what do you specifically plan to say from your own experience? Will you say, listen, this task force has to do this or I cannot fulfill my responsibilities?

A/Commr Sandra Conlin: First of all, let me clarify. I am not directing Mr. Brown's task force. I want to clarify that, please.

In terms of receiving staff, I have seven people now in my office. I have someone dealing with the Public Servants Disclosure Protection Act, who is the lead. I have two people on the outreach initiative at this time. I have one inspector who is now leading that research piece that I spoke about, in partnership with other areas, to look at alternative models, to look at the way we conduct our business and what we need to do to be an effective ethics office for the RCMP.

Right now we have a staff of seven. We will come forth when we have our plan in place, and we will come forth with a business case to the RCMP senior executive committee to get approval for the plan and also to get the human and financial resources that are going to be required.

But for me to say right now what exactly I'm going to need in my office six months from now.... This is ongoing. Our office may look totally different three months from now, so what I need to do is ensure that we are looking at all the alternatives, get a plan in place, and then staff it and get going and doing the things we need to do.

The Chair: Thank you, Mr. Sweet and Assistant Commissioner Conlin.

Now, colleagues, we're going to start round two. Mr. Wrzesnews-
kyj, four minutes.

Mr. Borys Wrzesnewskyj: On a point of clarification, Mr. Spice, you said that an officer basically contradicted what Mr. Giuliano Zaccardelli had said before this committee, that he absolutely did not call for a criminal investigation. I wasn't able to quickly write down the name. Could I get the exact name, rank, and where this officer worked?

Mr. John Spice: I gave you two names. Which one do you want?

Mr. Borys Wrzesnewskyj: I wrote down "Denis", and I didn't get—

Mr. John Spice: Superintendent Constant, at the time, was the executive officer for Commissioner Zaccardelli. I know that he wasn't privy to the conversation with Staff Sergeant Lewis and the commissioner. You can contact him through headquarters.

Mr. Borys Wrzesnewskyj: That's why I needed the details. Thank you.

Mr. John Spice: I think I'd also be looking to A Division, to Superintendent Wayne Watson.

Mr. Borys Wrzesnewskyj: I got that name, yes.

Mr. John Spice: Okay, good. Great.

Mr. Borys Wrzesnewskyj: Thank you.

Ms. Conlin, you said that things today would be dealt with, and you mentioned SEC, the senior executive committee. How many members are there on SEC? Those are chief superintendents, assistant commissioners—no?

A/Commr Sandra Conlin: No, they are the commissioner, the deputy commissioners from the regions, the ethics advisor, as well as members from legal services and internal audit.

Mr. Borys Wrzesnewskyj: Would assistant commissioners be on there as well?

A/Commr Sandra Conlin: No, sir.

Mr. Borys Wrzesnewskyj: No, so it's just the commissioner, deputy commissioner.... Okay.

Regarding the internal audit that was taking place, we've heard that the auditor had said he'd never seen so many red flags. He should have stopped the audit, and a criminal investigation should have begun. That did not happen. The audit was presented that fall to SEC.

By the way, Mr. Aiken, the auditor, reported to Mr. Gauvin, who was the comptroller, after all, a deputy commissioner. What's interesting is that we've heard in testimony here that a former assistant commissioner, Gordon Clark, has indicated that Mr. Gauvin had a file of all of the inappropriate requests that the former Commissioner Zaccardelli had made. Former Assistant Commissioner Gordon Clark has indicated he'd be willing to testify before this committee. Mr. Zaccardelli claimed no recollection of that meeting and discussion of that particular issue.

Mr. Gauvin is Mr. Aiken's superior. I would assume Mr. Aiken would have gone to Mr. Gauvin. The audit did not stop. It was concluded. The audit results came forward before SEC. You have all the top officials within the RCMP on the senior executive committee.

What happened? Why did it take until March of the following year, only after the whistle-blowers went to the offices of Anne McLellan, Reg Alcock, and Sheila Fraser? Why did nothing happen? Everyone on SEC had a copy of that report. They heard those allegations. So do you have any idea of what transpired? Why did no one take action?

•(1025)

Mr. John Spice: If I may say so, it was not the full SEC committee that received that audit report. Quite frankly, I'm not sure who sits on the audit committee—perhaps you can tell me—but it's not a full SEC meeting. So the report, as far as I know—and I could be wrong—did not necessarily go to the entire SEC group, but it did go to the audit committee.

The Chair: Thank you very much, Mr. Wrzesnewskij.

Mr. Poilievre, you have four minutes.

[Translation]

Mr. Pierre Poilievre (Nepean—Carleton, CPC): I confess to being a little surprised that you have not mentioned the new processes that will be in place because of the Federal Accountability Act. For the first time, thanks to the protection provided to whistleblowers—including those in the RCMP—RCMP employees will be able to turn to the commissioner for protection if they are not satisfied with the results of the RCMP's internal processes. This is new, it did not exist before the Federal Accountability Act came into force.

In addition, if the internal investigations of a whistleblowing complaint does not satisfy an employee, the employee can under the act make the complaint directly to the commissioner, who is independent and appointed by Parliament. Perhaps you could talk about the structural changes that this will bring. I think the change is very significant, and you did not mention it. You spoke only of changes in culture. Changes in process are now in force too. I would like you both to address these changes. For example, do you have any comments on the way this is going to change the process?

[English]

A/Commr Sandra Conlin: The RCMP has had policy on internal disclosure since approximately 2002 with regard to the way we handle internal disclosures for wrongdoing. The law that was brought out was the Public Servants Disclosure Protection Act, with some obligations for us with regard to the nomination of its chief executive, which we did. Deputy Commissioner Tim Killam is our chief executive for the Public Servants Disclosure Protection Act and I was nominated as the senior official for that act.

We also have some obligations with regard to ensuring that we have the policies in place that look at the Public Servants Disclosure Protection Act and the RCMP Act and how they interact—

Mr. Pierre Poilievre: I'm sorry, I don't have very much time.

Those things, frankly, don't interest me a whole lot. What interests me is where whistle-blowers can go when they have a disclosure of wrongdoing and they're not satisfied with any of the people you've just mentioned because those people are part of the RCMP. And what I wanted to point out is that under the Federal Accountability Act they now can go to the Public Service Integrity Commissioner, who is an officer of Parliament.

•(1030)

A/Commr Sandra Conlin: Yes. We have—

Mr. Pierre Poilievre: I don't know why you haven't spoken of that, because that is far more important than any of these very small things you're mentioning now.

A/Commr Sandra Conlin: A communiqué went out to all employees of the RCMP when the act was put into force in April, advising all employees that they have three areas to which they can go under the act. Number one is their supervisor; number two is the senior officer; and as well, they can go to the Public Sector Integrity Commissioner's office.

We are now working with those three areas, because we also are looking at how the Public Servants Disclosure Protection Act interacts with the RCMP Act, and those are the meetings that are ongoing with the Public Sector Integrity Commissioner's office, RCMP legal services, professional standards and external review, and my office. And the SRRs are included in that. And what we're looking at is how the new act interacts with the RCMP Act and what policies we may need to change to ensure that they meet the new Public Servants Disclosure Protection Act.

But we already had policy in 2002 with regard to whistle-blower protection and with the reprisal as well. What we need to do now is ensure that it meets all the legal requirements in how it interacts with the RCMP Act.

The Chair: Thank you very much, Mr. Poilievre.

Thank you, Assistant Commissioner Conlin.

Monsieur Laforest.

[Translation]

Mr. Jean-Yves Laforest: Thank you, Mr. Chair. I am going to share my time with Mr. Lussier.

Ms. Conlin, since the meeting started, it seems to me that there has been a lot of talk about changes in structure. Mr. Fitzpatrick already mentioned systemic changes. So did Mr. Brown.

You are telling us that, for sure, things are going to be better, and that they already are, because of the will of the senior executive committee and the commissioner, who want things to work. But I feel that there are still a number of problem areas and, if all we have is good will, it will not get to all levels. As an example, I am going to table the documents I have in my hand.

You received a complaint on a matter of ethics from the divisional representative in Quebec. I do not want you to deal with a specific case, but people feel that there is some laxity within the RCMP, and I want to illustrate what I mean with the following case. An RCMP corporal asked for his weeks of vacation last spring and he was told that could have all his vacation if he signed a letter of resignation that would take effect a little later. The divisional representative filed a complaint, and you told him that the complaint should have been for harassment and not on a matter of ethics.

I think that, in a case like this, the officers' actions were a breach of the code of ethics. I do not want to deal with a specific case, but I table the document to demonstrate that people feel that there is laxity. Even if the RCMP senior executive committee and the commissioner want to change this and other situations, similar things are going to keep happening if systemic changes and major revisions to structures and policies are not made. We are talking about RCMP officers, after all. This involves someone in Trois-Rivières, in my area. I think the situation is inappropriate.

I give the floor to Mr. Lussier.

Mr. Marcel Lussier (Brossard—La Prairie, BQ): Thank you, Mr. Laforest. Thank you, Mr. Chair.

Ms. Conlin, the Brown report mentions that there is too much turnover. It says that there have been six people in six years. You say that you have been in your position as commissioner for five months. Do you think that you will be doing the job for a short time, or a long time?

•(1035)

[English]

A/Commr Sandra Conlin: First of all, let me clarify that the Brown report states that there have been six ethics advisors in six years. That is incorrect. The Office of the Ethics Advisor was established in 1997. I am the fifth ethics advisor, and I hope to be here for a long time.

[Translation]

Mr. Marcel Lussier: Thank you.

Now I would like to talk about representation or regional presence. How are you going to design your structure to resolve regional questions? Are all regional complaints forwarded to your office, and, if so, by what process?

[English]

A/Commr Sandra Conlin: It's a very good question. It's one of the areas we're looking at. We're looking at perhaps putting through regional or divisional ethics counsellors to assist us in this capacity to ensure there is a consistent message and to ensure that the members have someone they can trust and who is credible to deal with some of their issues. This is one of the many options we are looking at to deal with these issues.

[Translation]

The Chair: Thank you very much, Mr. Lussier.

[English]

Mr. Williams, for four minutes.

Mr. John Williams (Edmonton—St. Albert, CPC): Thank you, Mr. Chairman. I'm glad to be back here during the summertime. Welcome, all.

Ms. Conlin, you mentioned in your opening report that the mandate of the RCMP's Office of the Ethics Advisor is to ensure that the organization's shared mission, vision, and values become ingrained in the day-to-day activities of all employees.

We've been sitting here for a number of months. Mr. Spice, you said that when you were the ethics advisor people had to check that there was nobody else in the hall as they snuck into your office so

that they wouldn't be seen going in. Therefore, this notion that the ethics advisor is an integral part of the institution of the RCMP does not seem to be totally accepted by all.

We also had Chief Superintendent Macaulay tell us that he was told he was on an island of his own. Commissioner Zaccardelli was telling us how wonderful a job Chief Superintendent Macaulay was doing—so good a job, Mr. Chairman, that he sent him over to DND for a couple of years, which was the doghouse, really. And Assistant Commissioner Rogerson ended up reporting to a staff sergeant because he wanted to blow the whistle.

The ethics of the organization, as we have heard here, are unfortunately quite low at the upper echelon. We don't know about down below. As far as we can tell, down below in the ranks of the RCMP, they are just as astounded as we are at what's been going on at the top.

But I want to know that you are able to walk into the commissioner's office—because he's senior to you—and say, Mr. Commissioner, you can't do that; you can't discipline a guy for blowing the whistle; you can't send somebody down to the doghouse or on an assignment out of the country or over to DND for a couple of years because you don't like to hear what he has to say.

How are you going to address this from an ethics point of view? As you stated in your opening statement, your mandate for the entire organization, from the commissioner down, is to ensure that ethics and service are number one and that honesty and integrity are there in the ways the organization is doing things.

We've had far too many examples over these last few months at this committee of people at the senior level who have paid lip service or no service to ethics and probity in the institution. How are you going to turn it around?

A/Commr Sandra Conlin: First of all, I don't think it's only my role to turn it around; I think it's everybody's role to behave in keeping with the core values of this organization.

•(1040)

Mr. John Williams: But they haven't.

A/Commr Sandra Conlin: What we've failed to do, sir, is... We had the mission, visions, and values that were put together by about 4,000 employees from all ranks of this organization. I think the mission, visions, and values of our organization are very sound. But what we didn't do is make them operational. What we didn't do is live the mission, visions, and values. And I think that's the challenge we have now, to ensure that ethical behaviour is rewarded and unethical behaviour is made accountable. I think that is key to changing an organization.

If we have the mission and these visions and values on the wall, but that's all they are, the piece of paper on the wall, and our managers or our employees are behaving contrary to those values, action has to be taken. That is what I meant in my opening statements. We have to look at the formal and the informal and make sure they're aligned and make sure that the rewards are there for ethical behaviour.

Just to reiterate, it is not only my duty; it is everybody's duty. But I am really the steward of it, and so I have to ensure this. As to whether I can go into the commissioner's officer and say there are unethical issues happening, I haven't had to do it in the last five months that I've been there, but if I do have to do it, I will do it.

The Chair: Thank you very much, Mr. Williams.

Thank you, Assistant Commissioner Conlin.

Mr. Christopherson, four minutes, please.

Mr. David Christopherson: Thank you very much, Mr. Chairman.

Just to follow up on Mr. Williams' question, we've got to get past the words and get to some concrete things at some point. You said action needs to be taken if somebody acts unethically. Like what? What do you see in the future that's not happening now?

A/Commr Sandra Conlin: Let's go to the lowest level: a manager in a detachment or a detachment commander who sees people being demeaned, people being bullied. They need to act on that right away.

When I talk about action, I'm not necessarily talking about the formal discipline. That's down the road. What we need is people dealing with it at the first instance, people dealing with it and being able to talk and say that that behaviour is not acceptable in our organization, that it is against our core values. That's where we have to go. It has to be at the lowest level, because those are the people who are interacting with everyone every day.

Mr. David Christopherson: How are you going to do that?

A/Commr Sandra Conlin: Ethics education is one, and holding managers accountable through performance agreements is another. If I am a manager and one of my people is not behaving or is allowing issues to happen, I have to step up to the plate and hold the person accountable.

I can't do all of this, sir. As I said before, this is not just my sole responsibility. I need to get the wheels in motion to ensure that this whole ethical piece is part of everybody's daily way of doing business. It's not going to change overnight. This is going to take a multi-year plan. It's going to take quite a few years to get an organization's culture changed, but at the end of the day we have to make a start, and we're prepared to start now. That is why we're looking at alternative models. There are no holds barred right now. We're looking at a different way of delivering the service to ensure that the front line meets the needs.

Mr. David Christopherson: Mr. Spice, it looks as if you have some thoughts on your mind on this.

I appreciate your comments, but I have to tell you I'm still not really hearing what I had hoped, namely that at this stage of the process there would be a little more traction around these things as opposed to just flowery language. I mean, we can do that. We're looking for real change.

Mr. Spice.

Mr. John Spice: Take, for example, the manager or the detachment commander who observes bad behaviour. If he or she

does nothing to curb that behaviour, then we will continue to have the behavioural problems that can exist in an organization.

I've often said that when we hold people accountable—i.e., leave a couple swinging in the trees as you leave town—that message gets out there. I don't know that we can legislate or cause people to change their views, but we can certainly expect that they change their behaviour, whether it's in Nipawin, Saskatchewan, or Flin Flon, Manitoba, or Tuktoyaktuk. The behaviour of RCMP personnel, public servants, civilian members, and regular members has to be congruent with the values of the organization. We have to hold people accountable, and people have to see people being held accountable. And it has to be appropriate accountability, because if it isn't, they'll continue to behave badly. That's the bottom line.

Mr. David Christopherson: It would help if they saw the ethics at the top too. We can deal with the local managers, but if they look up and don't see ethical behaviour, it's not going to be there on the front line, and that's where it has to be.

Mr. John Spice: Absolutely. And they'll model the behaviour that they see at the top.

Mr. David Christopherson: Exactly.

Thank you.

The Chair: Thank you, Mr. Christopherson.

Thank you, retired Assistant Commissioner Spice.

Mr. McGuinty, four minutes.

Mr. David McGuinty (Ottawa South, Lib.): Thanks, Mr. Chair.

Thank you very much for coming today.

I'd like to really home in on what I describe as the most shocking part of this report.

Mr. Brown has concluded that we cannot have faith in the Ottawa Police Service investigation. He declares and states very clearly on pages 20 through 22 that Commissioner Zaccardelli was forced to go ahead with respect to a criminal investigation. Then we find out, as you know, in the testimony that was given in May, that the OPS investigation, according to Mr. Brown, was not independent. We find out it was staffed almost entirely by members of the RCMP. The RCMP provided the office space for the investigation in one of its own buildings, hardly the appearance of transparency and objectivity and arm's length. Third, the A Division file number for the project was the same number used for the original investigative file to open as a result of Staff Sergeant Lewis' complaint, and it goes on and on from there. It reminds me of, just to paraphrase a Shakespearian quote, peace officer, investigate thyself.

What is going on with the OPP investigation now? Is there an investigation pursuant to this report? Has your office, Ms. Conlin, been involved in any way in this investigation?

What is your view, Mr. Spice, given now that you have all this retrospective opportunity to look back? Should Canadians be as concerned as Mr. Brown is about the criminality of what may or may not have gone on inside the RCMP?

•(1045)

A/Commr Sandra Conlin: First of all, to answer your first question, our office is not involved in any of this. Secondly, it would be inappropriate for me to comment on any ongoing investigation.

Mr. David McGuinty: Is there an investigation?

A/Commr Sandra Conlin: I believe Mr. Brown has asked that the RCMP contact the OPP. I believe that has happened, but it is not in my area of expertise, so therefore I'm not sure whether it has happened. You should perhaps direct that question tomorrow to Commissioner Elliott, sir.

Mr. David McGuinty: So as the ethics advisor you have no knowledge of a potential or ongoing investigation right now by the OPP?

A/Commr Sandra Conlin: No, I'm not aware, sir.

Mr. David McGuinty: Would you normally be advised of such an investigation?

A/Commr Sandra Conlin: No, I wouldn't, sir.

Mr. David McGuinty: Would you normally be consulted in such an investigation?

A/Commr Sandra Conlin: No, I wouldn't, sir.

Mr. David McGuinty: Why not?

A/Commr Sandra Conlin: Really, it's not my.... My role is an advisory role. Once an investigation is ongoing, our office is not involved in the investigation at all.

Mr. David McGuinty: Mr. Spice?

Mr. John Spice: Is your question whether they should be advised, in the ethics office, that there is an ongoing investigation?

Mr. David McGuinty: No, my question is, do you agree with the conclusion of Mr. Brown that the OPS investigation was not independent?

Mr. John Spice: Not having read the report, and not being part of that investigation—it occurred after I had left the organization—but from speaking to individuals who were involved in it.... There are differing views, quite frankly.

Mr. David McGuinty: What's your view?

Mr. John Spice: I think it probably could have gone further.

Mr. David McGuinty: Do you think the OPP should be investigating the RCMP right now?

Mr. John Spice: I don't know. If the point of the matter is to further the investigation that was conducted by the Ottawa Police Service and staffed by numerous members of the RCMP, I think the optics of it certainly are that it could have been done differently.

Should it be reinvestigated? I don't know. I don't know whether or not the investigation was sufficient. I wasn't involved in it, so I can't proffer an opinion.

Mr. David McGuinty: Mr. Brown asserts in his report that there should not be a commission of inquiry, but then goes on to state there's a massive elephant in the room, recommending:

The OPP should review the OPS criminal investigation files and assess the adequacy of the OPS investigation with a view to determining whether a new criminal investigation is warranted.

I practised criminal law for a while; this is pretty serious business.

Does anybody in that office now, Ms. Conlin...? Have you been asking nobody at all? I find this astonishing. This is, I think, the number one recommendation that Mr. Brown is making. And you've not been consulted?

And Mr. Spice, retrospectively, looking back, you don't agree? You disagree?

Mr. John Spice: What you're asking us is whether or not we agree with the recommendations of Mr. Brown?

Mr. David McGuinty: Yes.

Mr. John Spice: From what you've read—and I haven't read the report, nor do I have any inclination to do so, because I'm no longer part of the organization—do I think they should take a second look at it? Yes, I do.

Mr. David McGuinty: Thank you.

The Chair: Thank you, Mr. McGuinty.

The last person is Mr. Lake.

•(1050)

Mr. Mike Lake: I want to talk a little about some of the words we've heard today. There are a few words I have some questions about. I guess I'm a bit concerned in the sense that earlier you talked about things such as the confidence of the RCMP rank and file officers and the will of leadership. Those are rather subjective and fairly intangible.

It seems that a lot of what you're talking about is dependent on the character of the commissioner. I think Mr. Christopherson was talking about that a little earlier. But the question is still that when you have a great commissioner who does everything right, none of these things is an issue; what we're dealing with is what you do when you're not in that situation. I don't think that what I've heard today answers how we're addressing those issues. What do we do when there's something wrong?

You talked a little bit—and the first time I thought you misspoke, but you talked twice and used the phrase—about outreach initiatives to deal with people who bring forward concerns. That struck me as a bit of an oxymoron. People who bring forward concerns are outreaching to you; that's not outreach on your part. I'm interested in what you're doing. When you do outreach and are talking to rank and file officers, what are you telling them to do when they're concerned about an issue?

A/Commr Sandra Conlin: Well, let me clarify, please. The outreach initiative I'm speaking of is the outreach initiative that former Commissioner Beverley Busson put in place on April 25 as a result of the public accounts committee meeting she was at, when she said she had put in place, through the Office of the Ethics Advisor, an outreach program to present and past employees who had concerns about how their issues had been dealt with in the past. That is the outreach, sir.

You are very correct. That was an outreach by Commissioner Busson to the membership to talk about things that had gone on that perhaps they felt didn't meet their requirements. That is the outreach initiative I am speaking of.

Mr. Mike Lake: Okay, that now clarifies it a little bit for me.

In terms of your outreach to the general population of rank and file officers, those who maybe haven't brought forward concerns, when you go out and advise them of what to do in these types of circumstances, I'm curious to know what specifically you're telling them about the structure and what's different and what to expect, and where to go. Do you, for example, inform them of the role of the Public Service Integrity Commissioner who will be in place, and the powers they have under the Public Servants Disclosure Protection Act? Are they informed of that option, or are they not informed until they come to you with an issue?

A/Commr Sandra Conlin: No, sir. I do presentations. I meet with them in various courses; we have our ethics course. I also speak to all the new officers as part of officer development, where part of my presentation is about the Public Servants Disclosure Protection Act and the Public Sector Integrity Commissioner's office, and what their obligations are to each and every one of the supervisors. As you know, we have many supervisors across this organization who now have a legal obligation. An individual or an employee can go to their supervisor and disclose a wrongdoing. So we are also now putting in place a training or education package to be able to educate all of the supervisors. That was done, as I said in my earlier comments, through the supervisory development program, in the management development program, and in the officer development program.

I do admit that we also have to reach a number of employees who don't fall into those categories, and that is going to be done with a phased approach.

We also have a communications strategist with us. We have a communications strategy that involves, first of all, the 1-866 number, which is a disclosure line. Also, we have a communication strategy that speaks to the employees about what the Public Servants Disclosure Protection Act is, and their obligations and our obligations as an organization.

Again, we're working to change the policies to ensure they reflect everything.

The other thing we're also doing is ensuring at the end of the day that we have a website with frequently asked questions and answers, and right now that is in the works or being established. We're working with communications to get that done.

The Chair: Thank you very much, Assistant Commissioner Conlin.

That, colleagues, concludes the second round.

I'm going to ask Assistant Commissioner Conlin if she has any concluding remarks she wants to present to the committee, and also retired Assistant Commissioner Spice.

•(1055)

A/Commr Sandra Conlin: No, I thank the committee for taking the time today to ask me to appear in front of them. Thank you.

The Chair: Well, we thank you for your attendance.

Thank you, again.

Mr. John Spice: Thanks very much.

The Chair: That, colleagues, concludes this part of the meeting.

I understand Mr. Wrzesnewskyj has a motion, but before I go to him, I just want to point out that the committee is meeting for two days. For the benefit of the public here, I'll say that we're now going to adjourn for 10 minutes and we're going to go in camera to discuss reports from 11 to 12:30.

This afternoon, from 2 to 4 o'clock, we're going to have another meeting. The witnesses at that point in time will be Paul E. Kennedy, chair of the Commission for Public Complaints Against the Royal Canadian Mounted Police; Catherine Ebbs, chair of the Royal Canadian Mounted Police's external review committee; and as an individual, the Honourable Anne McLellan, former Minister of Public Safety.

We are going to continue in camera from 2:15 to 5 o'clock this afternoon.

Tomorrow we come back. We will meet in public from 9 a.m. to 11 a.m. The witnesses at that time will be William Elliott, the present Commissioner of the Royal Canadian Mounted Police; Beverley A. Busson, the retired commissioner; and we're also going to hear from Linda Duxbury, a professor at the School of Business at Carleton University. Again, later that morning we're going to have an in camera meeting to discuss reports.

Then in the afternoon we will have two meetings. The first meeting will be from 2 p.m. to 3 p.m., and we're going to hear from David A. Brown from the Office of the Independent Investigator into RCMP Pension and Insurance Matters—and of course we have been talking this morning about the Brown report. And then from 3 to 4 o'clock tomorrow afternoon, we're going to hear from the Honourable Stockwell Day, the present Minister of Public Safety.

I just wanted to bring everyone up to date as to what we're going to be doing here today and tomorrow.

I'm going to adjourn. But, Mr. Wrzesnewskyj, you indicated that you have a motion.

Mr. Borys Wrzesnewskyj: Yes, that's correct, Chair.

I'd like to move that Superintendent Denis Constant, the former executive officer in former Commissioner Zaccardelli's office, and also retired Chief Superintendent Wayne Watson appear as witnesses before this committee.

The reason is that we've heard conflicting testimony before this committee. Former Commissioner Zaccardelli has unequivocally stated—in fact he used terms such as “absolutely not”—that he did not request a criminal investigation. We heard the exact opposite from Mr. Ron Lewis. His notes from that meeting indicate the exact opposite. His actions seem to indicate the exact opposite.

We've heard in testimony this morning that there may be individuals who would help us try to figure out which side of this conflicted testimony is the correct version. As we've said on numerous occasions here, we expect truthful and fulsome answers. People are protected by parliamentary privilege, and we treat with great seriousness any situation that may indicate a contempt of this committee or of Parliament. Consequently, I'd like the committee to have these two individuals appear, and I seek unanimous consent.

The Chair: Thank you very much, Mr. Wrzesnewskyj.

There are two points I want to make.

As everyone knows, before this motion can go any further, he needs unanimous consent to even put it on the table. I do want to remind members that we're in kind of what I call a complicated period here. The Prime Minister has indicated his intention to prorogue Parliament. It would come back on October 16 of this year with a new Speech from the Throne. He has not done that. The prorogation has not occurred. Once prorogation occurs, the committee and all the workings of the committee are suspended until the new session starts. So we are kind of in a period of what I would call a certain amount of uncertainty. However, that event has not occurred yet.

Having said that, before anyone can discuss this, Mr. Wrzesnewskyj needs unanimous consent to put the motion.

Does Mr. Wrzesnewskyj have unanimous consent?

Do you have point of order, Mr. Williams?

•(1100)

Mr. John Williams: You just pointed out, Mr. Chairman, that we are going to prorogue in the very near future. As you pointed out, the committees will be disbanded, there is no Parliament, and there are no committees until they're reconstituted. Unless Mr. Wrzesnewskyj thinks we're meeting over the weekend, which I would object to, there is no point in this going forward at all. What is the point? It's a moot issue.

The Chair: Go ahead, Madam Jennings.

Hon. Marlene Jennings: I'm amazed to hear Mr. Williams say that, when Mr. Sweet asked for unanimous consent to present a motion at the beginning of this hearing this morning, with a whole list of potential witnesses that he wanted to commend. He asked for the unanimous consent of this committee to allow him to present the motion. The committee gave him that consent. We then unanimously adopted that motion, which was a laudable motion, and we were thrilled and delighted that the Conservatives had finally come around to the thinking of the opposition parties, particularly the Liberal and the Bloc, that these witnesses needed to be lauded and honoured.

However, it is also clear parliamentary practice that even when Parliament is prorogued and committees are reconstituted, the newly reconstituted committees can, via a simple motion, look backwards at what their committee has been doing if the previous committee has not completed a particular study, and by a motion ensure that all of the transcripts, all of the testimony, all of the documents that were presented in a previous Parliament be accessible to the committee.

Therefore, this motion is not moot. It provides—should the Prime Minister move forward and actually prorogue Parliament—the newly constituted public accounts committee, when Parliament resumes, with the clear thinking of this committee as to how it wanted to go forward. That newly constituted committee would have the freedom to decide whether or not it wanted to follow the direction that the previous committee—

Mr. John Williams: Which is why it is all moot, Mr. Chair.

Hon. Marlene Jennings: It is not moot.

I would ask that all members support the request of Mr. Wrzesnewskyj to allow him to present this motion, and should all

of the members give unanimous consent, that then all members actually support the motion.

Mr. John Williams: That's not a point of order, Mr. Chairman.

Hon. Marlene Jennings: Yours is not a point of order either.

The Chair: Mr. Laforest.

I'm going to restrict interventions to one minute.

[*Translation*]

Mr. Jean-Yves Laforest: Mr. Chair, with regard to Mr. Williams' point of order, I agree with Ms. Jennings that it is not moot. On the contrary, it is necessary. The material that the new committee will have at its disposal after prorogation will not be as fresh as it is today. So it is absolutely necessary for the committee to pass this motion today so that the situation can be fully examined. We know how many times this has led us to other discoveries. I think that Mr. Wrzesnewskyj has put his finger on something very important and that the motion must be passed.

[*English*]

The Chair: Okay, I'm going to allow Mr. Wrzesnewskyj 30 seconds or a minute to wrap up, and then I'm going to ask if he has unanimous consent.

Mr. Borys Wrzesnewskyj: At the start of today's meeting, I was quite encouraged by Mr. Sweet's motion. It appeared that the Conservative members had turned over a leaf. We'd seen their stonewalling throughout the winter and spring, attempting to prevent witnesses from coming forward before this committee—

Mr. Pierre Poilievre: On a point of order, Mr. Chair—

The Chair: We have a point of order from Mr. Poilievre.

Please, gentlemen, lady, we're talking about whether he has unanimous consent. I don't think we have to get into a debate on the history of the workings on this particular issue.

Mr. Borys Wrzesnewskyj: To conclude, since I am on a point of order, we unanimously agreed to pass Mr. Sweet's motion, and a component of that motion was that it be presented before Parliament. We didn't get into a big discussion about prorogation and whether in fact it might be a moot motion. I'd like them to apply the same logic to this particular motion and for the Conservatives to agree to unanimous consent.

•(1105)

The Chair: We have heard the discussion. Mr. Wrzesnewskyj has made a motion. As everyone knows, it doesn't proceed any further unless he gets unanimous consent. Does Mr. Wrzesnewskyj have unanimous consent to deal with this motion?

Some hon. members: Agreed.

The Chair: He does not have unanimous consent.

Mr. John Williams: I didn't deny it.

Ms. Marlene Jennings: I just asked if anyone opposes it.

The Chair: Does anyone oppose providing Mr. Wrzesnewskyj with unanimous consent?

Some hon. members: No.

The Chair: I do not see anyone opposed to Mr. Wrzesnewskyj.

The motion is on the table. Do you want to speak further to your motion?

Mr. Borys Wrzesnewskyj: No. I think everything that's required has been said. I was quite concerned to find out that there may be evidence out there, or witnesses that would have information that runs contrary to former Commissioner Zaccardelli's statements before this committee under oath.

I would request also that this be a recorded vote.

The Chair: I'm going to hear from Mr. Poilievre and Mr. Christopherson, but before I do that, I want to point out that you've been very patient, Assistant Commissioner Spice, retired, and Assistant Commissioner Conlin. You are excused if you want to leave. You're probably not as interested in this issue as other things in life.

Mr. Poilievre.

Mr. Pierre Poilievre: Yes, Chair, I'm prepared to support this motion. I know that Mr. Wrzesnewskyj is moving it for publicity purposes, because he knows we're not going to call these members before the prorogation occurs, but regardless, we can support it now. It will die with prorogation, but it can be revived when we return to the House of Commons.

I do appreciate the way we've set up these couple of days of hearings, though. I'd like to thank you for that. I think we're breaking it down into two parts. One part is what went wrong, and of course we're going to be hearing about that from the previous minister who was in charge when that occurred, and we'll be hearing about the future and how we can get it right from the new minister.

The Chair: Mr. Williams, you have a comment.

Mr. John Williams: Thank you, Mr. Chairman.

I was a little disturbed at what Mr. Wrzesnewskyj was saying about why he wanted these witnesses to come forward to contradict the testimony of the former Commissioner of the RCMP. These are serious allegations that have not been upheld by substance laid before the committee by Mr. Wrzesnewskyj. He just wants to bring people in to hopefully verify what he would want to achieve, which is to demonstrate that some statements before this commission may or may not be upheld as being factual or otherwise.

Mr. Chairman, these are serious issues and they should be dealt with either at the steering committee or in camera, long before we debate these at this point in time unfounded allegations in public, because we should take our positions very seriously. We should not be besmirching people's reputations in public just because we happen to be a parliamentary committee.

Therefore, Mr. Chairman, while I'm the first to uphold Parliament's right to get to the truth, the process that we are starting down, Mr. Chairman, if we do all this in public with people's reputations, bothers me greatly. And I'm the first to agree with Mr. Wrzesnewskyj; there's some testimony before this committee that has been troubling to me, and we may discuss that at some other time. But the point is, if we are to bring these witnesses forward, I want to have an in camera discussion as to how we're going to

handle this so that we do not mess around with people's reputations willy-nilly just because we have the authority to do so.

The Chair: Ms. Jennings, and then I'm going to put the question.

One minute, Ms. Jennings.

•(1110)

Hon. Marlene Jennings: I appreciate what Mr. Williams has had to say. I have experienced the Standing Committee on Public Accounts in a previous legislature, which studied the Auditor General's report into the sponsorship program. The committee was under Mr. Williams' chairmanship. He has personal experience, as do I, as a member of that committee, as to how names of potential witnesses were brought forth in public and their reputations besmirched in discussions in public hearings. Unfortunately, it took a—

Mr. Pierre Poilievre: I have a point of order, Mr. Chair.

Hon. Marlene Jennings: —while before the committee, under Mr. Williams' chairmanship—

Mr. Pierre Poilievre: I do have a point of order. A point of order does interrupt that.

The Chair: But is it a point of order?

Mr. Pierre Poilievre: Yes, it is a point of order.

You have a tendency to interrupt comments from members that you feel are extraneous. Here's a clearly extraneous remark going back three years now, I think, on a totally separate matter. You've not intervened. I'm just asking that you restore some balance in your chairmanship.

Thank you.

The Chair: It's not a point of order.

Mrs. Jennings.

Hon. Marlene Jennings: Thank you.

My comments are not extraneous. The chair was making the point that it would be important to have some kind of process, and Mr. Williams was doing the same, for how to deal with witnesses who are agreed upon to appear. I was giving a clear example of experience of this same committee in a previous Parliament, under Mr. Williams' chairmanship, where as a result of exactly what Mr. Williams was alluding to, the committee ultimately came to a process where it was in camera and selected representatives from the different parties to sit down with the witnesses prior to their actual testimony before the committee. I'm proposing that this committee may wish to look at that.

The Chair: Okay, Mrs. Jennings.

I want to remind members who are making these comments and have concerns that you just gave Mr. Wrzesnewskyj unanimous consent. I didn't give unanimous consent; it was the people around this table. That is something you might want to consider, because I believe, as others do, that this issue would be better dealt with at the steering committee, where all parties are represented. It can be discussed in camera, and then we can go forward. If any member does not agree, or disagrees with the decision of the steering committee, that member can bring it to the committee as a whole. But that's not what has happened.

I'm going to hear from the NDP, and then I'm going to put it to a vote.

Mr. Christopherson, you have up to one minute, please.

Mr. David Christopherson: Thank you very much, Chair.

Again, let's differentiate between supporting the right of someone to place a motion versus whether or not you're going to support the actual motion. These are two different things.

Here's my concern, and I hope you will give the mover of the motion an opportunity to respond. We already know that there's conflicting testimony around what happened in terms of what orders were given or not given and rescinded or not rescinded. That's not in question.

I have a whole list of other issues. I think this whole committee does, for the most part, because we overwhelmingly supported the notion that we need a public inquiry. We believe this because we know that a lot of work has not been done. We're not going to be able to conclude all of it through this committee. So my concern is not that the issue isn't justified, but that there are many issues that would come under that same category.

We've already said there needs to be a public inquiry. The government has disagreed. We're dealing with what they have the power to put in front of us. Could you please give Borys a chance to respond? Why would this be any different from a whole myriad of unresolved issues that many of us believe would be properly dealt with by a public inquiry, and only by a public inquiry?

But that is not going to happen. That's my concern.

The Chair: I'm prepared to give Mr. Wrzesnewskyj 30 seconds to respond.

Mr. David Christopherson: Thanks, Chair.

Mr. Borys Wrzesnewskyj: As Mr. Christopherson knows, we've been calling for a public inquiry as well, because we don't believe this committee has the resources and capacity to get at all the details of this particular issue. Unfortunately, the government is preventing a public inquiry. Consequently, we have no choice but to address these issues as they arise.

The Chair: Okay, Mr. Wrzesnewskyj.

Since we didn't hear from the Bloc, I am prepared to hear from Monsieur Laforest for one minute, please.

[*Translation*]

Mr. Jean-Yves Laforest: Mr. Chair, I am in full agreement with Mr. Christopherson: a public inquiry would allow us to fully understand. But while we are waiting, I think that the motion made by Mr. Wrzesnewskyj is perfectly valid. I am going to vote in favour of the motion. When he made it earlier, I recall him telling us that, given today's evidence, having Mr. Constant and Mr. Watson appear would help us arrive at the truth of the matter. Once again, we seem to have conflicting versions of the facts. I agree completely, and the Bloc will vote for this motion.

•(1115)

[*English*]

The Chair: We've heard the motion, and I'm going to put the question.

(Motion agreed to: yeas 8; nays 3)

The Chair: Okay, I'm going to adjourn for 10 minutes, and then we're going to resume in camera. The meeting is adjourned.

[*Proceedings continue in camera*]

•(1400)

The Chair: I'd like to call the meeting to order.

I want to welcome everyone to this afternoon's meeting. *Bienvenue à tous.* This, colleagues, witnesses, and visitors, is the continuation of the RCMP report, the *Report of the Independent Investigator into Matters Relating to RCMP Pension and Insurance Plans*, raised on June 15, 2007.

We're very pleased to have with us this afternoon Paul E. Kennedy, chair of the Commission for Public Complaints Against the Royal Canadian Mounted Police. Welcome, Mr. Kennedy.

We also have with us Catherine Ebbs, chair, Royal Canadian Mounted Police External Review Committee.

Also, as an individual, we have the Honourable Anne McLellan. Ms. McLellan is the former Minister of Public Safety. I should point out that she has already appeared before this committee on this particular matter and has given testimony beforehand.

I want to welcome each and every one of you. I want to thank you for appearing.

I understand, Ms. Ebbs, you have opening remarks and you do not, Mr. Kennedy.

Ms. McLellan, of course you have come before us, so you have nothing further. Is that correct?

•(1405)

Hon. Anne McLellan (former Minister of Public Safety, As an Individual): No, I don't.

The Chair: Ms. Ebbs, I invite you now to present your opening comments.

Ms. Catherine Ebbs (Chair, Royal Canadian Mounted Police External Review Committee): Thank you very much, Mr. Chair.

The creation of the RCMP External Review Committee arose out of the report of Mr. Justice René Marin, head of the Commission of Inquiry Relating to Public Complaints, Internal Discipline, and Grievance Procedure within the Royal Canadian Police in 1976. The report identified the need for more independent labour relations in the RCMP. The committee was created in 1986 to fulfill the role of providing an independent review mechanism with regard to labour relations issues. The RCMP External Review Committee is an independent and arm's-length labour relations tribunal established by part II of the Royal Canadian Mounted Police Act.

The mandate of the committee is to review grievance, discipline, and discharge and demotion cases referred to it by the RCMP and to provide recommendations on these cases to the RCMP commissioner. The committee's reviews are intended to ensure transparency, fairness, impartiality, and independence in the internal RCMP labour relations process.

As Justice O'Connor recently stated in the Arar commission policy review report, a primary objective of external review is to maintain public confidence in the agency subject to review, and it also ensures that the agency respects the law and human rights.

[Translation]

The committee's jurisdiction is with respect to regular and civilian members only. Public servants employed by the RCMP have separate labour relations processes. These remarks will focus on the committee's work in the area of discipline and grievances. Committee representatives would be happy to provide further information on the discharge and demotion process if requested.

At this time, the committee has one member who is both the chair and the chief executive officer, appointed by the Governor in Council for a term not exceeding five years. Under the act, anyone who sits on the committee cannot be a member or former member of the RCMP. The committee also has one person who is executive director and senior counsel, and five other public servants. The committee has a budget of approximately \$1 million.

In 2006-2007, the committee reviewed 42 grievances and issued 40 recommendations, compared to 34 cases reviewed and 30 recommendations issued in 2005-2006. In 2004-2005, 24 cases were reviewed and 23 recommendations were issued.

The committee issued five recommendations on appeals on disciplinary measures. No recommendations in the area of discharge and demotion were issued. The committee dealt with no cases related to matters raised in the Brown report.

[English]

The committee does not have authority to initiate reviews. The cases must be referred to it by the RCMP commissioner. The act sets out the types of cases that require committee review.

As well, the committee does not have investigatory powers. In all grievance, discipline, and discharge and demotion matters referred to it, the committee bases its review on the record before it. This includes all of the original documents, the decision made, and the submissions of the parties.

Where the review involves an appeal of a disciplinary or discharge and demotion matter, the transcript of the board hearing is also before the committee, as well as any exhibits entered at that hearing.

The chair may request that the parties provide additional information or submissions. If this is done, the other party is given the chance to respond. As well, the chair has the authority to hold a hearing if it's deemed necessary, although use of this option is rare. The chair reviews all the evidence, legal issues, relevant legislation, and case law in coming to the determination on the matter.

After consideration of all the issues, the chair of the committee provides findings and recommendations to the RCMP commissioner, who is the final decision-maker in the internal process for these cases, as well as to the parties. If he decides not to follow them, the law requires that in his reasons he give an explanation for not doing so. The RCMP commissioner's acceptance rate of committee decisions is in the range of approximately 85%: in the area of grievances, 89%; disciplinary matters, 70%; discharge and demotion,

where only four recommendations have been issued in the history of the committee, 75%.

• (1410)

[Translation]

The committee has a very distinct mandate. Over the years, the RCMP has made changes in a number of areas because of recommendations made by the committee. Specific areas of concern have been raised, leading to policy changes with regard to medical discharge, suspension without pay, and harassment. Procedurally, the committee has raised diverse issues, such as maintaining and protecting procedural fairness, ensuring access to information, preventing bias or the appearance of bias in the decision-making process, and protecting the right to be heard.

[English]

The Chair: Thank you very much, Ms. Ebbs.

We're going to have two rounds, colleagues. On the first round we can go eight minutes, and on the second one I believe we can go five minutes.

I'm going to start with Mr. Wrzesnewskyj, but before I do that I'm going to urge all members to keep their questions short and relevant to the issues we are studying. Secondly, I'd ask all witnesses to keep their answers to the point and as brief as possible.

Mr. Wrzesnewskyj.

Mr. Borys Wrzesnewskyj: Ms. McLellan, in regard to the pension insurance fund chapter of the Auditor General's report, when you were previously here Mr. Williams questioned Mr. Zaccardelli. He asked whether or not Mr. Zaccardelli... In his words: ...you mentioned...you kept the minister informed. Do you actually recall talking to the minister, or was it just a departmental briefing?

To this, Mr. Zaccardelli responded: I do not specifically recall speaking to Minister McLellan. I do recall...discussions with Minister Day.

Does that correspond with your recollections? And could you once again go through what occurred when you were made aware that there were some serious problems in the pension insurance funds?

Hon. Anne McLellan: Thank you very much.

I think the record would show—and when I was here last I outlined it very clearly—when I became aware of the situation surrounding irregularities related to the pension and insurance fund. I also outlined at that time the steps we took when I received Mr. Lewis's communication, sent via the Treasury Board Secretariat, and my office's communications with the commissioner's in relation to the fact that there would be a criminal investigation undertaken. That took place in, I think, less than a week, if I remember correctly, of my office contacting the commissioner's office.

In terms of direct communications with the commissioner on this matter, as I think I indicated in response perhaps to a question of Mr. Christopherson the last time I was here, I think again the record speaks for itself. Nothing has changed in that regard.

When I became minister in December 2003, obviously I went through extensive briefings, many of those in writing. Clearly, every agency and department outlines the issues of concern, and challenges, and so on. At that point, sometime in that mid-December to mid-January or late January, I became aware of the fact that there was this issue and that an audit had been done, a management plan had been developed, and the plan was being implemented.

Mr. Borys Wrzesnewskyj: Thank you.

Mr. Kennedy, in his report Justice O'Connor came up with a number of recommendations for oversight mechanisms for the RCMP. Are you familiar with those? The current minister publicly stated that he would implement them. Has anything been implemented in regard to those recommendations?

Mr. Paul E. Kennedy (Chair, Commission for Public Complaints Against the Royal Canadian Mounted Police): I am familiar with the recommendations. I appeared before Justice O'Connor myself and made suggestions, and with a colleague I actually drafted what I thought was an appropriate legislative model, which I shared with Justice O'Connor before he published his document. The two largely run in parallel. That document is up on the web.

At this point in time, no, nothing has been done vis-à-vis the legislation. We have the same legislation we've had since 1988.

• (1415)

Mr. Borys Wrzesnewskyj: Another concern has been raised, one that we haven't particularly spent a lot of time on in this committee. It's the issue of political interference. Every commissioner, when asked, states quite clearly that there is no political interference in our national police forces, but the issue keeps coming up over and over again.

You've made a number of recommendations. People have talked about civilian oversight, a body to look into internal complaints or public complaints against the RCMP. Has there been any thought about the creation of an administrative body that would still allow for government oversight of the federal police force, but at the same time would act like a firewall to prevent political interference in either direction, either from the national police force into the realm of politics, or by the government into the RCMP? As we've seen, those situations can be quite corrosive for democracy. Do you have any thoughts about how that type of body could be structured?

Mr. Paul E. Kennedy: Obviously you're referring to the task that I think Mr. Brown has been assigned, which is to come up with some type of governance structure.

I think we're dealing with multiple things when we deal with an organization such as a police force. Through the history of the country, which obviously comes out of the British tradition, the Attorney General function and the policing function are recognized as having a special status in law in terms of the independence that we expect to flow from them, and certainly in my more than 33 years in public safety issues, every minister I've dealt with has been cognizant of the need to maintain the integrity of that function.

That having been said, you can still have a number of structures in place that give the public the assurance it needs, because the reality is that public expectations have changed over the years and are very

high today. The function we provide in terms of a public thing is that a complaint allows us to go in and look at it. Separate from that is an issue of governance. There may be things that don't fall within my mandate in terms of review, nor within Ms. Ebbs's mandate in terms of review, but those go to how the force is managed. There are decisions there that clearly would be of interest to a manager but would also be of interest to a minister. There's nothing wrong. Other police forces have boards of governance in place that people report up to. Municipal police forces go up to boards that are separate from the city council, and they have mixed memberships on them, so you can do things like that.

I would just point out, though, from my own experience, that it is a touchstone and hopefully remains a touchstone in Canada that politicians do recognize a distinction in terms of the independence of the police. That independence, though, goes to whom to investigate and when to investigate in respect of what. So it's not as if the police force is autonomous in all regards; it goes to the discharge of its function, which is an investigative function.

Mr. Borys Wrzesnewskyj: Back in July when your predecessor—I believe it was your predecessor, Shirley Heafey—was asked by journalists about the appointment of Mr. Elliott, she had some pretty pointed remarks. Let me read a comment she made to the press. She told *The New York Times*:

The arm's-length distance that has been such a problem for the past few years and that is supposed to exist between the RCMP and the government has just been shortened to the point of non-existence...

Do you have any comments on whether you hold the same point of view? Are there any comments you'd like to make about your predecessor's views on this new appointment?

Mr. Paul E. Kennedy: Well, I think Madam Heafey can obviously articulate for herself what motivated her to say that.

I have known Mr. Elliott in a professional capacity, and I don't expect him to be other than a professional in terms of the discharge of his duties.

My job with the review agency is to bring it to the public's attention, as well to his attention and the minister's, if I find anything that is untoward.

I think Mr. Elliott is in the same position as every one of us is in: we have a public trust to fulfill, and we have to satisfy the public on a daily basis that we're credible in terms of how we do it. That's the same burden Mr. Elliott has. So we'll give him his opportunity. But my job is to be vigilant, and I'm vigilant.

• (1420)

Mr. Borys Wrzesnewskyj: Thank you.

The Chair: Monsieur Laforest, huit minutes.

[Translation]

Mr. Jean-Yves Laforest: Thank you, Mr. Chair.

Ms. Ebbs, you are the chair of the RCMP External Review Committee. You said in your presentation that you had not dealt with the case involving the pension and insurance plan. The investigation into that plan is the subject of our meeting today.

Under the present structure, it is the commissioner who decides whether or not to refer a case to you for your review. In the case that we are dealing with, Commissioner Zaccardelli was briefed about the situation on several occasions and did not accept the accumulation of arguments that could have led to the process moving faster. So the cases of Sergeant Frizzell and Mr. Macaulay, who were demoted or transferred, were certainly not referred to you, nor the case of Ms. Revine, who was declared surplus. You were not able to consider these cases because the system requires the commissioner to refer a case to you. For a system that is supposed to protect members, I find that a little peculiar.

Would you say that the system should operate differently? We know that your organization was not able to defend those people. Do you think that we should have another mechanism?

Ms. Catherine Ebbs: First of all, it is true that it is the commissioner's responsibility to refer cases to the committee. But in fact, the act specifies which cases the commissioner must refer. That is how it actually works. Our committee is a tribunal...

Mr. Jean-Yves Laforest: Should the act be amended in order to protect people in situations like these?

Ms. Catherine Ebbs: As my colleague has just mentioned, perhaps the working group should look at that question. With regard to our mandate, I can only speak about actual cases. We are involved with disciplinary cases at the appeal level only. As you said, since none of the cases in Mr. Brown's report dealt with discipline, they were not referred to the committee.

Mr. Jean-Yves Laforest: In one sense, that is because the commissioner did not want to.

Ms. Catherine Ebbs: The other aspect of our mandate is to look at grievance cases. Grievances can be filed by members for a number of reasons. We also review grievances.

Mr. Jean-Yves Laforest: As I understand it, that can be done without the commissioner requesting it.

Ms. Catherine Ebbs: For grievances filed at the second level, the act specifies five categories of grievances that the commissioner must refer to the committee.

Mr. Jean-Yves Laforest: Thank you. We do not have much time, so I am going to put my next question to Ms. McLellan.

You were the minister responsible for the RCMP for several years. If you look at the state of affairs at the time, and at what is happening now, you will recall the Maher Arar affair, Air India, the incompetence in the Airbus inquiry, a kind of RCMP interference during the 2005 federal election campaign, investigations that were never finished, the scandal surrounding the Minister of Human Resources Development, the sponsorship scandal, and now the fraud involving the RCMP's pension and insurance plan.

Do you not have the impression that the whole thing is falling apart? I do not want to put those words in your mouth, but that is the distinct impression that the public has at the moment. Would a public inquiry not allow us to find out everything that really went on? We are finding out about one problem after another; dig around and you find monkey business and problems all over the place. I think that the public is losing confidence in the RCMP. Some people say so openly. I think that a public inquiry would let us really understand

the situation and would rebuild the trust of Canadians. We all suspect that there are other problems, but we cannot quite put our finger on them.

• (1425)

[English]

Hon. Anne McLellan: You make a very important point, that public confidence in the RCMP is absolutely key to its ability to carry out its important policing and law enforcement functions in Canadian society.

I have been on record in a number of different contexts that I see the public inquiry as an extraordinary vehicle that should not easily be ordered or taken up by governments, because I think sometimes governments can offload their own issues around political accountability to a public inquiry, if you like to get them off the government's agenda and into a venue where in fact usually a judicial officer, or an officer with certain exceptional powers, is allowed to do his or her work without comment on the part, one would hope, of either government or opposition. So as I said, I've been on record; I think public inquiries can play an important role in getting to the bottom of matters.

Certainly when Paul Martin was Prime Minister, he specifically asked that I get to the bottom of what happened to Maher Arar, because there were so many conflicting and incomplete statements and rumours and things happening. So in that case, but only after a very thorough review of other alternatives, did I and my then colleague Minister of Justice Cotler conclude that the public inquiry was actually the right vehicle, and the only vehicle in the context of that case, by which you could get to the bottom of what happened.

I think it depends on the situation, and it depends on the minister recommending to his cabinet colleagues as to whether he or she believes it is a situation of such sufficient complexity, ambiguity, conflict in terms of the facts and other things—

[Translation]

Mr. Jean-Yves Laforest: Were you still the minister?

Hon. Anne McLellan: Pardon?

Mr. Jean-Yves Laforest: Were you still the minister? You say that it depends on the situation.

[English]

Hon. Anne McLellan: I have read the Brown report, and Mr. Brown recommends a task force to look at cultural and management issues of the RCMP. He is now presently chair of that task force. He is doing his work. I think that it behooves all of us at this point to permit Mr. Brown to do his work, to complete his work, and let's see what he provides not only government and you, but the Canadian public and the RCMP most importantly, in terms of advice around management issues.

The force is a dynamic organism, it changes over years, and therefore one shouldn't be surprised at all that perhaps some of the management practices that existed 10 years ago may not be relevant in the world in which they operate today, especially after 9/11.

So for me, public inquiries should not be easily ordered. There are circumstances in which they are required, I believe, but I think it's up to each minister and each government in the situation before them to make that determination, and then to be accountable for the inquiry, or be accountable for the fact that they didn't call one.

[Translation]

Mr. Jean-Yves Laforest: Thank you, Ms. McLellan.

Hon. Anne McLellan: Thank you.

[English]

The Chair: Mr. Williams, go ahead for eight minutes.

Mr. John Williams: I'll take the next round. I think Mr. Poilievre will take this round.

The Chair: Okay, Mr. Poilievre.

Mr. Pierre Poilievre: Thank you very much to all the witnesses for being here. Thank you very much, Ms. McLellan, for being here.

You were the minister responsible for the RCMP when this matter unfolded. As such, in our system of ministerial responsibility, you're the one who's accountable in this place, the House of Commons, for what occurs under your watch.

In the House of Commons, I'll reiterate a quote that you uttered when you were asked by Kevin Sorenson of Crowfoot. He asked:

Are the Ottawa police investigating the commissioner's conduct as well as the misappropriation of funds?

Your response was:

Mr. Speaker, let me reassure everyone in the House that there is no conduct on the part of the commissioner that needs to be investigated.

You said that before the investigation got under way. There was a statement by a minister about a police investigation into your own agency before the investigation got under way.

Do you still believe, given all that we've heard, that there is no conduct on the part of Commissioner Zaccardelli that needed to be investigated?

• (1430)

Hon. Anne McLellan: My answer remains the same, Mr. Chair. I'm not going to repeat it here, but will simply say that I clarified for the record last time I was here that the investigation undertaken by the Ottawa police was a criminal investigation. I have not seen anything, nor do I see anything in Mr. Brown's report that would suggest there was anything to raise any reasonable concern that the then commissioner had committed a criminal offence. That's what the Ottawa Police Service investigation was asked to do. My comments were directed entirely to whether or not there were any facts known at the time that would suggest he should be subject to a criminal investigation.

What his management style is, whether he's a nice guy or a bad guy, whether he's arrogant, or whether he's this or that—those are entirely different matters, and there are clearly mechanisms by which one can deal with those. We know what Mr. Brown has concluded in that regard, and I'm sure he'll be making some very positive recommendations in relation to the role of the commissioner with the force.

Mr. Pierre Poilievre: You also said before this committee, “I talked about the fact that the Ottawa police force was independent and needed to be allowed to do its work, and that in fact is what it did”.

Mr. Brown, in his report—which you read—says, “...I am prepared to go beyond that and state that the OPS investigation was not independent”. In retrospect, having read more on this matter, do you now believe that perhaps the Ottawa police investigation was not as independent as you first thought?

Hon. Anne McLellan: I certainly have read Mr. Brown's conclusions in relation to this matter and, of course, the Auditor General's. I do believe that perception is important, but I also would refer the committee to other comments made by Mr. Brown to the effect that he is in no way calling into question either the testimony or the integrity or the conclusions drawn by then police chief Bevan and Inspector Roy, who were both intimately—

Mr. Pierre Poilievre: With due respect, though, Mr. Chair, a point of—

Hon. Anne McLellan: —involved in that investigation.

Mr. Pierre Poilievre: With due respect, that was not my question. Nobody's questioning the integrity of those individuals. We're questioning the independence of the investigation.

You stated before this committee that it was an independent investigation. Since that time, the Brown report and other testimony have contradicted that statement. Would you at this point be willing to concede that perhaps it wasn't an independent enough investigation?

Hon. Anne McLellan: As I say, I think perception is important. Certainly, as the process was moving forward, for example, I had no knowledge of the fact that Inspector Gork was in fact the liaison officer, as I understand, but that he was mis-described. That could raise the issue of perception in the minds of the public. I think both Brown and the Auditor General talk about that.

Mr. Pierre Poilievre: Do you think it was independent or wasn't independent?

Hon. Anne McLellan: No, that's a perception issue.

Mr. Pierre Poilievre: I'm not asking about perception. I'm asking about reality. From what you know, would you say it was or was not an independent investigation? If you can't comment, you can say so.

Hon. Anne McLellan: What I will say is this. I respect Mr. Brown's conclusion that he wants the Ontario Police Service to review the work of the Ottawa Police Service. I have no problem with that. I don't question it. I look forward to the Ontario Police Service's review of the matter.

• (1435)

Mr. Pierre Poilievre: This is not anywhere near to the question I asked, Chair. If we're not going to get an answer, I'll move on to my next one. My question was very simply whether or not she believed it was an independent investigation. It doesn't seem to be the question that she's answering.

I will make reference to the former chair of the public complaints commission, Shirley Heafey, in reference to a complaint regarding the separate issue of an investigation into the Department of Agriculture in Sussex. She complained about the refusal of Mr. Zaccardelli to refer the matter to the Crown, as had been recommended by her commission.

She also said that it was not out of the ordinary. She said, "It's not out of the ordinary", and she's referring to Mr. Zaccardelli's refusal to refer this to the Crown:

When it was something contentious then I would go public with it. There were often great big gaps in the logic of his responses and there was no support from the [federal Liberal cabinet] minister responsible in those days.

She was referring to you.

You exonerated Mr. Zaccardelli prior to a criminal investigation, you supported him throughout, and today you've not even renounced his conduct throughout this. Is it possible that perhaps you were too unquestioning in your support of him as the commissioner while all of this was going on under your nose?

Hon. Anne McLellan: You should actually put that question to Commissioner Zaccardelli. Based on some of our discussions, he would probably find it fairly amusing. We've had fairly aggressive engagements on a wide range of matters involving budgets and other kinds of things in terms of requests for additional resources and so on.

My very clear answer to that is no, I was in fact never involved with the operational matters of the force. In fact, once any minister starts to do that, you have a Stalinist state. I've said that before, and I've gone on record saying it. In fact, Mr. Kennedy has alluded to the importance in our system of government in terms of the political arm of government not involving itself in the operational issues of the RCMP.

I'm not going to comment on the relationship of the commissioner with Madam Heafey. I certainly heard from both of them as to what they thought the relationship was about. It was not an easy relationship. I think she has made it plain. He has probably made it plain.

The public complaints commission is independent of the Minister of Public Safety.

Mr. Pierre Poilievre: Do I have any time left?

The Chair: You may ask one more short question.

Mr. Pierre Poilievre: All of this happened under the watch of the former Liberal government, much of it while you were minister. Without indicting yourself for any of the activity...nobody has accused you of having been involved in any of it, but you were the minister, and ministers are responsible.

Mr. Chrétien has apologized in relation to the sponsorship scandal, even though he says he wasn't involved in it. Mr. Martin did the same. Would you be willing to apologize on behalf of the government that you represented for what went on during the time you were the minister? It's not because you were involved in it; it's because you were the minister and you were therefore responsible for what went on under your portfolio when you held it.

Hon. Anne McLellan: First of all, keep in mind that when I became minister there had already been an internal audit, and the management plan had already been put in place to deal with the aspects of irregularity that had been identified through the audit. I think the Auditor General basically said the management plan was appropriate, and it has been acted on. At this point, I don't know whether or not all the matters identified in that management plan have been concluded. In fact, when I left and the government left, the processes that we are discussing here were still in play. As I've said before, you have to let the processes play out so that you find out what happened, who was responsible, and what action should be taken.

It's why there was therefore a criminal investigation. There were internal investigations following that. Unfortunately, after we left government, we learned from the Federal Court that the legal interpretation that had been placed on the limitation period by the RCMP and others was not ultimately found to be correct by the Federal Court.

You let the process evolve. When things happen that shouldn't happen, you hope that you have the processes in place and the managers in place to deal with them fairly and in a timely fashion. I believe the processes continue. You are part of that process, and Mr. Brown is part of that process. At the end of this process, I hope we will know who did what, when, and why. If there were gaps, such as letting the limitation period expire, then those are things that have to be fixed for the future.

● (1440)

The Chair: Thank you very much, Ms. McLellan.

Mr. Christopherson, eight minutes.

Mr. David Christopherson: Thank you, Chair, and thank you all very much for attending today.

Mr. Kennedy, I had a chance to attend your speech at the National Press Club in May, and I was very impressed. It was very insightful and it was very powerful. I hope the committee tracks along a number of the recommendations that you've made so we can add some oomph to it, because I think the courses you've outlined would be very healthy for all concerned.

Given the fact that Al Capone was ultimately brought down by accountants, and not the G-men, and given the fact that this issue actually saw the light of day through the auditors and then ultimately the public accounts committee, and given the fact that in May 2005 the Deputy Minister of Public Safety wrote to Ron Lewis suggesting that he take his concerns with any aspect of the code of conduct to the CPC, my question to you, sir, would be this. Had Mr. Lewis done that, and I'm not sure whether he did or not, but if he did, what would have happened?

Also, I note that you mention that you don't have a lot of the powers that other review bodies do. You don't have the right to subpoena, you don't have the right to put people under oath. You were tied much the same as Mr. Brown was in terms of not having those tools.

So the first question would be, if he'd come to you under the current circumstances, where would we be today? Would it be any different? Would it be any better? Would justice have been more appropriately served?

Secondly, given the number of well-thought-out recommendations you've made, if those changes were in place and Mr. Lewis had come to you with these circumstances, how then could things have unfolded in a way again that would serve everybody involved better?

Mr. Paul E. Kennedy: If he had come in May 2005, he wouldn't have come to me; he would have come to my predecessor. I started in October 2005.

I checked before coming over to see if anyone ever did file a complaint with us, and my complaints intake group indicated they had no complaints filed with us with reference to this particular subject matter. So I stand to be corrected, but I was advised that this morning.

In terms of process, the legislation says that anyone can complain about any conduct of a member or a civilian member of the RCMP in the conduct of their duties.

There are a number of questions one would have to ask, because some of the people who played out in the Brown report were not, I don't think, members or civilian members of the RCMP; they were public servants. In that case, some of them would have fallen outside the ambit of what we're looking at.

Clearly, what would have been within our purview, even under the existing legislation, is the criminal investigation. In other words, once it got by the internal audit and there was a decision to do a criminal investigation, whether or not it unfolded and whether or not the investigation that unfolded was actually independent is something we could have looked at—an allegation of systemic cover-up, or something like that. That's where we would have gone in.

I really don't see us as being the most appropriate body to look at the issue of the transfer of funds from the insurance account to the pensions account. I think the Auditor General was very well suited for that. But when you look at the totality of what was examined, there are clearly areas of overlap between what she did look at and what we could have looked at. We could have looked at the criminal aspect.

The process, clearly.... I have advanced the legislative model that has been shared with the folks here, and it is one for which I anticipated a whole series of issues that would come up that would broaden the scope. I had said, broaden it out to capture not only people currently working but people who are retired, because you can dodge the bullet by retiring before a complaint is filed.

There's no provision for the minister to ask that a special inquiry or a special report be done. I'd put into the legislation that a minister, if he had a concern, could say, "Could you look at this?", which would take you outside of the normal stream you'd look at, but you would have all the powers that I've suggested here. That is, short of calling a public interest hearing, you can go and investigate, people would be obliged to talk to you, you could take testimony under oath, and you could compel documents. And all the concerns that this committee raised vis-à-vis Mr. Brown would be addressed, because in that legislation I'd put in a series of offences. It would be

an offence to obstruct the work of the committee; it would be an offence to destroy any documents. All those things would have been taken care of.

So yes, the new model would have been far better in terms of addressing the concerns. We would have been half the solution but not the whole solution if someone had come to us. We would not necessarily have looked at the behaviour in terms of whether or not he was.... I think of Chief Superintendent Macaulay going to National Defence. That, on its face, doesn't show out in terms of that punishment transfer, as it was described. It would show up possibly as an auxiliary issue if there were any connection with the criminal investigation.

We ourselves are currently wrestling with the issue of the impartiality of the police investigating the police. We've put a pilot project in place in British Columbia, where the RCMP does 70% of the policing, and we've actually articulated criteria we would put in place to assess the impartiality of the police investigating the police.

It's quite clear that the incident that occurred here—and I concur with the assessment of the Auditor General—certainly didn't have the appearance of impartiality. They are very professional people, but you're beyond that. People have to look at it; it has to stand, as they call it, the smell test. You don't have to fall back and justify people's credibility. It looks independent, looks impartial. That's where it fell down, obviously, with most of the officers being members of the force.

There's a two-edged sword, though, with that particular investigation. I think an officer has to be impartial, and it's hard to be impartial when you're investigating what you believe is a potential fraud against your own insurance or pension scheme. That's why it's always best to have someone outside who is acting as a police officer and not acting as an employee of an organization.

There were a number of flaws, I think, that hurt the impartiality of that investigation.

● (1445)

Mr. David Christopherson: Thanks.

That raises a couple of things. You don't have to comment on this if you don't want to; I'm just going to throw it out there.

Earlier the ethics advisor... I raised that whole issue about their being part of the structure and whether that causes any problems. I don't know if you heard any of that. Do you have any thoughts on it? I was pretty much dismissed, from her point of view and that of her predecessor, in the sense that, no, it's not the case, that the integrity of the individual is enough, and structurally you ought not to worry. And yet you just talked about a very similar issue where you identified the need for that arm's length.

Do you have any thoughts or comments? And I'll accept no.

Mr. Paul E. Kennedy: No, I don't believe these things are mutually exclusive. Every structure has a person within the organization who is trusted, to whom someone can go who has a concern about an ethical issue, a conflict of interest, or something like that, because ADR, alternative dispute resolution, and things like that are preferable, depending on what the issue is—an independent voice, as long as the person has some moral character and fibre and is prepared to discharge the job, and is allowed to do it. But this isn't a case of either/or. You also have to have something whereby someone stands independently. My career path is not dependent upon the commissioner's good grace or anything else; I'm here for a term, and then they replace me with someone else. It's always refreshed.

I think what you're looking at is an array of things—the toolbox that they talk about. You have that as a step. You don't want to formalize everything, but you have to have a formal structure where you can come in and say, “I'm looking at this. Here are my recommendations. And they're not going to be in-house; I'm going public with this.” In some of my reports—in the appropriate case—I go public, because there has to be a bit of a shaming and naming process to it.

Mr. David Christopherson: Do I have a couple of minutes, or am I done? Really short.

Let me just make a statement, then. I think you do a great job, by the way. I'm very impressed with the work you do, sir.

Let me just say that I agree with you entirely on this. Nobody in this room has more respect for the OPP than I do; I am a former civilian head of the OPP. But it still troubles me that we're in a situation where we call on one group of police officers to investigate another group of police officers. You know, there is that camaraderie. We have trouble separating those things out when we deal with each other as politicians. I think that's just human nature. In Ontario, we have the SIU, an independent body, if a civilian is hurt. I think it serves us very well, and I think it serves police well.

So I do hope there's room for us to look at that too, Chair, because going from the Ottawa Police Service to the OPP, on its surface, really shouldn't be that great a move, because the Ottawa Police Service, I'll say, is as honourable as the OPP when you look at it as a base service. But clearly there was a problem with the one.

What is there to satisfy the public that there won't be the same problem with the OPP? Again, I emphasize that I say this as someone who has the deepest respect for the OPP and the work they do.

Thanks, Chair.

• (1450)

The Chair: Thank you very much, Mr. Christopherson.

Ms. Jennings, eight minutes, please.

Hon. Marlene Jennings: Thank you, Chair.

Thank you, all of you, for your presentations and your frank responses to all of the questions that have been asked.

Mr. Kennedy, I have to say that I agree with Mr. Christopherson when he says that you've been doing an excellent job.

And I have to commend Ms. McLellan for the appointment of Mr. Kennedy. So you made an excellent decision on behalf of the former government.

Some hon. members: Oh, oh!

Hon. Marlene Jennings: I have ultimately two questions.

Some hon. members: [*Inaudible—Editor*]

Hon. Marlene Jennings: This cacophony doesn't cut into my time.

The Chair: Oh yes, it does. You brought it up.

Hon. Marlene Jennings: No, it doesn't.

I have ultimately two questions.

One is that I have some documents that came off your website at the Commission for Public Complaints Against the RCMP, which highlight simply that are three chair-initiated complaints. One is at Vanderhoof, British Columbia, March 15, 2006. One is the shooting of Mr. Ian Bush, September 28, 2006. And one is a complaint into public disclosure by the RCMP of its criminal investigation regarding the taxation of Canadian corporate dividends.

Can you give a simple answer: are the reports ready? If they are, have they been made public, etc?

The second question is this. On that same website, you released a draft legislative model entitled, *Federal Law Enforcement Review Board Act*, which would completely overhaul the current system of dealing with public complaints against the RCMP. From what I can see, it would actually be a mixture of existing models in Canada, models of police commissions, ethics commissioner tribunals, etc. I've read it and I think it's excellent. It was issued in August 2006, if I'm not mistaken.

I'd like to know, what has been the government's response to this proposed draft legislation to completely overhaul the way of dealing with complaints about the RCMP?

Mr. Paul E. Kennedy: I'll talk very briefly about the three cases, because I normally don't go public until I go public with my document.

One of the three dealing with Mr. Ian Bush is coming to its conclusion, and I hope to have a report imminently in that regard. The Vanderhoof file is turning out to be a little more complex and has taken a bit more time. Both of these are incidents of homicide. It's a police shooting. Whenever there is a police shooting that results in death, obviously we're very interested in those. In those two instances I issued a chair-initiated complaint to look at them. The other one, which is the income trust case, is still at the investigative stage, so it'll take a little more time to do.

With those kinds of cases where there is a chair-initiated complaint, I do make my report public. The report in its entirety will be made public, and that means I do an interim report. If I find fault, there is a commissioner's response to it in my final.... I'll have them translated then, and they'll be put on the web. Those will be public documents.

The other one, which is easier for me to deal with, is draft legislation. I've been in the public safety area for over 33 years now. One of the ironies is that I was the former senior assistant deputy minister in the department responsible for policing national security emergency management at various times. When I took this job on, obviously I was quite familiar with the RCMP. I looked at the legislation and I looked at my counterparts' legislation across the country. The first thing you do is brief yourself up. I found the legislation had markedly fallen behind the times.

As well, I have appeared before parliamentary committees dealing with the organized crime legislation, the anti-terrorism legislation, and administratively have helped the previous minister and her predecessors dealing with integrated models of policing to make the police more effective. What struck me when I ended up in the job was that in the whole structure of how we have improved public safety, what was remiss and left out was clearly the review mechanisms, and they were quite archaic.

So I looked at the best practices across the country. The reason is that if you're a citizen in this country, depending on what province you're in and what force you run into, your access in terms of a complaint or some sort of an oversight review mechanism varies significantly. I thought I had a responsibility here, because the RCMP is the only police force that's present in all of the provinces and territories. It's the only one that's nationally present. It is in eight provinces as the provincial police force. It is, of course, in over 200 municipalities, and it's on a large number of native reserves as well.

There's no other police force like it, and it's at least 30% of the total policing complement in this country. If you were in B.C., serendipitously, 70% of the policing is with the RCMP. If you have the Vancouver city police, it goes to the provincial model, and the powers aren't the same. They have an ability to monitor investigations. They have the power to direct another police force and to do an investigation. There are differences, and the RCMP uniquely does certain kinds of things. They have a lead for national security and certainly transnational organized crime. This brings you into prevention instances more often than not, where the activity is not public. They have been doing an investigation of all these people. So people don't know and therefore they cannot complain.

I looked at that and I said, you need to have a model. Every minister who contracts for the RCMP to do municipal or provincial policing for them can look out there and say that the federal model is akin to the provincial model and the powers are there. I took inspiration from what I saw occurring across the country. Others are the SIU model—the special investigative model. They have a special unit that comes in and does that for police shootings that result in serious injury or death. Alberta is doing a variation of that. The provinces now are taking up the cudgel where the federal government has failed to step forward and address it. They're finding ways to hold the RCMP accountable through provincial legislation, which, as a federalist myself, I think you may want to look at and consider.

I put that model on the web in November 2006 and I shared it previously with the minister and with Justice O'Connor. Justice O'Connor was looking at national security. National security investigations are no different from organized crime. It's the same issue. It's covert, serendipitous techniques, year-long wiretaps, and

so on. You can have one model that would address this, in fact, and I think it would give us credibility.

● (1455)

Regarding Mr. Poilievre's comment about the situation in New Brunswick, my model that I put forward would call for us, when I do a report, to send a copy of that report not only to the Minister of Public Safety and the commissioner but to the provincial minister responsible for that contract police force. He or she could then answer in the legislature as to what it is and could then carry on a dialogue with the commanding officer who is providing that service to them. That would have been useful in that particular instance that was referenced.

Hon. Marlene Jennings: And my question as to what has been the current government's response to your draft legislation...?

Mr. Paul E. Kennedy: They don't have to respond to me. I just put that up as a—

Hon. Marlene Jennings: Have you had a response?

Mr. Paul E. Kennedy: Any response would be a public response. No.

I mean, it's there. I've been thanked for my copy. I'm not Parliament; you're Parliament. It is there to assist the public debate.

The Chair: Thank you.

Hon. Marlene Jennings: Am I correct in then concluding that you have not had a response from this current government?

The Chair: Marlene, that's it.

Hon. Marlene Jennings: No, no, you gave the others time.

The Chair: Is there any response?

Mr. Paul E. Kennedy: I didn't expect a response. I've just shared my views.

The Chair: Thank you very much.

Mr. Kennedy, thank you.

Do you have any comment, Mr. Poilievre?

Mr. Pierre Poilievre: Yes. I'd just note that you're very selective in the use of that gavel over there.

The Chair: Do you have any comment, Mr. Williams?

Mr. John Williams: No, I think it's fine.

I was just going to say that Mr. Kennedy did say that there was no public response from the government. That's the only way they can speak, so that's the position.

The Chair: Okay.

We'll go to Mr. Lake.

Mr. Mike Lake: Thanks, Mr. Chair.

I've been looking forward to these two days, because I think it's a good opportunity for us, for the most part, to look forward. I want to use this opportunity, this meeting, to set the record straight a little bit.

I continue to be amazed at the gall that comes from Mr. Wrzesnewskyj over there. There is one reason why we're here today; it's September 6, 2007, and we're still discussing this issue. Quite simply, it's because for the time period during which you were the minister, Ms. McLellan, in charge of the RCMP, you did absolutely nothing about this.

I want to walk through a two-month timeline, from the end of February 2004 to April 2004. That's three and a half years ago. I'll read directly from the Brown report:

In February 2004, S/Sgt Lewis wrote to the President of the Treasury Board, the Minister responsible for the RCMP

—that would be you—

and to the Auditor General of Canada with respect to the pension plan matters. In this letter, he stated that Commr Zaccardelli had failed “to meet his obligations under the RCMP Act and as our leader, in relation to serious accusations of wrongdoing by senior managers...”.

What did you do with this information? When you were before us last, and I'll quote you, you said:

My office raised the concerns of Staff Sergeant Lewis with then Commissioner Zaccardelli, who indicated that the matter would be turned over to the Ottawa Police Service for independent criminal investigation.

So your response was basically to go straight to Mr. Zaccardelli and say, here it is, and to then just go on your merry way.

I don't understand. I guess ultimately the question that comes out of that is whether your office even read the report in the first place, or Ron Lewis's submission. Second, given that much of it detailed correspondence between the commissioner and Staff Sergeant Lewis, did you not have any concerns whatsoever about the commissioner's independence in the matter? And third, would the fact that Ron Lewis submitted his report to a minister, that he took it to that level, not have raised a red flag that he had concerns about the commissioner's independence?

• (1500)

Hon. Anne McLellan: In fact, it did raise a red flag, which was why I instructed my chief of staff to go directly to the commissioner and determine what steps were being taken. Because I already knew, based on briefings I had received, that there had been an issue around irregularities regarding the pension plan, that there had been an internal audit, that there had been a management plan put in place, and that the management plan was being implemented within the RCMP to deal with the problems—the problems that had taken place some time long before I became minister. I don't know what actually the exact date was, but it's here in your materials. But the management plan was in place. It was being implemented.

So—I think it was on February 19—Mr. Lewis sent materials to the then President of the Treasury Board. Mr. Alcock was here. He told you what he did. He acted appropriately.

I keep coming back to the fact, ladies and gentlemen, that there are processes. And you follow the processes to protect both individuals and institutions and to hopefully avoid allegations of wrongdoing where there may not be any, when the processes are finally appropriately followed.

Mr. Mike Lake: Mr. Chair, with respect—

Hon. Anne McLellan: Mr. Lake, you asked, so let me finish.

The Chair: Just hold it for a second, Ms. McLellan.

Mr. Lake, your question lasted two minutes and twenty seconds. She's at a minute now. It may not be the answer you want—

Mr. Mike Lake: She's not giving an answer; she's talking about an entirely different subject.

The Chair: Ms. McLellan, please continue.

Hon. Anne McLellan: Let me conclude. I was in receipt of Mr. Lewis's concerns at approximately the end of February or the first of March. I immediately asked my then chief of staff to take this up with the commissioner and determine what additional steps, if any, were being taken in relation to what were clearly serious concerns raised by Mr. Lewis.

I was told through my chief of staff, based on her discussions with the commissioner, that a criminal investigation was going to be launched. That investigation was launched less than a week after I received the information from Mr. Lewis. That investigation took place, and it took a year. It's interesting that Mr. Brown has indicated that although the investigation wasn't independent, he felt it was done appropriately. They had generous resources and it was done in a timely fashion.

Then at the immediate end of that investigation the internal investigation began, which Mr. Brown also indicated was the only viable thing that could have been done at that point.

Mr. Pierre Poilievre: I have a point of order.

The Chair: Ms. McLellan, we have a point of order.

Mr. Pierre Poilievre: Clearly Ms. McLellan has gone way off the question she was asked. The clock is running, and I'm sure she is very much aware of that. None of this is new to her.

I know that you have been very effective in days gone by in intervening to steer witnesses back on topic. For some reason you have not exercised the same effectiveness when it comes to your former caucus colleague. We ask that we have the chance to continue the questioning if the answers are not going to be forthcoming.

• (1505)

The Chair: I might have been effective at steering witnesses, but I'm not as effective at steering colleagues in their questions. The question was long and comprehensive. I'm listening very closely to the answer, and I'm asking Ms. McLellan to conclude quickly.

Hon. Anne McLellan: I'm trying to answer the question.

The Chair: It may not be the answer Mr. Lake wants, but that is the answer she's giving. She was asked the question. It wasn't a simple question. Mr. Lake's question went on for two minutes and twenty seconds. He went into a whole chronology of events. She has given a response as best she can. I'm going to ask her to conclude.

Hon. Anne McLellan: I would simply say that I completely disagree. If Mr. Lake's assertion is that I did nothing or that my office did nothing upon receipt of Mr. Lewis's communication, that is unalterably and fundamentally a misrepresentation. My submission last time made it plain what we did. There were processes, those processes were followed, and you have to see them through. Whether people like it or not, we're not through yet.

Mr. Mike Lake: That was great.

On April 2, 2004, David Anderson, one of the Conservative members, asked you questions about it. He said:

...the RCMP is being investigated over the sponsorship scandal. Now we find out that it also has an ongoing internal investigation of its own pension fund. The RCMP has the responsibility to be transparent in these investigations; however, it turns out the pension fund investigation was unknown to anyone but a few senior officers.

Why has this report been kept secret from the 20,000 members of the force...

Your answer had pretty much the same tone:

I have been assured that no funds are missing from the RCMP's pension plan. The RCMP continues to review this matter.

Mr. Anderson asked a follow-up question:

...when the RCMP was found to be involved in the Prime Minister's

—that would have been Chrétien at the time—

sponsorship mess, it called in an outside police force to investigate.

Billions of dollars are tied up in this pension fund. Most of the management of it is done from inside the RCMP. The problems related to it are internal RCMP issues. The audit is being done by RCMP officers. There is far too much room for a conflict of interest and once again Canadians deserve better.

Will the minister commit to bringing in outside investigators to get to the bottom of this matter?

Again you said:

The RCMP continues to review this matter.

So it seems that time and time again, to paraphrase, you said they'd take care of it. That was on April 2. So this was obviously a big issue.

On April 3, I note that the front page of the *National Post* ran a story. You're quoted as saying pretty much the same thing: they'll take care of it.

On April 20, Zaccardelli was under fire in the *National Post*. The first paragraph of the article said:

The Liberal government yesterday defended Giuliano Zaccardelli, the RCMP Commissioner, after an Opposition MP said the top Mountie "betrayed" his employees by failing to stop millions from being misappropriated from their pension fund.

On April 20 as well, a headline in another paper said, "Top Mountie "betrayed" force: Tory MP".

So it seems that time and time again we were bringing this up, and time and time again you did nothing, and your answer was, oh, don't worry about it, they'll take care of it. I'm wondering who they were supposed to trust. They came to you because you were their last resort.

Ron Lewis, in his letter to you, indicated that was the case, and you did nothing. You were the minister in charge of the RCMP for a couple of more years after that and you did absolutely nothing. You hid behind the criminal investigation, but when the investigation was over you did nothing.

Why did you do nothing?

Hon. Anne McLellan: You don't hide behind a criminal investigation. The comment reflects a tragic lack of understanding of our criminal justice system. A minister does not interfere with a criminal investigation.

That investigation was ordered. Deputy Commissioner Loepky made the request of the Ottawa Police Service. If some of your quotes are from April 2004, the Ottawa Police Service was already conducting a criminal investigation of the matter.

Mr. Mike Lake: You did nothing when that investigation was over.

The Chair: Mr. Lake, please do not interrupt the witness any further.

Hon. Anne McLellan: Let me take you through the process.

When the investigation was over, as Mr. Brown said, the only viable option was an internal investigation. That internal investigation took place. Unfortunately—and I agree entirely with Mr. Brown on this point—there was a lack of vigilance on the part of the force. They let the limitation period lapse. These were internal management issues. The internal investigation would have led to serious disciplinary actions being taken but for the fact that the limitation period had lapsed due to a reinterpretation of the period by the Federal Court of Canada.

So please don't suggest that things weren't being done in an appropriate way that was respectful of the rule of law and due process. In fact, all of you are still part of the process, in the sense that the internal investigation, because of the limitation period, was not what it was thought to be. On the legal advice of the Department of Justice and others, the Federal Court disagreed with that advice. Disciplinary action couldn't be proceeded with under the code of conduct. Public accounts had the Auditor General's report. You took up your work and discharged that responsibly. The Auditor General discharged her responsibility. Mr. Day, the minister, discharged his responsibility by asking Mr. Brown to do what he did. This is a process that everybody is involved in here to try to get to the bottom of what happened.

I respect Mr. Christopherson. He may believe a public inquiry is the only way to get to the bottom of this at this point, but it's all part of the process that had to be followed. Whether people like it or not, the code of conduct—and Mr. Brown makes this point over and over again—is at the heart of the disciplinary process and culture of the RCMP. I think he raises a good question: should it be in the same way for the future? My guess is that the task force led by him will offer us some advice on that. We're all moving forward.

• (1510)

The Chair: Thank you very much, Ms. McLellan.

That, colleagues, concludes round one.

Round two, four minutes, Mr. McGuinty.

Mr. David McGuinty: Thank you, Mr. Chair.

Thank you for coming this afternoon.

I'd like to bring the tone down a bit. I would like to apologize on behalf of my colleagues who have been trying, through the front door, through the back door, through any window they can possibly enter, to cast aspersions on you, Ms. McLellan. I think that's unfortunate.

I do, however, want to come to the comments made by Mr. Brown in his report, comments that I raised this morning with other witnesses. They have to do with what I think is the penultimate serious question, the elephant in the room in this report, which is whether or not there is going to be or whether there is an ongoing OPP investigation.

Mr. Brown seems to suggest that there is no room or no need for an independent commission of inquiry, a public inquiry. That's the government's official position, but he leaves the reader of this report, *A Matter of Trust*, with all kinds of outstanding questions. Some of those questions will be worked out internally. Some of them will be worked out, I assume, through his task force. But for me and my constituents, I think the most important question is what happened with the Ottawa Police Service investigation. How is it possible that the Ottawa Police Service investigation was staffed almost entirely by members of the RCMP? How is it possible that the RCMP then provided the office space to the Ottawa Police Service to conduct the investigation? If I took that and put it to any one of my four children, they would probably say there's something inherently wrong with this, or at least the appearance of something wrong with it.

I have to take at face value the conclusion of Mr. Brown, who is after all a QC, who did a reasonable job in two months. I can't say I'm going to take this report as gospel. I just won't. I think there are many outstanding questions. But he does conclude that the OPP ought to review the Ottawa Police Service file.

I need your help to understand. Why would Mr. Brown arrive at a conclusion that the OPP ought to be called in to review the evidence after a crown attorney had decided there was not sufficient evidence to warrant criminal prosecution? Can you help me understand why he would make such a recommendation?

•(1515)

Hon. Anne McLellan: Mr. Brown is going to be before you tomorrow, and I think it's probably better to ask him, since this is his report and his conclusion and only he can really explain why he thinks the OPP is an appropriate vehicle to review the work—not to, as you quite rightly pointed out, undertake a new investigation, but to review the work of the Ottawa Police Service. I think if you look on page 21 of his report, you get a sense of why he took the approach he did, because he asks the question, “Does the fact that the OPS investigation was not independent”—in Mr. Brown's opinion of the RCMP—“mean that it was inadequate or otherwise flawed?” That's the key question. And what he says is, “Possibly, but not necessarily.”

Independence is part of a good process—we would all agree with that—but lack of independence does not necessarily mean that people acted inappropriately. I think that gives you a flavour of the reasoning that Mr. Brown used to conclude that rather than redo an investigation, let's have the OPP take a look at how the investigation was conducted, and if they concluded that in spite of the lack of perception of independence there were no flaws in the conduct of the investigation, the result should stand.

I would suggest, in all humility, that you should probably ask Mr. Brown tomorrow, because he would be much better equipped to explain his reasoning in relation to why he chose that approach as opposed to some other.

The Chair: Thank you, Ms. McLellan, Mr. McGuinty.

Mr. Williams, four minutes.

Mr. John Williams: Thank you, Mr. Chairman.

Ms. Ebbs, you've been quiet this afternoon. Nobody has asked you too many questions. As the chair of the RCMP External Review Committee, who does your committee report to?

Ms. Catherine Ebbs: The committee is an independent agency that's part of the portfolio of the Department of Public Safety. We table our annual report to Parliament through the Minister of Public Safety.

Mr. John Williams: Thank you very much.

I noticed in your comments here, or your opening statement, that you ensure transparency, fairness, impartiality, and independence. Yet you can only accept complaints lodged by the commissioner and not by any other member of the force. Do you consider that to be fair and independent?

Ms. Catherine Ebbs: As I mentioned before, it's the act that sets out the—

Mr. John Williams: No, I asked what's your opinion.

Ms. Catherine Ebbs: What's my opinion? I can only speak to the system that we have. The system is designed to provide the external review at the last stages of the process, at the appeal stages.

Mr. John Williams: I know. I understand all that.

In hindsight, we know that Staff Sergeant Frizzell, Chief Superintendent Macaulay, and Assistant Commissioner Rogerson were really not treated as well as they should be. If they had come knocking on your door, you would have told them go away, right?

Ms. Catherine Ebbs: There's an internal process that they would have to go through before it would come to the committee.

Mr. John Williams: But you said here that the cases must be referred to you by the RCMP commissioner.

Ms. Catherine Ebbs: That's right. For example, if I talk about discipline, if I could just explain—

Mr. John Williams: No, I want to know about Assistant Commissioner Rogerson, Chief Superintendent Macaulay, and Staff Sergeant Frizzell. If they had come to you and said, “I have a problem”, would you have listened to them? Or would you have said, “I can't talk to you”?

Ms. Catherine Ebbs: We're a labour relations tribunal.

Mr. John Williams: No, I said, would you have listened to them?

Ms. Catherine Ebbs: No, we can't initiate investigations on our own. We only have review of labour relations matters within the RCMP.

Mr. John Williams: Okay, that's fine. I asked you a simple question: would you have listened to their complaint, or would you have said you could only listen to complaints from the commissioner?

Ms. Catherine Ebbs: It's not accurate, Mr. Chair, to say that we receive complaints from the commissioner. We don't receive complaints from the commissioner either.

Mr. John Williams: Okay. Can you only get cases that are referred to you by the commissioner?

Ms. Catherine Ebbs: Because the law sets out the labour relations cases. It's hard to explain, because we're talking only about the labour relations environment.

Mr. John Williams: I understand perfectly well, Ms. Ebbs. I'm not worried about the labour relations environment.

Ms. Catherine Ebbs: Grievances and discipline matters.

Mr. John Williams: I'm concerned about your committee and its independence.

We have an issue where Assistant Commissioner Rogerson was basically sat down to report to a sergeant because he wanted to blow the whistle on ethics. We had Chief Superintendent Macaulay, who was left on an island by himself because he wanted to blow the whistle. We had Staff Sergeant Frizzell, who was pulled off a case unceremoniously and dumped. These three people had serious issues with the commissioner, and yet you're telling us in your opening statement that if the commissioner doesn't ask you to get involved, you cannot get involved. Am I correct in saying that?

• (1520)

Ms. Catherine Ebbs: Those are not issues that are labour relations grievances or discipline. So there isn't anything that the committee has in its mandate. There are other processes. In the labour relations environment, grievances and discipline are not the only systems in place to take care of—

Mr. John Williams: So if it's not a matter of salary and benefits, nobody can come to you.

Ms. Catherine Ebbs: Salary and benefits?

Mr. John Williams: Labour relations. What are labour relations? If the commissioner demotes an assistant commissioner with what appears to us to be a vindictive act, and sends him off to the doghouse because he doesn't like what he is saying, that, to me, is a labour relations issue, and I can't understand why you wouldn't deal with that as a labour relations issue.

But you still have not answered the question. Can these three individuals I mentioned come to you and get redress, or if the commissioner doesn't send it to you directly, you can't deal with it? I want a clear answer to this question. If the commissioner doesn't send it to you, you can't deal with it. Am I correct?

Ms. Catherine Ebbs: Yes.

Mr. John Williams: Thank you. That was difficult.

Ms. Catherine Ebbs: But if I could explain, Mr. Chair—

Mr. John Williams: No, I just needed the "yes".

Ms. Catherine Ebbs: —it's just the process we have.

Mr. John Williams: Mr. Chairman—

Ms. Catherine Ebbs: It's related to grievance matters and discipline matters. So if there is a matter that doesn't involve a grievance or a discipline, they have to go to other methods of recourse, not the External Review Committee.

Mr. John Williams: Mr. Chairman, I just want to put on the record here that these people had serious grievances and they had

nowhere to go. They didn't have the capacity to go to Ms. Ebbs and her committee, because the commissioner didn't send it there.

It's taken me five minutes to get that simple admission out of her, and that isn't appropriate.

Ms. Catherine Ebbs: Mr. Chair, if I could add that—

The Chair: Thank you very much, Mr. Williams.

I have another question following up on that, but Ms. Ebbs, you have a comment. Go ahead.

Ms. Catherine Ebbs: I would only like to say that, as I've said, it's the law that sets out the grievance matters at level two and the discipline appeals, and the discharge and demotion. It's the law that sets out which of these cases have to be referred to the committee for review. If it is a case that the law requires be sent to the committee, the commissioner has no discretion in that matter.

The Chair: But Ms. Ebbs, the point Mr. Williams was trying to make is that the law doesn't make any sense here because, to use an example, Ms. Revine was going to blow the whistle on this whole thing, and once she raised it, she was sent home. Her job was zapped. She was told to go home. Within two hours, she was sent home and told never to come back. Obviously the commissioner would not report that file to you.

Ms. Catherine Ebbs: We don't deal with public servant issues.

The Chair: So you are saying.... What was her recourse? She went to the Ethics Commissioner, and the Ethics Commissioner basically said he didn't have the capacity, the resources, that it was over his head. Looking in hindsight, where was she to go?

Ms. Catherine Ebbs: This person is a public servant, so there are grievance procedures for public servants that have nothing to do with our mandate at all. Under the Public Servants Disclosure Protection Act, there may also now be avenues for matters that don't fall under the grievance process or the discipline process.

The Chair: But Mr. Williams' first question to you was, does this make any sense? In your opinion, does this make any sense at all? From my vantage point, sitting here and listening to the questions and answers, it doesn't, and we've asked for your opinion.

Ms. Catherine Ebbs: I think within the labour relations environment there are different kinds of conflicts, and there are different systems set up for different kinds of conflicts. Our mandate is in relation to conflicts that are grievances and conflicts that are resolved by discipline. We don't have any mandate in terms of conflicts that can be described more as whistle-blowing. I think it's probably effective to have different processes for these different kinds of conflict.

• (1525)

The Chair: Well, you say there are different processes, but we haven't seen them here in the months that we've looked at this.

Mr. Williams, do you have a comment?

Mr. John Williams: With your indulgence...and I'm asking for your indulgence because I really find this rather strange that we have the External Review Committee—i.e., independent External Review Committee—sitting there spending a million taxpayers' dollars a year, and in her opening comment she said the mandate of the committee is to review grievances, disciplinary, discharge and demotion cases referred to it by the RCMP, which of course turns out to be just the commissioner. And for anybody who gets turfed, fired, demoted, and sent off to the doghouse, she will not even listen to what they have to say, because she says it's not in her mandate, and will not even accept the fact that the law is totally unbalanced here.

I have one simple question, Mr. Chairman, because she mentions the 80% or 90% of the rulings the commissioner has agreed with. So my question would be, how many times in their ruling did the committee disagree with the commissioner so that he had to reverse himself, or did they basically, in 90% of the cases, rubber-stamp what the commissioner had already decided?

Ms. Catherine Ebbs: The cases that have been referred to the committee, Mr. Chair, have gone through an internal process at the first level. There has been no decision made by the commissioner before the case is referred to the committee. It's only when the member has presented a grievance to level two or when a member has appealed a discipline ruling of an adjudication board within the RCMP in their internal process that the matter is brought to the commissioner for a decision.

Before the commissioner makes a decision, the law says that the case has to be referred to the committee, which is not part of the RCMP. We do a full review. We prepare recommendations and findings that are given to the parties as well as to the Commissioner of the RCMP. The law requires that the commissioner consider those recommendations. If the commissioner doesn't follow them at the appeal decision level or at the level two grievance level, the commissioner is required to explain the reasons why our recommendations were not followed. The course after that, if the member wants to pursue it, is with the Federal Court on judicial review.

The Chair: Thank you very much.

Monsieur Lussier, 10 minutes, please.

[*Translation*]

Mr. Marcel Lussier: Mr. Chair, in a sense, my question complements the one Mr. Williams asked.

In the document you presented, you said that 42 grievances were submitted to your office in 2006-2007, that you made 40 recommendations and that 89% of those recommendations had been acted on by the commissioner.

Why do the numbers differ: 42 grievances and 40 recommendations? What happened to the two other cases? Then we see that, of the 40 recommendations, the commissioner followed up on 36. What happened to the four missing ones?

And if the commissioner does not accept the recommendation in a given case, would you be tempted to make it again in another case?

Ms. Catherine Ebbs: First, with regard to the statistics, there is a difference between the number of cases that we receive, and the

number that we finish by year-end. We are not able to finish dealing with all the cases that we receive in a year.

In this case, 42 cases were submitted to us. So our workload included those 42 cases, plus others from previous years that we had not been able to finish. We finished 40. The others will have to wait until next year to be completed.

Mr. Marcel Lussier: There must be one recommendation for each grievance.

Ms. Catherine Ebbs: Yes, unless the grievor decides to withdraw the grievance. When the committee receives a case, it must prepare a report that includes recommendations.

Mr. Marcel Lussier: You also say that there is a second stage for cases in which the recommendations are not followed by the commissioner.

Ms. Catherine Ebbs: For each case, the committee has no second stage. In a disciplinary appeal, for example, the file comes to the committee which prepares a report and makes recommendations. This report is sent to the commissioner, who communicates it to the parties. Our involvement in the file stops at that point.

I believe that you asked if the fact that one of our recommendations is not followed means that we are bound by the commissioner's decision on the previous case when we deal with another case on the same topic. The answer is that we are not bound by a final decision in any way.

• (1530)

Mr. Marcel Lussier: Thank you. That answers my question.

Mr. Kennedy, are you aware of the statements made by Ms. Shirley Heafey in Canadian Press in October 2006 about cover-ups and lack of transparency in the RCMP and the fact that it was difficult for her to put much effort into the file? Does the change of commissioner solve all of Ms. Heafey's problems?

[*English*]

Mr. Paul E. Kennedy: Again, I'll allow Ms. Heafey to speak to her own experience; I've had excellent cooperation from the RCMP since my appointment in October 2005.

What I pointed out earlier is that you have to establish your credibility and you have to establish your value-added to it in terms of a process, but it's working well. There are challenges, though. That's why I publish my stuff, and I think I've got more opposition on some of my findings than she had, in terms of my recommendations, but what I'm doing now is that I don't recommend that you apologize or you do operational guidance. I've been doing a very detailed analysis of events that occurred, I'm making factual findings, and I'm making very specific recommendations as to whether or not there was fault, either individually or systemically, and on concrete steps to take to action. That's what I'm doing.

There are obstacles in place right now in terms of access to some kinds of information. The reason—and I think Mr. Williams will enjoy this—is that I have a piece of antiquated legislation that does not address today's realities. What we have been doing is passing legislation in the interim, for instance. It was very good, but it no longer fits with the RCMP.

A simple example is that part VI of the Criminal Code makes it a criminal offence to share intercepted communications. There is the one dealing with young offenders legislation and the statutory protections against the disclosure of that information. There is the witness protection program—it's a criminal offence to disclose it. All these are barriers to the RCMP's sharing information with me relative to investigation, because the law says they can't share it. The Federal Court of Appeal said those are the barriers—so sad, too bad.

For many cases it's not a problem, but in many cases there is a problem. If you look at the Security Intelligence Review Committee, they have access, as a right, to all information except for cabinet confidences. If you look at the Auditor General, she even has access to some of the cabinet confidence material. If you look at the access and privacy commissioners, they have access to it. Mine is a specialized body, and occasionally I run into these statutory barriers to access to information. So there is a problem. It's not a case of mala fides; it's a case that the legislation hasn't kept pace with the realities we are currently faced with.

The Chair: Thank you very much, Mr. Kennedy.

Mr. Fitzpatrick is next, for four minutes.

Mr. Brian Fitzpatrick: Thank you very much.

I appreciate the information that all three witnesses have provided to this committee today. Thank you for being here.

I'm starting to come to the conclusion that out of our committee there's one thing we could almost have unanimous agreement on, which is that a one-year limitation period for serious code of conduct infractions is ridiculous.

From what I can gather from the Brown report, the conduct was very serious, and because this arbitrary one-year rule was in place, procedures couldn't be implemented. I think that's most unfortunate. Some limitation periods can go as high as 10 years for serious things—seven years, five years—but one year just seems to be a very low standard.

I'm curious, Ms. McLellan; would you have any comments or suggestions on what the committee should be looking at in terms of a limitation on something like that—or the task force, as far as that goes—with your expertise?

• (1535)

Hon. Anne McLellan: I agree that the limitation period is too short.

We can all probably surmise why it's a year. You're dealing with code of conduct, internal discipline, and you want these matters dealt with as quickly as possible, because they can be debilitating for the morale of your organization, whether it's a law enforcement organization or any other. So people want to try to deal with these issues that could lead to discipline as quickly as possible, but I think we also know that sometimes you simply can't get all the facts, interview all the people, and get to the bottom of what happened.

Here, as Mr. Brown outlines, for example, Deputy Commissioner Braun stepped aside; he retired, and that's a perfectly legitimate personal choice on his part. There was even a delay of two or three months, I think, until Deputy Commissioner Sweeney stepped in as the appropriate officer. That's why I think a year just doesn't

recognize the reality of fact-finding and the human dimension that sometimes enters into fact-finding, and why there could be delays that are nobody's fault, although I agree with Mr. Brown when he says that it was extremely careless on the part of the force to permit that limitation period to lapse.

I would think that at least a two-year limitation period would be reasonable, but I have no doubt that Mr. Brown will probably be looking at this in his task force report.

Mr. Brian Fitzpatrick: Thank you very much for those comments.

Mr. Kennedy, you wanted to add something.

Mr. Paul E. Kennedy: I just want to point out that I believe in the province of Quebec they have a procedure where the clock doesn't run. What you run into sometimes with code of conduct offences is that they're also criminal—

Mr. Brian Fitzpatrick: When it's discovered.

Mr. Paul E. Kennedy: Well, whether or not there are criminal charges. So you have to let the criminal charge process run its course before you do the other. I believe they have a process where the clock does not start to run if there's an ongoing criminal investigation.

Mr. Brian Fitzpatrick: I have another observation, and I think Mr. Brown has it right on this point too.

If you were in the RCMP organization, the way it was structured then, and you found something that was wrong, really seriously wrong...I mean, talk about a catch-22 for the people who tried to deal with that. They took things to MPs. They took things to ministers. They took things to the Auditor General. They took things to ethics advisors. Maybe they tried to give stuff to Ms. Ebbs here, who was told that she couldn't hear them. It just went on and on. Talk about going around in a circle.

Really, what's sad is that they took the information, in some cases, to the wrong people. I mean the wrong people in the sense that it became a career-ending move for these individuals. I think of Colonel Klink in the old TV series. The message to people inside this organization, the way it was running, was, "I see nothing, I hear nothing, I do nothing", which seems to be the whole effect of this.

Something else that I think is very clear too is that there were some things being done, but the structure in the RCMP was such that they didn't have the decency to go back to these folks and actually tell them, communicate to them, that things were being done, which might have alleviated some of the personal feuds that got going inside the organization.

It seems like such an elementary thing, but this paramilitary command structure just doesn't fit with a lot of these modern-day relationships that we have inside a large organization. These problems have to be addressed.

I'd be curious what your comments might be on that, Ms. McLellan and Mr. Kennedy and, I guess, the other lady as well.

Mr. Paul E. Kennedy: There's no doubt that the architecture has to be looked at to make it more relevant to the modern world. I think the present commissioner is probably wrestling with that. I think there is a world of difference between bringing in a 28-year-old or 29-year-old person to the Depot and making them a police officer, and bringing in an 18-year-old who lives in a paramilitary structure. They work side by side with other police forces where there are different life experiences.

It's going to be difficult to modernize and rejuvenate the force. It can be done and it must be done. I think we are in fact part of the solution here.

I'm sympathetic to Catherine Ebbs in terms of the comments, because we are what are called creatures of statute; we are what you make us. I've said before that I can't pretend to have a big long powerful arm if in fact it's cut off at the shoulder or if it's a puny little arm. You want more powerful or effective oversight to deal with these issues.

Only Parliament, through creating statutes, can give us those powers to make it more relevant. It's as simple as that. I'm glad you latched onto the issue with the tenacity that you have, but at the end of the day, if Parliament doesn't do it...

I can tell you in 1992 or 1993, I know in terms of my mandate, Peter Milliken, as an MP, put forward private member's legislation in response to a request for 33 legislative amendments. It was put forward in the second year that my commission was created. The then chair said, "This thing doesn't work". There were 33 recommendations, and nothing has happened. Milliken tried once as a private member. Nothing has happened since. We have what we have because other things are obviously of greater priority.

So seize the moment.

● (1540)

Hon. Anne McLellan: If I may, I'll add to Mr. Kennedy's comments.

You will remember that with Mr. Justice O'Connor's report, there was a second part. We asked him to review the possibility of new review or oversight mechanisms for the RCMP as it related to their national security activities. Mr. Kennedy has already commented on that.

What we had obviously hoped to do was take Mr. Justice O'Connor's report and at that point take the opportunity to refashion the public complaints commission. We understood after 9/11 that it was because of the expansion of the RCMP's role as it related to national security and the emphasis on pre-emption and prevention and detection, much of which cannot be transparent but has to be covert and so on, that we needed to take a serious look at review and oversight.

Mr. Justice O'Connor was requested to do one piece of that, and he did an exceptional job. I was very pleased to see Minister Day indicate, after the public inquiry put in place during our tenure, that he was going to move on Mr. Justice O'Connor's recommendations. I think that now is the time, based on what we've learned from O'Connor and other things—what we're learning here—to take a really thorough look at what kinds of review mechanisms you need

for a modern, 21st century police force, with all the challenges it faces.

The Chair: Thank you very much.

Mr. Christopherson, you have four minutes, please.

Mr. David Christopherson: Thank you very much, Chair.

I'm also going to help Ms. Ebbs raise her profile a little, but it will be very painless, I assure you.

I'm curious. You mentioned, if I understood correctly, that the commissioner really doesn't have any choice; everything is prescribed in law, as to what gets referred to your committee or not. My question would be, does it make sense to have that step in there? Or why is the step of the commissioner there if it's already clearly prescribed as to what goes where?

Ms. Catherine Ebbs: What you're really referring to is the fact that at the stage where a grievance or a discipline has been brought to the next level, the committee is a recommending body. The decision-maker is the commissioner at those levels for those cases; that's the reason the act reads that it's the commissioner who is the decision-maker, who refers the case to the committee for a recommendation.

In other words, the reason it's in that order is that the law does not give the committee the final decision-making power. It's a recommending body.

Mr. David Christopherson: We're confusing things. I'm going to go there too, but I'm at the early stage, as to whether or not you get something. My impression was—and please correct me if I'm wrong—that the commissioner has no discretion—

Ms. Catherine Ebbs: That's right.

Mr. David Christopherson:—and that the law says, this goes to the committee, and this doesn't; it goes elsewhere.

I'm just asking why, then, the step is even there, to go through the commissioner. Why, through the process, doesn't the last senior manager who has it just send it straight to you, if it's in the law and there's no discretion to be used? Why does it go to the commissioner? It seems like a silly step that's unnecessary. I'm wondering, is there something I'm not getting?

Ms. Catherine Ebbs: I think the simple answer is that the act is set up so that, for example, in a discipline case the member appeals to the commissioner. That's the way the act is set up. So the file goes from here to there. I think that's the only reason the file is routed there first, before it comes to the committee. I don't think there's really any significance—

● (1545)

Mr. David Christopherson: But it's fair to say—my words—that it's a sort of moot, redundant, unnecessary step. The same result would still happen, because the law is clear.

Ms. Catherine Ebbs: That's right.

Mr. David Christopherson: Fair enough. I appreciate that.

The next point is this. You said that if the commissioner does not.... I'm going to go to another question, because I'm really short on time; because I want the answer to this one instead.

If somebody doesn't like the answer the commissioner makes, the only course of action left is to go on judicial review. That seems strange to me. My background is the labour movement, so I have dealt with these things in my younger life, and it seems strange to me that you go from one person to a body and back to a person.

Normally, when you have a body such as yours, it's to ensure that there isn't too much power vested in one place, and so the process would be reversed: the commissioner would make a ruling; there would be a determination of whether or not there would be an appeal; and if there were, it would go to your body, and then your body's decision would be the binding decision. Instead, it seems to go from the commissioner, for no particular reason, then to your board, then back again to the commissioner. Then, from there, you have to leap all the way to the courts.

Is that correct? Does that make sense to you?

Ms. Catherine Ebbs: Again, it's the issue of whether a body like ours should be a recommending body or a decision-making body. When the committee was created, based on the report of Justice Marin at the time, he felt that our function should be recommending. I know there are other jurisdictions where there are mechanisms such as ours that provide decisions rather than recommendations, and that is something that Mr. Brown and his task force will probably examine in the course of their work.

Mr. David Christopherson: Do individuals know your recommendation?

Ms. Catherine Ebbs: Do you mean the parties?

Mr. David Christopherson: Yes, the parties involved.

Ms. Catherine Ebbs: Yes. We also have summaries of all our cases on our website for the public at large.

Mr. David Christopherson: Good. Thank you for the fulsome answer.

Thank you, Chair.

The Chair: Thank you, Ms. Ebbs.

Mr. McGuinty, four minutes.

Mr. David McGuinty: Thanks, Mr. Chair.

I have a specific question I will put to Mr. Brown tomorrow, but I'd like your feedback.

In his report on page 47, he talks about rebuilding the trust through his task force on governance and cultural change. In his report up to page 47, the whole question of cultural change is almost like a golden thread that weaves its way through the report. It goes from the personality of the former commissioner all the way through the culture of the organization and its paramilitary roots, etc. But in his recommendations on establishing the task force, which I assume have been picked up by the government and have been funded by the government, he talks about there being "a great deal of work to be done to develop an appropriate governance structure and to create an appropriate culture". Now, I would assume one of the challenges in

terms of the culture at the RCMP is its secrecy, its lack of questioning, its requirement to take authority at face value.

Then he goes on to say that we ought to create this task force, and we'll have the RCMP and the public service and outside experts, and the chair of the task force himself would be independent. And here's the kicker: "The Task Force should deliberate privately in order to encourage full frank discussion." Now, I read that and I ask, why would anybody or any government in their right mind create a task force that is dealing with secrecy and hold all deliberations in secret?

Does this make any sense to either of you sitting on the panel today?

The Chair: Any response?

Mr. David McGuinty: Here's the question. There are 26,000 members of the RCMP watching these proceedings. It's amazing what you can do with cruisers today and cell phones and text messaging. Let's be honest. There are a lot of people counting on this process. They want this thing blown open. We're getting feedback from all sides of the House. They want this opened now. Is it possible to open up if we're going to do this behind closed doors?

● (1550)

Hon. Anne McLellan: Look, you have both Minister Day and Mr. Brown before you tomorrow. Those are legitimate questions to ask them. The minister put the process in place.

I do, however, think that there are probably reasons, if you were in Mr. Brown's situation, why you might want to conduct at least significant parts of your inquiry in private. You're dealing with cultural issues. These are not quantifiable scientific issues; these are qualitative issues about this organization, and you want people to come forward and be honest about how they see that culture, the problems they've seen in the past with the culture, how they might like to see changes take place in that culture. And Mr. Brown probably has at least some concern about whether you hear as much as you need to, as candidly and frankly as you need to, if this is all televised day after day. You do run the risk of it becoming a bit of a sideshow.

You should ask Mr. Brown the question, but I can understand why he would make the recommendation.

At the end of the day, it is a balance, and the minister and Mr. Brown, the task force chair, have to work that out, just as you work out the terms of reference of a public inquiry. The person who is chairing it won't take the job if he or she believes, after their discussions with the minister and the department, that the terms of reference don't permit them to do what they need to do in the way they need to do it. Mr. Brown and the minister must have talked about why Mr. Brown felt this was appropriate, and the minister must have reasons why he agreed with Mr. Brown that this was the right way to go.

And I respect that process. Having been a minister, I respect the fact that this discussion takes place and they get to decide. Having said that, I don't know why Mr. Brown felt that way initially.

The Chair: Okay. Thank you very much, Mr. McGuinty.

Mr. Poilievre, four minutes. That'll conclude the round.

Mr. Pierre Poilievre: We recently brought into effect the Federal Accountability Act, one component of which was protection for whistle-blowers. When we were doing that, we actually ensured that there was going to be whistle-blower protection for RCMP personnel. That's now in the statutes. It exists. It's there.

When we were in the process of creating that legislation, we heard testimony from RCMP officials that they needed a separate path for whistle-blower protection that would cause personnel in their organization to go internally first.

Everywhere else in the public service we structured the whistle-blower protection in a way that public servants could go directly to the independent officer of Parliament for both a disclosure and for subsequent protection. But we made an exception in the RCMP because of the unique paramilitary structure, and allowed for them to go through the internal process before going to the independent officer of Parliament.

It's an improvement, because before that there was no whistle-blower protection in law for RCMP personnel, period. However, the more I've gone through this process, the less convinced I am that we—and I mean all of us, because all parties supported that—made the right decision in stipulating that RCMP personnel had to go through an internal process first.

I can't see any reason why RCMP personnel should not have the ability to go straight to the independent Public Service Integrity Officer with their disclosures or with their complaints of bullying. Can any of you persuade me to the contrary, or do you agree?

Mr. Paul E. Kennedy: What would be the issues that they would want to bring up by way of whistle-blowers?

Mr. Pierre Poilievre: The act defines whistle-blowing as denunciation of (a) breach of statutes, (b) waste of public funds, (c) public health dangers. There is a whole list of things against which someone can blow the whistle, according to the statutes. So presumably RCMP personnel might find a situation where they would spot such activity on which they would want to blow the whistle.

Do you believe they should be allowed to go straight to the commissioner, or do you think they should have to go through the internal procedures first?

• (1555)

Mr. Paul E. Kennedy: I can't comment on that, but you asked if at least we could put factors up, and I wouldn't want to weigh.... But normally with agencies such as an intelligence agency or an organization like a police force, you may in fact be carrying out investigations. And the issue they're whistle-blowing on may in fact disclose things dealing with investigations that are going on.

I say that from real experience. I won't get into it here, but it can be that the two are intertwined. So if there was a concern, it might well be the concern that, "Well, if that goes, how public will it get?" as opposed to "Does the individual know what all the facts are so that we can put it into the proper context?" It's the only thing that I've seen in my experience where there was a concern about going to another organization, because in this case it was dealing with the

guts of a very highly secret operation that was under way. But as long as the safeguards were there.... But I leave that to—

Mr. Pierre Poilievre: You see, the act really defines wrongdoing very clearly, and it defines it as "breaching statutory law, waste of public funds". So we're not talking about exposing operational secrets; we're talking about exposing wrongdoing.

Ms. McLellan, do you think that RCMP personnel should have the ability to go straight to this officer of Parliament without exhausting all of the internal procedures first?

Hon. Anne McLellan: Unlike Mr. Kennedy, I would want to think a lot longer and harder about that, and also listen to and hear from various organizations, including the RCMP, as to the kinds of situations that they feel require a different approach. And then I would want to assess those very carefully to determine whether they had merit or whether it was actually a cover for the fact that they simply wanted to continue a separate process that suited them at a given time. And obviously I can't do that this afternoon.

But I think you raise a very interesting point, and I think it's one that Mr. Brown should probably be looking at when he has the opportunity, to really try to put together all the pieces of review and oversight and protection for those who are whistle-blowers.

The Chair: That, colleagues and witnesses, concludes the second round, the final round. I want to thank everyone for their attendance here today.

Before we adjourn, I'm going to ask if Chair Ebbs or Chair Kennedy or Ms. McLellan have any concluding remarks they want to make to the committee.

Chair Ebbs, is there anything you want to add?

Ms. Catherine Ebbs: No.

The Chair: Chair Kennedy, is there anything you want to add?

Mr. Paul E. Kennedy: Actually, I want to thank you for your engagement and interest in the topic. I appreciated appearing here.

The Chair: Ms. McLellan, is there anything you want to add today?

Hon. Anne McLellan: Like Mr. Kennedy, I just want to say thank you. I'm always happy to return to Ottawa and get a sense of perhaps how little has changed.

Thank you.

The Chair: Do you miss us?

Hon. Anne McLellan: All the time, all the time.

The Chair: I do want to thank you very much.

As a number of witnesses said this afternoon, this is part of a process. We're all very much part of that process.

We are going to break for 10 minutes, and then we will resume in camera at 4:10 p.m.

[Proceedings continue in camera]

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