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Mr. Norman Doyle

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• (1530)

[English]

The Chair (Mr. Norman Doyle (St. John's East, CPC)): We will start. We're having a briefing today on spousal sponsorship.

I want to welcome to our committee today Mr. Rick Stewart, associate deputy minister of operations, and Brenna MacNeil, director, social policy and programs, immigration branch. From the Canada Border Services Agency, we have Susan Kramer, director, inland enforcement.

Welcome to all of you today. I guess you have statements you want to make, first of all, and then we will have interaction and questions and what have you.

I'll give it to you, Mr. Stewart.

Mr. Rick Stewart (Associate Assistant Deputy Minister, Operations, Department of Citizenship and Immigration): Thank you, Mr. Chair.

We will keep our opening comments as brief as we can. In addition to the individuals you already introduced, accompanying me today is Diane Johnston, who is senior program officer in the operational management and coordination branch in the operations sector at CIC. She is part of my team.

We do welcome the opportunity to appear before you today and to have the chance to present information that hopefully you will find useful in your deliberations around the motion that you are considering. I hope we will be able to fully answer all of your questions.

[Translation]

I would like to thank the committee for inviting us to speak to you today on the implications of the motion being proposed with respect to spousal sponsorships.

Family reunification is a key element of the Immigration and Refugee Protection Act. We recognize that keeping families together helps people integrate into Canadian society and contributes to their success. We believe our current policies reflect this goal.

Under the provisions of IRPA, there are measures in place which allow individuals who are already living in Canada to apply for permanent residence within Canada. There are two types of cases involved: those who are in status and those who are out of status. I will speak briefly to each of these types.

[English]

One is in-status applicants. Spouses and common law partners who are already in Canada may apply for permanent residence in the spouse or common law partner class in Canada. In order to be eligible under this class, applicants must live with their sponsoring spouse or common law partner in Canada, and they must have legal temporary status in Canada. While their applications are being processed, spouses and common law partners in the in-Canada class can apply to maintain their temporary resident status. In addition, once applicants have been confirmed as having met the eligibility requirements as spouses or common law partners in the in-Canada class, they can remain in Canada and apply for open work permits while the necessary background, security, and medical checks are done to obtain final approval.

• (1535)

[Translation]

This initial eligibility assessment, also known as approval in principle, plays an important role in preserving the integrity of Canada's immigration program. It ensures that CIC has determined that an applicant's relationship is genuine before he or she is eligible to apply for a work permit.

I would like to stress that while the majority of spousal applicants are in bona fide relationships, some do abuse our programs. To help prevent this abuse, CIC officers check an applicant's background, perform personal interviews, and examine evidence to ensure that the relationship is genuine, and to detect fraudulent relationships.

[English]

Our current policy of restricting access to open work permits until after approval in principle is obtained prevents applicants from using the spouse or common law partner in Canada class as an avenue to circumvent legitimate immigration processes.

The second is out-of-status applicants. Many applicants in the spouse or common law partner in Canada class have legal temporary status in Canada. However, for spouses and common law partners who are in Canada without legal immigration status, a public policy was introduced in 2005 to also allow these individuals, including failed refugee claimants, to apply for and be processed in the in-Canada class.

[Translation]

This public policy was implemented to facilitate family reunification in cases where spouses and common-law partners are already living together in Canada, but who may have certain technical inadmissibilities resulting in a lack of status.

These technical inadmissibilities include, for example, having overstayed their temporary status; working or studying without being authorized to do so; entering Canada without a valid passport, the required visa, or other documentation; and failed refugee claimants.

[English]

The ability to submit an application in these cases allows individuals to remain in Canada for a limited period of time—60 days—to facilitate the processing of the application to the approval in principle stage. However, during this time applicants are not allowed to apply for a work permit until they have obtained approval in principle. In addition to the initial 60-day deferral of removal, once an applicant has obtained approval in principle, a stay of removal is granted until a final decision on the application is made.

For individual cases, where a determination of eligibility is complex and may take longer than 60 days, CIC and CBSA consult to reach a decision on how best to proceed.

[Translation]

The current policy provides considerable flexibility to facilitate family reunification applications and processing from within Canada. In most cases, it allows people to stay while their applications are in process and once the bona fides of their application have been established, they are allowed to apply for an open work permit.

[English]

CIC and CBSA work closely together to ensure that these applications are processed in a timely fashion without undermining Canada's commitment to family reunification. We believe that our existing measures strike an appropriate balance between our family reunification goals and the need to maintain the integrity of the immigration system.

Thank you, Mr. Chair.

I now turn it over to Susan Kramer for her remarks.

The Chair: Thank you, Mr. Stewart.

Ms. Susan Kramer (Director, Inland Enforcement, Canada Border Services Agency): Thank you for the opportunity to appear before you today and to provide you with information on immigration enforcement and how it relates to the recent motion on spousal applications made in Canada.

While Citizenship and Immigration Canada is primarily responsible for the facilitation aspects of immigration legislation, the CBSA is primarily responsible for enforcement of the act.

Immigration policy requires control; otherwise, the program is ineffective, leaving our doors wide open. Enforcement is key to the integrity of Canada's immigration and refugee programs and is fair to the thousands of persons who come to Canada legally each year.

Controls, such as removals, ensure that Canada's best interests are considered with respect to safety and security, the economy, and our humanitarian and family reunification goals.

The CBSA prioritizes its enforcement action, with the first priority being those who pose a threat to national security. The next are those involved in organized crime, those involved in crimes against humanity, and criminals. The next priority is failed refugee claimants, followed by all others who violate immigration legislation. They include those who overstay, work, study, or live in Canada without permission, and those who misrepresent themselves.

Removing someone is a lengthy process. The time from when the removal order is issued to the time someone is actually removed can often be years. High-priority cases, of course—such as criminals—take much less time because they're a priority. We process them first.

Those under removal are also entitled to various levels of appeal. These processes can take months and sometimes years to be resolved. There is plenty of time for someone who wants to live in Canada to make an application for permanent residence.

Once all avenues of appeal have been exhausted, the immigration legislation is clear: a person under removal order must be removed as soon as is reasonably practicable.

The CBSA recognizes that there are instances of marriages between Canadian citizens or permanent residents and persons who are under a removal order. It is for this reason that the agency waits 60 days before enforcing a removal order when a spousal application has been made. This application must be submitted before enforcement action begins; without this time limit, those seeking to avoid removal would make continual applications for permanent residence under the spousal in-Canada class.

This 60 days gives Citizenship and Immigration time to assess the spousal application. If the application is refused, the removal process continues; if the application is approved in principle, the removal stops.

If the 60-day deferral period elapses and no decision has been made on the spousal application, the CBSA may proceed with the removal. Although this option exists, the CBSA does not often proceed with removals if it appears that the CIC decision is imminent on the application.

If the 60-day period expires and the CBSA proceeds with removal, these persons still have the usual recourse available to them, including a request to the Federal Court to stay the removal.

Additionally, while we're not in a position to discuss individual cases, there are other factors, such as criminality or security, that may prevent an individual from benefiting from a deferral of removal.

The removals process is lengthy, giving individuals ample opportunity to make a spousal application before enforcement action is initiated. Without a cut-off date, the spousal application process would be vulnerable to abuse, as individuals who would otherwise be removed would benefit from prolonged stays in Canada regardless of whether their relationship was legitimate. Those seeking to avoid removal could make repeated spousal applications, thereby jeopardizing the integrity of the immigration program.

We believe our existing measures strike the appropriate balance between the need to meet Canada's family reunification goals and the CBSA's mandate to remove those who are inadmissible to Canada as soon as reasonably possible. The removals program supports continued compliance and is a deterrent for those who fail to respect our laws.

Thank you, Mr. Chair.

• (1540)

The Chair: Thank you, Ms. Kramer.

We will now go to seven-minute rounds. Our first questioner is Mr. Telegdi.

Mr. Telegdi, you have seven minutes, sir.

Hon. Andrew Telegdi (Kitchener—Waterloo, Lib.): Thank you very much, Mr. Chair.

Ms. Kramer, you said that CBSA prioritizes its enforcement action. That's in your fourth paragraph. Could you give me the numbers in terms of the different folks who were removed last year?

Ms. Susan Kramer: Our high-priority removals count for about 14% of total removals.

Hon. Andrew Telegdi: That's high priority. Okay.

Ms. Susan Kramer: In 2006-07 we had a total of 12,637 removals.

Hon. Andrew Telegdi: It was 12,637. High priority are the ones with criminal records and what have you.

Ms. Susan Kramer: Yes, and it's about 15% of that number, so you're looking at almost 2,000 people.

Hon. Andrew Telegdi: Okay, now let's go through the rest of the numbers, shall we?

• (1545)

Ms. Susan Kramer: For the rest of the people, most are failed refugee claimants.

Hon. Andrew Telegdi: What number would that be?

Ms. Susan Kramer: That would be 75% of the 12,637.

Hon. Andrew Telegdi: Okay, what else do we have left? We have 11% left.

Ms. Susan Kramer: Pardon me, 15% and....

Hon. Andrew Telegdi: I had 14%. Is it 14% or is it 15%? You gave me two numbers.

Ms. Susan Kramer: It's 15%.

Hon. Andrew Telegdi: It wasn't 14%, then. At first you said 14%.

Ms. Susan Kramer: I'm sorry, it was 14% the year before. Fifteen percent are criminals and 75% are failed refugee claimants, so the remaining 11% would be other violations of the Immigration and Refugee Protection Act: overstays; those who work, study, or live without permission; and those who misrepresent themselves.

Hon. Andrew Telegdi: What number of that 11% would fall under this category?

Ms. Susan Kramer: Is that under the spousal category?

Hon. Andrew Telegdi: Yes.

Ms. Susan Kramer: Although we are able to distinguish who makes an application in Canada, our system does not allow us to distinguish further breakdown.

Hon. Andrew Telegdi: I take it that the 75%.... Actually, it's 85%. You have failed refugee claimants, and then you have the other 11%, so I take it that 86% of the folks are not criminals as such. That's not why they're being removed. So many of those would be undocumented workers, would they not?

Ms. Susan Kramer: The bulk of the removals, the 75%, are failed refugee claimants.

Hon. Andrew Telegdi: Right. You're familiar with the undocumented worker story that we have in the country. So what I'm saying is that many of the failed refugee claimants and other violations could also fall into the undocumented worker category.

Ms. Susan Kramer: The remaining 11% would be removed for other inadmissibilities, so it could be that they're working illegally.

Hon. Andrew Telegdi: Yes, but that could apply to the failed claimants as well, because when you have failed refugee claimants, they could be out working, so they're part of the....

Ms. Susan Kramer: That's true, but they're written up mostly as failed refugee claimants. They're inadmissible because they're immigrants without a visa. They've come to live, and they have not applied for prior permission.

Hon. Andrew Telegdi: I'm trying to underline the point that we have in that category undocumented workers. We're going to be studying undocumented workers, so I'm trying to get some numbers on that.

I'm having a bit of a problem, Mr. Stewart. The process to get approval in principle takes what, six months?

Mr. Rick Stewart: The process for approval in principle of this class, in general, takes five to six months.

Hon. Andrew Telegdi: It is five to six months.

Hon. Jim Karygiannis (Scarborough—Agincourt, Lib.): On a point of order, Mr. Chair, would Mr. Stewart be referring to spousal applications that are sent to Vegreville?

Mr. Rick Stewart: They are inland spousal and common-law applications, yes.

Hon. Jim Karygiannis: That's six months.

Mr. Rick Stewart: It is five to six months for the process.

The Chair: You're cutting into Mr. Telegdi's time.

Hon. Andrew Telegdi: You'll get your round.

We're talking about six months. What's the longest time? Let's get to the 25% that take the longest. What would that be?

Mr. Rick Stewart: I'm not in a position to comment on what the longest time is, because as you can appreciate, each application has to be assessed on its own merits. So it's a question of—

Hon. Andrew Telegdi: I appreciate that, but if you're dealing with 100 cases, and the average is six months, it means that some of them will be done in three months and some will be done in nine months. Surely if you're dealing with these numbers, you should have some numbers for us, and if you don't have them today, I would like to get them at your earliest convenience.

Mr. Rick Stewart: We'll follow up with that number for you.

Hon. Andrew Telegdi: This whole thing is a function of the capacity to deal with applications in a timely fashion. I don't understand why we would have Canada Border Services.... You have to go on the assumption that somebody makes an application that's legitimate. If it's not legitimate, you can deal with it very quickly. But one would make the assumption that most of them are legitimate, I understand. Are they not?

• (1550)

Mr. Rick Stewart: That is my understanding, yes.

Hon. Andrew Telegdi: What percentage would be legitimate?

Mr. Rick Stewart: The approval rate for the spousal and in-Canada applications is about 90%.

Hon. Andrew Telegdi: Ninety percent.

Mr. Rick Stewart: It varies a little bit from year to year, but it's about a 90% approval rate.

Hon. Andrew Telegdi: How many of those 90% who get approved are shipped out of the country?

Mr. Rick Stewart: How many of those were actually removed?

Hon. Andrew Telegdi: Yes, removed.

Mr. Rick Stewart: These are applicants who are in the country, so it's zero.

Hon. Andrew Telegdi: Zero.

Mr. Rick Stewart: It's 0% of the 90% of applicants who apply in Canada and whose applications are approved in Canada.

Hon. Andrew Telegdi: So you've never had a situation where somebody was approved but then was removed before their approval came through?

Mr. Rick Stewart: If anybody were removed from the country, they would have to apply for spousal reunification outside the country. They wouldn't be applying in this class.

Hon. Andrew Telegdi: Then they have to start all over again?

Mr. Rick Stewart: They wouldn't be applying in this class; they would be applying in the out-of-Canada spousal class.

Hon. Andrew Telegdi: So then they'd undertake another application. Now, instead of it taking six months or eight months, they're going to be stuck for another couple of years.

Mr. Rick Stewart: To go back to my comments, if these people are subject to removal, at the point at which CBSA alerts or informs them of removal proceedings it will inform CIC, and we will pull their application out of the queue and provide expedited processing for those applicants who face the possibility of being removed.

The Chair: Okay, we have to move on. It's been seven minutes.

Were you finishing up your comments, Mr. Stewart? Feel free to do so.

Mr. Rick Stewart: So in those cases, we will have reached a point of a determination of the validity of their relationship before removal is affected.

The Chair: Thank you.

Mr. St-Cyr.

[*Translation*]

Mr. Thierry St-Cyr (Jeanne-Le Ber, BQ): Thank you, Mr. Chair. Thank you all.

I would like to continue on this path and talk about figures, to get an idea of the magnitude of the situation. Once an application is filed, five or six months may pass before an individual receives a response, and in the meantime, this individual could be subject to a removal order to their country of origin. What percentage, of the 90% of individuals whose applications were approved, were ultimately removed before receiving a response?

[*English*]

Mr. Rick Stewart: I'm not in a position to say absolutely whether or not anybody was removed, but in those cases where they have already filed an application for spousal reunification before removal action was initiated, we will work with CBSA to defer the removal for a period of 60 days to provide the CIC with the opportunity to pull that file out of the queue of all the applications we receive, and to expedite the processing of the application to make a determination of the validity of their relationship within 60 days, before removal. So we will make a decision whether or not there is a valid spousal common law relationship, i.e., make a decision that takes us to that approval in principle stage, with the objective of doing it within 60 days—before removal.

[*Translation*]

Mr. Thierry St-Cyr: So, for what percentage of situations are you able to make a decision within 60 days?

[*English*]

Mr. Rick Stewart: Unfortunately, the systems we have do not have that specific figure. But again, I will go back to the comments that both Susan and I made. In a case where we have not completed a decision within 60 days, we will confer with CBSA with a view to deciding whether or not to proceed with the removal, depending on where the process is. If we are reasonably close to making a decision, we will provide extra time as a matter of course to permit CIC to finish its assessment of the validity of the relationship. The objective is to avoid the circumstance of removing somebody when we are close to making a final determination.

[*Translation*]

Mr. Thierry St-Cyr: In order to make a decision and think about this issue, it is important to know how often you achieve the objective you just mentioned. But you are telling me that you are not able to give a percentage of the number of individuals, or to know how many times you have achieved that objective and how many times you have not. I am sure that there are cases when an individual was removed to their country of origin before receiving a response about sponsorship.

Are you saying that you do not have that information with you, or that it is not possible to get?

• (1555)

[English]

Mr. Rick Stewart: I'm telling you no data in our system allows us to answer the question you have posed, and I regret that.

[Translation]

Mr. Thierry St-Cyr: So do I.

Ms. Kramer, in your speech, you mentioned the time limits twice. You said, "Without limiting the time, those seeking to avoid removal would make continuous applications for permanent residence under the spousal-in-Canada class." At the end, you stated "Those seeking to avoid removal could make repeated spousal applications, thereby jeopardizing the integrity of the immigration program."

I was not aware that an individual could file several spousal applications. I thought that since in Canada we can have only one, we would not be able to file several applications.

How would the time limit prevent people from filing repeated applications? Could you provide a more detailed explanation?

[English]

Ms. Susan Kramer: Many people make multiple applications for permanent residence in Canada. We see it many times on humanitarian and compassionate grounds, and the same goes with spousal. Living in Canada is very important, and people will go to many extremes to meet that goal. Many times we have second and third applications made in a desperate attempt to live here.

The Chair: For the same spouse?

Ms. Susan Kramer: For example, if someone says the marriage is not bona fide, you can apply again with additional proof.

[Translation]

Mr. Thierry St-Cyr: How will the time limit prevent this? You said that it is more difficult because there is a 60-day period each time. But the individual could still file several applications.

Ms. Susan Kramer: Yes.

Mr. Thierry St-Cyr: Earlier, Mr. Stewart told us that he did not have any figures about the number of people who have been removed to their country of origin before receiving a response from CIC. In your experience with public servants, what do those working on these files think? When faced with this type of situation, they must get a little angry and think that it is a failure, that something went wrong somewhere. Do you have an idea of the magnitude of the situation? Are they exceptional cases? Is this rather rare or common? Could you give the committee an idea?

Ms. Susan Kramer: I think we could say that it is rare. As Mr. Stewart said, we discuss the files, because it is not worth removing someone who will return the following day. So we try to work together to avoid such a situation.

Mr. Thierry St-Cyr: That is what you were referring to when you said in your speech that the agency does not often proceed with removals if it appears that the CIC decision is imminent on the application. You consult each other to find out if the decision is imminent, and if the department knows you are going to remove these people, it arranges things so the decision is imminent. Is that right?

Ms. Susan Kramer: Yes.

Mr. Thierry St-Cyr: And so, in fact, if a person is subject to a removal order, it could speed up his application process.

Ms. Susan Kramer: Not necessarily, because it takes time before we are prepared to remove someone. It can even take years.

[English]

The Chair: Thank you.

Ms. Chow, seven minutes.

Thank you, Mr. St-Cyr.

Ms. Olivia Chow (Trinity—Spadina, NDP): If there are H and C grounds for sponsoring a spouse, rather than through the specific class, it's still a spousal sponsorship. They take longer, right?

Mr. Rick Stewart: I'm sorry, which takes longer?

Ms. Olivia Chow: If it's applying—

Mr. Rick Stewart: Under the scope of the public policy?

Ms. Olivia Chow: —under humanitarian and compassionate grounds, sponsoring a common law partner or a spouse. So you have two categories. One is the spousal application, and the other is on H and C grounds. Right? So that takes quite a bit longer?

• (1600)

Ms. Brenna MacNeil (Director, Social Policy and Programs, Immigration Branch, Department of Citizenship and Immigration): Are you referring to a separate agency application, not the public policy with respect to the in-Canada class?

Mr. Rick Stewart: We've used the public policy provisions under the H and C portion of the act to put people who wish to submit a spousal application, who are out of status, in the same standing as someone who is in status. So they are processed and treated in the same collection of applications that somebody in status would submit. So they fall under those timelines and are processed under that category.

Ms. Olivia Chow: I understand that, but for your H and C ground applications, normally the consideration takes a lot longer than six months. Am I correct?

Mr. Rick Stewart: Because they're being considered for factors other than spousal relationships.

Ms. Olivia Chow: Right, but it's quite long. Sometimes it could be a year. What's the average timeline?

Mr. Rick Stewart: The average time for processing H and C applications is 25 to 30 months, and that's a reflection of the volume of applications.

Ms. Olivia Chow: Then during this time you proceed with removals.

Maybe Ms. Kramer can answer this question. How many of these 12,637 people you remove have an H and C application while you are removing them?

Ms. Susan Kramer: There is a percentage of them who do.

Ms. Olivia Chow: What percentage?

Ms. Susan Kramer: I'll have to get you that. I don't have that right at my fingertips.

Ms. Olivia Chow: Would you be able to give it to us?

Ms. Susan Kramer: Yes.

The Chair: Mr. Stewart wanted to make a comment.

Mr. Stewart.

Mr. Rick Stewart: Just to clarify, while the public policy treatment of applicants who are without status is under the H and C umbrella, they're not treated in the same way as H and C.

Ms. Olivia Chow: No, no, that wasn't my question. I know that. We'll get that percentage.

In terms of the backlog of people you've tried to deport who have criminal records—15% per year—what's the backlog now?

Ms. Susan Kramer: Our current backlog is about 22,000—

Ms. Olivia Chow: Only for criminals, the highest-priority removal.

Ms. Susan Kramer: The total backlog is 22,000, and of those, 6% are what we call high-priority cases. Those are the ones who pose a risk to national security, those involved in organized crime or crimes against humanity, and of course, criminals. That would be under 2,000. It's 6%.

Ms. Olivia Chow: How many Canadians do you think...? Ms. Kramer, you can try to answer this. I'm sure you wouldn't go and marry someone to make sure they are able to stay in Canada, and I don't think anyone here would do that. How many Canadians actually go and sign on the dotted line and say, my gosh, let me get married to you so you can stay in Canada? What percentage is that? Do you expect Canadians would actually do something like that?

Ms. Susan Kramer: Marriage of convenience is an issue. Because it is on our lower-priority scale for areas that we enforce, it's not an area we've put a lot of resources on, but it is an issue. We get complaints about that all the time.

Ms. Olivia Chow: Mr. Stewart, why not just change the regulations rather than considering these applications under the H and C category, as you have explained? Why not just change the regulation and have them apply in Canada so that we are not into this whole rigmarole of 60 days or not, and removal? I don't know how much money we end up wasting trying to figure out how to make it fit or not fit.

Why can't you do that?

Mr. Rick Stewart: I think that's a valid question, and presumably that is the purpose for which you are studying this.

I guess what I can say is that within the scope of the existing act and the existing regulations, there was flexibility to be able to act for this category of individuals in a relatively quick fashion to correct or address a perceived imbalance or inequity in treatment. So we used

the existing flexibilities in a way that gave us the flexibility to be able to treat these people on an equal footing.

Ms. Olivia Chow: Given that it's now a bit of a mess, in my mind, because 60 days, sometimes longer than 60 days.... And we do have time; there's no rush. I don't know, but I don't think there's any election coming.

So if you do have time, you are not vehemently opposed to changing the regulations so it can just be considered an inland application, so Ms. Kramer's outfit wouldn't have to proceed with all the removal orders and then applications for extension and all of that. And if they end up getting removed, then you have to start all over again.

• (1605)

Mr. Rick Stewart: That is an issue for which we'll want to go back to study the policy implications of making that kind of change.

Ms. Olivia Chow: What kinds of implications do you think it would have?

Mr. Rick Stewart: There are policy implications and the process implications of doing this. I can't sit here today and tell you that it would be a no-brainer to do this. My experience as a policy analyst tells me that you ought to do your due diligence before you make final decisions. What I can indicate to you today is that it is a suggestion we will take back and give consideration to.

Ms. Olivia Chow: Okay.

The last question is, why 60 days? Was it Ms. Kramer's CBSA, or is it CIS that says 60 days? Why is it not until the application is finished?

Mr. Rick Stewart: I think at the point at which the decision was taken to use the flexibilities within the regulations to make this change through joint consultations, it was determined that 60 days seemed to be a reasonable amount of time, so as not to leave it completely open-ended but to provide sufficient time to make a decision in most cases.

The Chair: Thank you, Mrs. Chow.

Mr. Komarnicki, you have seven minutes.

Mr. Ed Komarnicki (Souris—Moose Mountain, CPC): Following up on that somewhat, I understand you weren't able to indicate how many beyond the 60 days were expedited, that you don't have that number. But would it be a lot?

Mr. Rick Stewart: Unfortunately, our information base does not have that. I suspect it would be a very small number of cases, though, given the circumstances.

Mr. Ed Komarnicki: Of that small number whose cases aren't expedited, some of them would be deported, would be removed?

Ms. Susan Kramer: Normally what happens when we have a spousal in-Canada application is that we would consult with Citizenship and Immigration beforehand.

Mr. Ed Komarnicki: But if that number is small, the number who actually are removed would be yet smaller, would it not be?

Mr. Rick Stewart: Indeed. I may have misinterpreted your initial question.

All of those cases that are subject to removal order, once we're notified by CBSA, would be expedited—all of them would be. As to how many of those we are not able to complete before the 60 days runs out, I don't have statistics.

Then, of those that we're not able to complete, there is a consultation about whether to continue the deferral or to act on a removal. I would expect that to be a very small number.

Mr. Ed Komarnicki: So the number who are actually removed would be very small.

Of the number who get removed, small as it may be, when they apply outside of Canada, how many of that small percentage are successful in actually landing in Canada or getting permanent residence?

Mr. Rick Stewart: I don't believe we have those figures either, because we don't track that.

Mr. Ed Komarnicki: Would we have to say that we're talking about a fairly small number? Would that be fair to say?

Mr. Rick Stewart: I think that would be fair to say.

Mr. Ed Komarnicki: I know there's a concern about multiple applications, but from what I'm hearing, if one application isn't determined in 60 days, you make it a point between the two departments to expedite it. If you removed the idea of multiple applications and just dealt with the particular case, is there any reason why, as a matter of policy, the removal couldn't be withheld until the expedited process on that particular application is completed?

Mr. Rick Stewart: I'm sorry, I think I'm—

Mr. Ed Komarnicki: Is there any problem with just having it a matter of policy?

Mr. Rick Stewart: Having it a matter of policy instead of using the—

Mr. Ed Komarnicki: No, no, have the expedited process, but once you expedite the process with respect to that application but not the subsequent applications, holding the removal until it's decided.

Mr. Rick Stewart: Rather than the 60-day window?

Mr. Ed Komarnicki: Right.

Mr. Rick Stewart: Again, I think that is something we'll take back to have a look at. As I say, the 60-day window was put in place initially as a time window that people reasonably expected would be adequate to fully make an approval in principle decision.

Mr. Ed Komarnicki: Now the approval in principle decision primarily is the about genuineness of the relationship, I would gather—and maybe some ancillary matter, but that would be the key point.

Mr. Rick Stewart: Indeed, it would be that and the window time to determine whether there was a significant, compelling security risk at play.

Mr. Ed Komarnicki: The approval in principle is a sort of stage one, and that takes the five or six months. The screening for criminality, security, and health takes place...?

Mr. Rick Stewart: After that.

Mr. Ed Komarnicki: Is there any reason why the health and criminality screening couldn't be done up front, as opposed the

decision being taken when the application is approved in principle? It seems to me that if we have someone approved in principle but still have security concerns...

As I understand it, once you're approved in principle you can get working permits and study permits, and the security and criminality issue is not yet determined. So you won't remove those, but you might remove some for whom they haven't yet determined the approval in principle.

Is that not a reverse process to what it should be?

• (1610)

Mr. Rick Stewart: I think the reason we do it in that order, as we do in the processing of any application, is that there are a lot of requests for screening, just in the nature of the business that we do, so there's a demand on the system. Our approach to processing applications is to determine whether we have a valid application before us before we go to the time and effort of doing the subsequent in-depth security and medical screening, because to do that for an invalid application would be using resources that could be better devoted to other matters.

Mr. Ed Komarnicki: In those applications in principle, if there were a valid status of some kind, whether it's a temporary resident visa, a temporary resident permit, or some other permit that's expiring, while you're considering the application in principle, does the extension happen automatically if the decision has not been made in principle, or does one have to justify the extension?

Ms. Brenna MacNeil: The extension of a temporary status is the responsibility of the applicant, so they would extend the status, maintain their status in Canada, until their decision was completed.

Mr. Ed Komarnicki: If there is an application made and a decision has not yet been made in terms of acceptance in principle, would there be any reason not to extend the existing basis for being here?

Ms. Brenna MacNeil: No. It's usual practice to extend temporary status for those individuals in that circumstance.

Mr. Rick Stewart: On the same terms and conditions.

Mr. Ed Komarnicki: The biggest issue we're dealing with is those who have no status and whose application in principle has not yet been approved.

Mr. Rick Stewart: Correct.

Mr. Ed Komarnicki: Those are the ones that you expedite in any event, and it seems the majority of them would probably not be subject to removal pending a decision being made one way or another.

Mr. Rick Stewart: Yes. That would be a fair conclusion.

Mr. Ed Komarnicki: I think I will pass my time on.

The Chair: You have approximately 40 or 50 seconds left, if anyone wants to pick it up. Does anyone have a question there?

That will complete our seven-minute round. We will go to five-minute rounds now, starting with Mr. Karygiannis.

Hon. Jim Karygiannis: Mr. Stewart, you said that from time of application to approval is six months in Vegreville. Is that correct, sir?

Mr. Rick Stewart: For most cases, for most of the applications received, it takes five to six months to complete the process.

Hon. Jim Karygiannis: So if an application were made in September or October, would it be finalized by now?

Mr. Rick Stewart: Potentially, depending on the specific circumstances of the case. It depends.

Hon. Jim Karygiannis: Mr. Stewart, do you want to clarify that again? Do you want to rephrase your question? Are you sure about your answer? Do you want to pass on it and come back to us another time?

Mr. Rick Stewart: My understanding is that most cases are completed within five to six months. Spousal inland applications are completed in that timeframe. There will always be exceptions to that.

Hon. Jim Karygiannis: If I were to tell you, sir, that I moved back from the table and I called Vegreville, and Vegreville just told me right now, a couple of minutes ago, while you were stating that, that they're opening applications that were submitted at the end of September or the beginning of October and dealing with them right now—not finalizing them but opening them—what would you say to that?

Mr. Rick Stewart: I can come back and confirm those statistics for you. I'd be happy to send statistics back to this committee. But my understanding is that it takes five to six months to complete the processing of most applications.

Hon. Jim Karygiannis: Well, sir, let me give you the phone number of Vegreville, the manager or the director, and maybe you can verify with them: 780-632-8030.

Mr. Rick Stewart: I will be most happy to follow up with them following the meeting.

Hon. Jim Karygiannis: Thank you.

Ms. Kramer, you said that at no point does it make sense to remove somebody who will come back tomorrow.

Ms. Susan Kramer: That's correct.

Hon. Jim Karygiannis: I came to your department a couple of months ago with the case of an individual who was married; his wife was Canadian and pregnant. He was removed—no 60 days, nothing; removed. His wife is due May 24. Why did we go ahead and remove him? Why are we removing cases like that?

•(1615)

Ms. Susan Kramer: I'm sorry, privacy legislation prevents me from discussing particulars about a case, and without having the details I'm not prepared to comment.

Hon. Jim Karygiannis: Let me rephrase this: are we removing people who are in Canada, are married, and their wives are pregnant with Canadian kids?

Ms. Susan Kramer: First of all, it takes a long time to remove someone. Just a regular failed refugee claimant would take 853 days—that's two to three years. Criminals, of course, are removed in less time, within a year. So you have a long period of time for someone to make an application for a spousal in-Canada application if they wish to live in Canada.

Hon. Jim Karygiannis: Ms. Kramer, let me put the question again. Do we remove mothers or fathers who are married and who

have Canadian kids and an application is in process? Do we remove them?

Ms. Susan Kramer: Just because you have a Canadian-born child does not exempt you from being removed. Canadian children, of course, are not removed from Canada, because they have a right to remain in Canada.

Hon. Jim Karygiannis: Okay. Let me rephrase this question, then.

Let's say the woman has two Canadian-born children and the husband is Canadian. The husband put in an application in October for H and C within Canada. Will you go ahead and remove them?

Ms. Susan Kramer: Well, without knowing the specific details of that case, it would be inappropriate for me to comment on that.

Hon. Jim Karygiannis: Well, let me give you a little bit more then. Let me just help you out.

The wife applied; refugee failed. The husband sponsored the wife—no criminality—back in October. Paperwork was received in October. It's six months up to now, and you're about to remove this woman at the end of the month. She has two Canadian-born children. What's the sense of removing that woman, as—I quote your words—she will be back tomorrow?

Ms. Susan Kramer: Without knowing the details of the case, it would be inappropriate for me to discuss that right now with you.

Hon. Jim Karygiannis: Well, in your estimation, Ms. Kramer, would you say this is a good candidate to remove from Canada—yes or no?

Ms. Susan Kramer: It's very difficult to make a decision on the case without having all the facts.

Hon. Jim Karygiannis: It's very simple: there are two Canadian children; the Canadian husband sponsors the wife. In your words—

Ms. Susan Kramer: I understand, but I'm not prepared to comment on that case without having more detail.

Hon. Jim Karygiannis: It's a hypothetical case. Do you think we should remove the woman? You said it makes no sense to remove somebody who'll come back tomorrow; those were your words.

Ms. Susan Kramer: But I—

Mr. Rick Stewart: Susan, can I interject?

I think that as a hypothetical answer, what you have described would be a circumstance that we would want to look at closely. Respecting the privacy of the case itself—we're not at liberty to speculate about the facts of a case—I think we would look and we would consult as departments on the specific facts of the case in hand to determine whether it was appropriate to proceed with a removal action at that point in time or not. There'd be a judgment made on whether to proceed. I think that's all we can say at this point.

Hon. Jim Karygiannis: You also said that you consult with CIC before you remove people.

Mr. Rick Stewart: I'm sorry, sir?

Hon. Jim Karygiannis: Didn't you say you consult beforehand with CIC before you remove people?

Mr. Rick Stewart: That is in cases in which they have applied for family reunification. Under this class, they will consult with CIC to determine whether we can reach a conclusion on the case before removing them.

Hon. Jim Karygiannis: I put it to you, sir, that there is no consultation whatsoever.

The Chair: Thank you, Mr. Stewart and Ms. Kramer—and of course you, Mr. Karygiannis.

Go ahead, Mr. Carrier.

[*Translation*]

Mr. Robert Carrier (Alfred-Pellan, BQ): Good afternoon, ladies and gentlemen.

There are a number of things being discussed, but we are surprised by the many time limits. First, there is the time limit for the approval in principle, which is the initial assessment. Why does this take, on average, five to six months? Is there a staffing shortage? I have a hard time understanding why an application can take an average of five to six months. Perhaps you could provide figures per category. There are perhaps simple cases, with simple couples who have simple lives, while others have a criminal past. I do not understand why it takes five to six months. Could you explain that?

[*English*]

Mr. Rick Stewart: I think the biggest factor in relation to your question on why it takes that amount of time is purely the volume of business we do as a department. Each year we get about 17,000 application in the spousal reunification class alone. It's been roughly 17,000 over the last two to three years, or in that ballpark—17,000 to 18,000.

Those are big numbers when you add them on to the volume of business we do across the entire network of immigration. This is just one class. It is a question of just pure volume.

• (1620)

[*Translation*]

Mr. Robert Carrier: I am sure you know that these are always very sad cases and that these people are anxiously waiting to hear back. In our constituency offices, we often see the reactions of these people who come to us for help. They tell us that they had applied several months earlier and have not heard back. It is hard to understand. Do you need more staff? Does the government need to give you sufficient financial resources to hire the necessary staff? That is the first thing. You say there is a lack of resources. The government should take note.

I have questions about the other time limits. Earlier, Ms. Kramer said that a removal order can take a lot of time, from one to two years. I think that if it has come to a removal order, it is rather important. There must be a very important reason to remove someone to his country of origin. In some cases, it is questionable, but in general, it is a decision made after a thorough analysis. Why does it take so long to remove someone? You said that when it is a matter of a threat to national security, the process is quicker. I would hope so, but why does it take so long?

Ms. Susan Kramer: Many people appeal. Every decision can be appealed.

[*English*]

There are applications to the Federal Court to stop the removal. There are all kinds of mechanisms that delay a removal. Right now, for example, in the Immigration and Refugee Board there is a delay of eight to nine months before an appeal is heard. These are some things that are out of our control.

In addition, those who are being removed are entitled to a pre-removal risk assessment. It takes about eight months to process that. Sometimes it takes time to get travel documents for people we're removing. Sometimes we need to do a medical assessment to ensure they're fit to travel.

There are various factors that can have an impact.

[*Translation*]

Mr. Robert Carrier: That answers my questions in part. Thank you.

Are removal orders issued before the approval in principle has been given? You said that before issuing a removal order, you accelerate the approval in principle process. What is the approximate percentage of removals that take place before the approval in principle process is complete?

[*English*]

Ms. Susan Kramer: No, there really aren't, because we cannot make a decision. The relationship has to be assessed first, before we can stop the removal. But our system does not allow us to break down exactly what percentage of those being removed are people who have been accepted.

The Chair: Thank you.

Hon. Jim Karygiannis: On a point of clarification, Mr. Chair, Mr. Stewart said there were about 17,000 applications across the system. Was he referring to 17,000 spousal applications within Canada per year? Is this what he was referring to?

The Chair: That's a good point. I was wondering about that too.

Mr. Rick Stewart: Yes, there are about 17,000 applicants a year under the in-Canada spousal class, including those in status and out of status, or the two together.

The Chair: Okay, 17,000. Thank you.

Ms. Olivia Chow: Can I clarify one other thing on that?

The Chair: Yes, okay. I'll allow one more, and then I'm going to Ms. Grewal.

Ms. Olivia Chow: I'm sorry about that.

You said there was a 90% approval rate. Does that include the period after the Immigration and Refugee Board decision? I know that 55% of the rejected spousal applications get approved after their decisions are appealed.

Mr. Rick Stewart: No, that's a separate issue. My reference to 90% was to the people who apply under this class for spousal reunification; 90% of that rough figure of 17,000 are approved.

Ms. Olivia Chow: After they appeal, or without the appeal?

Mr. Rick Stewart: There's no appeal involved in this application process.

•(1625)

Ms. Olivia Chow: I see.

The Chair: Good. Thank you.

Thank you, Mr. Carrier.

Ms. Grewal, for five minutes, please.

Mrs. Nina Grewal (Fleetwood—Port Kells, CPC): Thank you, Mr. Chair.

I would like to know whether there would be any unforeseen consequences if the government went along with this motion and allowed automatic stays of removal.

An hon. member: Good question.

Mrs. Nina Grewal: Could you please tell me about that?

Ms. Susan Kramer: A risk you encounter from that is that there is nothing stopping someone from making continuous spousal applications to avoid removal.

Mrs. Nina Grewal: If any others would like to answer that question, please go ahead.

Mr. Rick Stewart: I have the same answer as Susan. The 60-day window provides an opportunity to make a determination on the validity of a relationship. So if the question is similar to the previous one on whether it would make sense to put into effect a regulation, rather than using a public policy on a 60-day window, it is something we'd look at.

Mrs. Nina Grewal: Also, how does the department determine serious criminality, and how much time does it take to make such a determination about the case?

Mr. Rick Stewart: Serious criminality is defined under the act. The application of the determination of serious criminality is a question for—

Ms. Susan Kramer: Normally a conviction certificate from a police department would be proof that someone is a criminal. Usually that's done through the RCMP, and if you have the same name as someone else, like Stewart for example, we may need to get fingerprints done and to do further checks to determine if we have the right person, so that we can come up with a determination. In some cases we might want to check foreign police jurisdictions or international police jurisdictions to come to that determination.

Mrs. Nina Grewal: I see. And how many spousal policy applicants have you removed from Canada pending a decision on their application? Would you tell me about that as well, please?

Ms. Susan Kramer: We don't have any specific statistics on that, because our systems do not allow for that type of breakdown, but before we were to remove anyone we would consult with CIC first.

Mrs. Nina Grewal: And why would CIC permit a removal when an application under the spousal policy is still under consideration?

Mr. Rick Stewart: I think, to go back to my earlier comments, if we have yet to make a final determination on approval in principle, we would consult with our colleagues at CBSA about whether to extend the period of time for us to make a final decision. So there's

not an automaticity, that you have 60 days and the removal happens. There's a decision.

Mrs. Nina Grewal: How long does it currently take for an application under the spousal policy to be approved in principle?

Mr. Rick Stewart: Do you mean for people who are subject to a removal order or in general?

Mrs. Nina Grewal: In general.

Mr. Rick Stewart: In general, my notes indicate that on average it takes five to six months to process applications to the approval in principle stage, including those cases that are applied for under the public policy.

Mrs. Nina Grewal: What avenues are available, if any, for an applicant to work or study in Canada during the waiting period and before the application under the spousal policy is approved in principle?

Mr. Rick Stewart: Do you mean for those individuals who are in status or out of status?

Mrs. Nina Grewal: Those people who have already applied.

Mr. Rick Stewart: Those who already have status in Canada, or those who are out of status?

Mrs. Nina Grewal: Out of status.

Mr. Rick Stewart: They do not have an opportunity to work or study, to receive a work or study permit, until they have received approval in principle of the application. The attempt of that is to avoid the risk of fraudulent claims for the purpose of obtaining a work permit.

Mrs. Nina Grewal: Mr. Chair, do I have some more time left?

The Chair: You have 50 seconds.

Mrs. Nina Grewal: Does anyone up here have a question?

Please go ahead.

Mr. Wajid Khan (Mississauga—Streetsville, CPC): Thank you very much.

How do you determine the legitimacy of a marriage? Ms. Chow said, why would somebody marry...? It has come to my attention that there are plenty of people who do get married, and they even have children, in an effort to stay here.

Also, for an inland application you require people in common law relationships to be living together. People who are sponsored from outside the country are not living together. Lots of them are abandoned at the airports or otherwise. How do you remove them, or what do you do about those people, or the fraudulent marriages?

•(1630)

Ms. Brenna MacNeil: To speak to your first question about how we detect fraudulent relationships, interviews take place with applicants if there are questions concerning the evidence. The first stage would be to examine the evidence that the applicant has put forward with respect to the legitimacy of the relationship, and then there may be interviews to further examine where there may be specific questions.

The Chair: Thank you.

Thank you, Mr. Khan, and Ms. Grewal.

Mr. Telegdi, five minutes, please.

Hon. Andrew Telegdi: Thank you, Mr. Chair.

Mr. Stewart, you said that there are 17,000 applications in process, and prior to that you said 19% of the people who apply are approved.

Mr. Rick Stewart: That was 90%, nine zero.

Hon. Andrew Telegdi: Right. That doesn't count the ones who were removed, because previously you said that you don't know how many got removed and didn't go through the process. Then you said that you didn't know how many of those who were then removed applied again to come back and were successful, because you don't have those numbers either.

So is your 19% the percent of all the people who apply?

Mr. Rick Stewart: Of all those who applied, 90%—nine zero percent—were approved in the last couple of years. So 10% had their applications refused or rejected.

Hon. Andrew Telegdi: Well, how about the ones who were in the process but who got removed before they got approved? I'm trying to get a feeling for the numbers here.

Ms. Susan Kramer: Before anyone is removed, we would consult with the other department. Removal is a long process, so there's—

Hon. Andrew Telegdi: Well, just a minute now. I was listening to Mr. Stewart, and I don't want to be confused here.

Ms. Susan Kramer: Oh, I'm sorry.

Hon. Andrew Telegdi: Thank you. I'm trying to nail down your numbers.

Mr. Rick Stewart: The 10% remainder includes individuals whose applications were refused or failed or denied—for reasons of a lack of a bona fide relationship, or security, or medical—or were withdrawn. That's a residual category.

Hon. Andrew Telegdi: Don't you have any in there for people who got removed before they got approved? I mean, that's who we're talking about, the people who got removed before they could have their application done.

Mr. Rick Stewart: In circumstances where that did happen, they would be counted as part of that withdrawn category. That gives you a 100% counting.

Hon. Andrew Telegdi: You don't have a breakdown of those numbers, do you?

Mr. Rick Stewart: No, unfortunately I do not.

Hon. Andrew Telegdi: You know, it isn't rocket science to figure out that when a committee of Parliament has a hearing on something, they probably would like to have some statistics instead of having a process that's like pulling teeth.

I really hope, Mr. Chair, we send a message to the department that in future, when they come before the committee, we would like to have some statistics on the areas that we might be asking questions on.

So we're operating within the 10%, and those are the people who are denied on security grounds, medical grounds. Now, all of the 100%, I take it, minus the ones where you don't approve their

relationship, end up getting medical tests, criminal checks, security checks, right?

Mr. Rick Stewart: Yes.

Hon. Andrew Telegdi: I agree with the parliamentary secretary; for the life of me, I can't understand why we wouldn't do the security and the medical right off the bat. From what you're saying, it's a very small number, and it would seem to me that this truly is what you'd want to do. If you're interested in security, for God's sake, do the security first. It just doesn't make sense that you would leave it as an afterthought at the end, if it's going to get done anyway, when it's such a small number that doesn't get done.

Ms. Kramer, you talked about taking two years to remove someone. Are we talking about the spousal applications taking two years or are we talking about something else?

Ms. Susan Kramer: No, in general to remove someone would take about two to three years, because they have all levels of appeal available to them—

Hon. Andrew Telegdi: Let's talk about the spousal ones. How long does it take to remove them?

Ms. Susan Kramer: Well, generally speaking we don't remove spouses.

An hon. member: Sure you do. Come on, sure you do.

Hon. Andrew Telegdi: These are the people who have spousal applications.

Ms. Susan Kramer: We consult with CIC so that they can make the decision before we remove.

Hon. Andrew Telegdi: No, no, I heard you say that; you said that; and we know that we have people who get removed. So my question to you is what is the timeframe for removal of those people who have an application in but CIC has not yet rendered a decision?

Ms. Susan Kramer: Criminals in general take less than a year to remove—

• (1635)

Hon. Andrew Telegdi: I'm not talking about criminals, I'm talking about people in the spousal....

Ms. Susan Kramer: All others can take between two to three years, and some can take even more.

Hon. Andrew Telegdi: No, no, I'm talking about the people who applied to stay under the spousal program. How long does that take? I'm not talking about criminals, I'm talking about those folks who have applied under spousal.

Ms. Susan Kramer: Are you talking about those whose applications have been refused?

Hon. Andrew Telegdi: No, I'm talking about those whose applications are in progress but the department has made no ruling yet. How long does their removal take?

Ms. Susan Kramer: Okay. Their removal is stopped for 60 days to give Citizenship and Immigration a chance to assess the application. If you have a case where the 60-day time period has lapsed, there's consultation with CIC to ensure that....

Hon. Andrew Telegdi: How long does it take to remove somebody who falls into that category where the 60 days has expired?

I'm not getting an answer.

Mr. Rick Stewart: If I may, Mr. Chair, in most cases where somebody has an application in process, we will endeavour to complete a determination of approval in principle of the application before removal.

I think what you're asking about is that very small minority of cases where we may decide to act on a removal before we have reached a final approval in principle. I'm not sure I can imagine what the scenario looks like, sir, but a determination would be made on whether there was a serious issue that required removal before we would get to a final determination.

The Chair: Thank you, Mr. Telegdi.

Mr. Khan.

Mr. Wajid Khan: Thank you, Mr. Chair.

I think it was Ms. MacNeil who was answering my question. I'll go back to my original question, which she didn't have time to answer.

There are many, many groups of women and men who have sponsored spouses and abandoned them or have fraudulently sponsored them and they come to the country. In some jurisdictions, in Europe and the United States, there is a requirement that if you are married to somebody, you cannot get your documentation unless you are there for a certain number of years. Here we are facilitating these fraudulent marriages—people come here, stay here; the husband divorces or separates; then this man or woman goes and sponsors another person. Another person comes in and they separate. Then they go and sponsor another. This is a—

Hon. Jim Karygiannis: Three years.

Mr. Wajid Khan: This is a routine that goes on in this country. You had better accept it, Mr. Karygiannis, or keep quiet. I'm asking the questions. It's my time.

Hon. Jim Karygiannis: Three years.

Mr. Wajid Khan: Excuse me, it doesn't matter. I'm asking the question.

The Chair: Order, order. No interruptions, please. It's been pretty good so far.

Mr. Wajid Khan: This is happening. Is there any attention being paid to this, or is there any policy under consideration for changes to these fraudulent marriage cases?

Mr. Rick Stewart: I think the circumstance you're describing is at the heart of why we put in the effort we do in trying to make a determination on the validity, the bona fides, of a relationship. There's no magic formula to determine, as an immigration officer, whether a relationship is truly genuine and going to last for the long term. Clearly that's the objective. It is delicate, and the kinds of questions that have to be asked in the interviews and the determination that is made—

Mr. Wajid Khan: I'm not saying that the determination is improper. What I'm saying is that the person has been sponsored as a

spouse, the person has landed in Canada, and the spouse has not even come to receive him or her at the airport. It was a prearranged fraudulent marriage, and they are here in Canada. What do we do with those people who have landed here under the pretext of marriage?

Ms. Brenna MacNeil: There are provisions under the regulations for investigation in those circumstances.

Do you want to speak to any of those?

Ms. Susan Kramer: First of all, people who are not Canadian, so permanent residents and foreign nationals, can be reported and, if found inadmissible, may be removed from Canada. In addition, those who aid and abet those types of activities can be criminally charged under the immigration legislation and can serve a prison sentence. We take security and safety very seriously and do our best to ensure that the laws are respected.

• (1640)

Mr. Wajid Khan: I'm glad you take security and safety seriously, because it is an important consideration, but the fact of the matter is that those people are here fraudulently and nothing is being done about them. Even if they're reported, they're here for years and years. There's not one or two; there are lots of them here. They're working illegally in the underground economy, and this has become a business for them. These reports are coming on a regular basis. Who should they be reported to and what process will be followed thereafter?

Ms. Susan Kramer: The priorities for the immigration enforcement activities are those who pose a risk to national security, so your terrorist types. Next come those involved in organized crimes, crimes against humanity, and criminals. Once we've looked after those people, we go after failed refugee claimants, and then all others—those who overstay, and those who work, study, or misrepresent themselves, including marriages of convenience—are our lowest priority.

Mr. Wajid Khan: With respect to those students who come here, go to university for three or four years, graduate, have a work permit, and go to work, are they given any preference as far as their landing status is concerned? If they wish to stay here, they are now pretty much integrated. They know the system, live in Canada, work in Canada, are educated here. Would they have a higher priority than those who are wanting to come in from outside the country?

Mr. Rick Stewart: As you may recall, the government announced in budget 2007 the intent to introduce the Canadian experience class, which is an avenue through which individuals who are here working in status or studying in status, subject to certain conditions or criteria that are being finalized and will be published in regulations, will have the opportunity to be able to apply from within Canada to remain here on a permanent basis. We hope to be in a position to have that program in place later this year.

Mr. Wajid Khan: Thank you very much.

The Chair: Thank you, Mr. Khan.

Mr. Karygiannis, for five minutes, and then we'll go back to the Conservatives.

Hon. Jim Karygiannis: Thank you.

I just want to go back over it. You're with CBSA, and not with Immigration, correct?

Mr. Rick Stewart: I'm with Immigration.

Hon. Jim Karygiannis: Thank you very much.

The question I have is on GTEC. Ms. Kramer, can you tell me what GTEC stands for?

Ms. Susan Kramer: Greater Toronto Enforcement Centre.

Hon. Jim Karygiannis: I'm glad you know.

What's the length of the process, from the time somebody's file ends up in GTEC—the spousal application—to the time he or she is removed?

Ms. Susan Kramer: Spousal applications don't go to GTEC. It's an enforcement centre.

Hon. Jim Karygiannis: I'm sorry, this is somebody who is to be removed. A spousal application is in process in Vegreville, you have a removal order, and the files end up in GTEC. How long does it take before you remove that person, from the time it goes to GTEC to the time you kick him out of Canada?

Ms. Susan Kramer: For an ordinary case, it would take two to three years. For a criminal, it would take less than a year.

Hon. Jim Karygiannis: Again, I'm going to put my question very simply, very straightforwardly. It's GTEC, not from the time the person comes into Canada and applies for refugee—

Ms. Susan Kramer: No, it's from the time the removal order is issued.

Hon. Jim Karygiannis: From the time the files goes to GTEC to the time you kick the person out of Canada, what's the length of time?

Ms. Susan Kramer: The file would go to GTEC as soon as a report is written for inadmissibility, but once the removal order is written and the person has been found not to be admissible, it takes two to three years to remove someone, for an ordinary person, and for a high-priority removal it would take less than a year.

Hon. Jim Karygiannis: Let me see if I comprehend this. The files in GTEC take two to three years to process. Is that what I'm hearing from you?

Ms. Susan Kramer: That's right.

Hon. Jim Karygiannis: What if I were to tell you that in GTEC your enforcement time is anywhere between...less than a year on spousal applications?

Ms. Susan Kramer: Just for our pre-removal risk assessment alone, it takes a minimum of eight months. In GTEC, actually the processing times are somewhat higher.

Hon. Jim Karygiannis: How long does PRA take?

Ms. Susan Kramer: PRA is the responsibility of the Department of Citizenship and Immigration. Our experience is that it takes about eight months.

Hon. Jim Karygiannis: For a PRA application.

Ms. Susan Kramer: For a PRA decision to be processed.

Hon. Jim Karygiannis: Then with the stuff I'm getting in Toronto, what you're telling me...either I'm not reading the faxes that

I'm getting back from your offices right or I'm stupid. This is what you're telling me. And stupid I'm not, because I've been in this place for 20 years, much more than some people here combined.

What I'm getting from you in PRA is a month to two months. What I'm getting on GTEC is that from the time it goes in until the time you remove him, it's six months, a year tops. So either your offices in Toronto are not giving you the right information or I'm not reading the stuff right. For someone who's been here 20 years, six consecutive terms with whopping majorities, I don't think I'm stupid.

So please, I'm going to put the question again. From the time it enters GTEC until the time you kick him out, is it three years or is it one year? What is it?

Ms. Susan Kramer: It takes two to three years to remove a failed refugee claimant, and it takes less than one year to remove a high-priority person.

Hon. Jim Karygiannis: So a spousal application with two kids should take three years.

Ms. Susan Kramer: Well, unless the person is a high-priority removal.

• (1645)

Hon. Jim Karygiannis: It's no priority removal.

Ms. Susan Kramer: Then you should expect it to take between two to three years.

Hon. Jim Karygiannis: If I were to tell you that this application went in there in October, and she's to be removed at the end of the month, March 30...with what you're telling me, your figures don't make any sense or don't match.

Ms. Susan Kramer: I can't talk about specific—

Hon. Jim Karygiannis: I will e-mail it to you, and then I want you to come back to this committee and tell me what it is, because what you're telling me is certainly making me want to pull my hair out. You're telling me it's three years from the time it goes to GTEC until the time they get out, you're telling me it's eight months for PRA, and I'm telling you that's not the right case. I'm telling you that what we're hearing on the ground is certainly a different case. So either you don't have your facts and figures or you're misleading us.

Ms. Susan Kramer: There are many factors that could have an impact on the time it takes to remove someone, but in general it takes two to three years for a non-high-priority person and less than one year for a high-priority case.

Hon. Jim Karygiannis: Spousal applications are not usually high priority, are they? By the fact that the majority of them, 90% of them, get to come back, they're not high priority, are they?

Ms. Susan Kramer: It depends on why the removal order was issued.

The Chair: Mr. Stewart.

Mr. Rick Stewart: With all due respect, sir, I think there's a specific case that you have in mind.

Hon. Jim Karygiannis: I have many specific cases, Mr. Stewart.

Mr. Rick Stewart: If you could send the case to our department, we will look into the specifics of the case. We're clearly not in a position to sit here today and talk about the specifics of that case.

Hon. Jim Karygiannis: No, it's not a specific case. I have many cases of spouses, Canadian children, pregnant wives, and you went ahead and removed them. By the time it went to GTEC, by the time the PRA was done, the total was six months.

The Chair: Make a brief comment, if you have one, Mr. Stewart.

Mr. Rick Stewart: If an application under this class of spousal reunification had not already been submitted at the point at which they were notified of removal, they're not subject to the delay in removal. An application needs to be in before the enforcement action begins.

The Chair: I'm going now to Mr. Komarnicki.

You have five minutes, Mr. Komarnicki.

Mr. Ed Komarnicki: There's one point I'd like to make. I don't think the length of time one is on the committee is directly proportional and equivalent to one's ability to understand an issue. That probably should be clarified.

Having said that, it seems to me from what I hear that what is actually happening on the ground in practice is not altogether far from what the motion, at least, by Ms. Chow specifies, except that it leaves a measure of discretion to the department to exercise it when need be. Would that be a fair statement?

Mr. Rick Stewart: I would concur with that. Yes, that's a fair statement.

Mr. Ed Komarnicki: Then from what I hear from your testimony, the existing measures actually strike an appropriate balance between family reunification objectives, which have been espoused, and the need to maintain the integrity of the immigration system. I think Mr. Khan raised some issues there. It may not be perfect, but it's a kind of balance that takes us to an equitable type of operation to ensure that the system works well and yet people are given due consideration.

Mr. Rick Stewart: Indeed. When we put that public policy in place two years ago, it was with that objective in mind: to be as fair as possible in a way that still protected the integrity of the system.

Mr. Ed Komarnicki: The very narrow window I see that maybe raises some question is whether, for those who have been pulled beyond the 60 days and are being looked at on an expedited basis in the first application, there is any merit in extending the removals in those cases.

I'll leave that with you.

Mr. Rick Stewart: Let me just comment on the question of the automaticity, because it has come up a couple of times now.

The reason, in these cases in which we have put a time window on cases where people are out of status as opposed to just providing an automatic stay in Canada until a decision is made, gets at the heart of the question Mr. Khan was posing about the risk or the incidence of

fraudulent relationships entered into seemingly for the purpose of getting here in the first instance.

I think the view is that the lack of an automaticity is a signal that you're subject to removal, but we're going to defer the removal—as opposed to staying the removal—for a period of time to allow ourselves to determine the authenticity of a relationship. I think the concern is that a move to pursue an automatic free stay in Canada until we decide sends a signal.

We can have a debate about whether it's a substantive or significant signal that significantly affects behaviour or not; that's a question of policy debate. But the perspective of having the possibility of removal there in some sense sends a signal that there is no free pass, as it were.

• (1650)

Mr. Ed Komarnicki: And that's essential to preserve the integrity of the system and at the same time to deal with these issues whereby you can have multiple applications and actually abuse the system. I find it somewhat remarkable that applications can go for three or four or five or six or seven years, with a variety of applications of various kinds, and not yet be disposed of. Even the most reasonable-thinking person would have to ask whether we have allowed too much in the system, for it to be abused to that extent.

This is one of those protectors, I suppose, and still fairly wide and equitable.

Mr. Rick Stewart: It acts in that regard, while supporting the objective of family reunification, yes.

Mr. Ed Komarnicki: Those are all the questions I have.

The Chair: We've completed our seven-minute rounds. We've completed our five-minute cycle as well. Now we go to five-minute rounds, and we'll go in the usual sequence. We will go to Mr. Telegdi, Mr. St-Cyr, Ms. Chow, and then continue the same as if we were on seven-minute rounds.

So I'll go first of all to Mr. Telegdi.

Ms. Olivia Chow: On a point of order, Mr. Chair, our meeting finishes at 5:30. Can you put aside a bit of time so that we can have sufficient time to consider the motion prior to the conclusion of this meeting?

The Chair: Do you mean to deal with the motion itself?

Ms. Olivia Chow: Yes, that's right.

The Chair: Well, the motion is in order to deal with that because it relates to the hearings we have, so we can do that.

Ms. Olivia Chow: Perhaps we could have at least 20 minutes for the motion, or 15 to 20 minutes.

The Chair: Is 20 minutes too much time or too little time? I'll ask the committee.

Mr. Wajid Khan: Give her half an hour, Mr. Chairman.

Ms. Olivia Chow: Was that half an hour? Okay, thank you.

The Chair: That's half an hour for the motion. Okay, then we have five minutes left in our hearing, so a five-minute round will go to Mr. Telegdi. Then we will adjourn to deal with the motion.

Go ahead, Mr. Telegdi.

Order, please.

Hon. Andrew Telegdi: I have had a little problem, going back—

The Chair: Order.

We'll see what we can do to accommodate those who never got an opportunity to speak. Since I've recognized Mr. Telegdi, I'll give Mr. Telegdi his five minutes. Then, since Mr. Batters never got a chance, I'll give him a couple of minutes as well. Then we will adjourn and go to our motion.

Go ahead, Mr. Telegdi.

Hon. Andrew Telegdi: I want to get things back on the motion.

We are talking about is not marriages of convenience and fraudulent marriages and multiple applications and all that stuff; what we are talking about is getting a determination of the case for the person who has applied that this is legitimate or not legitimate before removal is made. That's all we're dealing with. Nobody's interested in having fraudulent marriages that are able to stay. It is the determination when the applications pour in, and it's your department, Mr. Stewart, that makes the decision on it.

The only thing the motion talks about is that until that process is completed, we do not waste time having the border security in, but make a determination on that case. Once that case is completed, if there's a need for border security to be in, then they are in. Until that takes place, having border security involved seems to me to be a real waste of bureaucratic time and a mispending of resources.

From my end, I go back to the parliamentary secretary. It seems to me—and I'm sure Mr. Khan would agree—that the security check should begin immediately, as well as the medical. That just seems to be prudent. All the motion talks about is that once an application is made and until a determination is made on it, border security has no business being in there. Any time they spend on it is totally useless. They should be out there looking for the criminals. That should be the priority, because we have a legitimate process going forward.

Just because CIC is slow in coming to a resolution, the family and the person who made the application should not be penalized. If the determination is that this is not an authentic relationship, then by all means remove the person. That is what we're talking about. Getting in there about fraudulent marriages and marriages of convenience....

You know, the whole issue here is very simple: it's to make a determination. Given the fact that 90% of the ones that are decided upon are legitimate, I think we should make sure everybody gets the opportunity to have their case heard.

I really would like to have statistics on that 11%, because nobody around this table wants to facilitate marriages of convenience. I think any suggestions to that effect are wrong.

What we want is a determination made on those cases that go before you, and you're going to have to say yea or nay on the authenticity of those applications.

• (1655)

Mr. Rick Stewart: I guess what I'm saying, sir, is that I recognize that, and with respect to direct reference to the objective of the motion, the provisions that we have under the act, under the regulations, and the flexibilities we've put into place were designed

to be able to get us to a position to make a determination in virtually all cases that we can get to. Will it cover exactly 100% of all cases? Can we offer that guarantee here today? No, because there are going to be specific circumstances around some cases that mean there is going to be an objective or a reason to move on removal, and you referred to a couple of them in your comments.

What are those factors that lead us to not being able to make a determination in 60 days? We look at that—on what basis are we having difficulty reaching a final decision?—and we determine whether or not to proceed with the removal. I'm sure there are many cases where we've hit that 60 days where we've determined that it is not expeditious or efficient or effective to move forward on a removal, and we will wait to provide the time for our final decision.

So most of the conversation, I think, is really focused around a very small percentage of cases where, for some reason, there was a compelling reason, and the specifics of the case will have to dictate what that looks like, I think, when we've decided to move forward.

The Chair: Thank you, Mr. Stewart.

I'm going to give Mr. Batters an opportunity to ask a question or two.

Mr. Dave Batters (Palliser, CPC): Thank you very much, Mr. Chair.

I appreciate the officials coming before us today.

Can you describe for me and all of us here what exactly is the beginning of the enforcement process? This is for whoever chooses to answer. Can you go through the enforcement process briefly for us here.

It seems to me that some members here are making reference to what is actually the end of the enforcement process. Is it realistic to assert that someone can submit a spousal sponsorship, have the enforcement process then begin, and have that process run its course before the CIC process is addressed and decided?

Ms. Susan Kramer: A spousal application has to be submitted before removal arrangements are made. The removal arrangement starts by calling someone into the office for a pre-removal interview. At that time, the person is asked if they'd like to make a pre-removal risk assessment. We look at their travel documents. We look at all the arrangements that need to be made before they're removed. That process takes about a year.

The pre-removal interview is not the beginning of the enforcement process. The beginning of the enforcement process starts when a report is written because there are grounds to believe the person is inadmissible. In most cases they're entitled to a hearing, especially if the case is complex, and the Immigration and Refugee Board makes a decision on whether or not someone is admissible and will issue a removal order.

In that process, because we live in Canada, there are many avenues of appeal available. Some cases go to the Immigration and Refugee Board, and some cases go to the Federal Court, the Federal Court of Appeal, and the Supreme Court. These things take time and often can take years.

• (1700)

Mr. Dave Batters: Thank you very much.

Does anyone else have anything to add?

Mr. Rick Stewart: If I may be permitted, on the question of security processing and whether we should do this at the front end instead of the back end, I don't know that we adequately addressed that, and I would just offer a few comments.

I think the reason we do it in the order we do is this. I think you can appreciate that it does take time to do security screening and medical screening, but particularly the security side. Because that takes time, if we did it on the front end of a process, it would necessarily slow down our ability to get to an approval in principle stage on a determination of the relationship.

Because the ability to obtain an open work permit hinges on reaching an approval in principle decision, our objective is to try to get to an approval in principle based on the genuineness of the application in the case as quickly as we can, so that the individual can then have the flexibility to have a work permit or a study permit, and then to pursue the security screening results.

If it's an individual who is somebody of serious criminality, those circumstances are most likely to be known right up front. There'll be flags in the system that this is an individual for whom we can make a decision quickly.

Mr. Dave Batters: Thank you very much for that clarification. I appreciate it.

The Chair: Thank you.

On behalf of our committee, I want to thank both departments for coming here today and providing all of this information. It was very productive indeed and we thank you.

I know some of the questioning was tough, but you're tough people and you gave good answers, so thank you very much.

Now we can go to the motion that was put by Ms. Chow, and I'm sure you all remember. The motion was that the committee recommend—

Mr. Dave Batters: Can we recess for five minutes, Mr. Chair?

The Chair: Why?

Mr. Dave Batters: We have some individuals who would like a break for just five minutes.

Some hon. members: No, no.

Mr. Dave Batters: Okay, that's fine.

The Chair: I don't think we need a recess on this, do we?

The motion reads:

That the committee recommend that the government allow any applicant (unless they have serious criminality) who has filed an in-Canada spousal or common law sponsorship application to be entitled to an automatic stay of removal until a

decision is rendered on their application, that the committee adopt this recommendation as a report to the House and that, pursuant to Standing Order 108(1), the Chair present it to the House.

Is there discussion?

Mr. Ed Komarnicki: On a point of order, Mr. Chair, I've always said that we should receive evidence before we make a report to the House. So today was a good step in that direction, because we actually heard from someone before making a report. But to take this to its logical conclusion, there were some specific things requested by Mr. Telegdi from the department—and I'm not sure, but perhaps from Mr. Karygiannis as well. In any event, that information is not before us yet. If you're going to do a report, that information should be before us, and we should put together a report that encapsulates some of the evidence with a recommendation in the end, and not just a motion.

So I would say the motion should be the result of a report, and the report should be the result of the evidence. We've heard the evidence, but we have not yet made a report. Neither do we have all of the evidence, because some of it has to come back in due course. When it comes back, then we should deal with the report—if we're going to have a report to the House.

That would be my preliminary point of objection to our voting on the motion, having gone this far.

The Chair: I see Ms. Chow first, then Mr. Telegdi, and Mr. Karygiannis.

Ms. Chow.

• (1705)

Ms. Olivia Chow: Mr. Chair, allow me to say that in 2005 the minister at the time made a policy change. The policy was clear. It said, let's allow Canadians who want to sponsor their spouse in Canada to apply in Canada, whether or not their spouse is in status or not in status—simple. That is what the policy said, and there was no objection at that time; there was no uproar. People in the communities thought it made sense to allow them to apply.

But what happened? What happened was that the department... Allow me to read this: "In 2005, a policy change was made to extend the benefits of the SCPC"—the spouse or common law partners in Canada class, to be more precise—"to spouses and common law partners who were in Canada without status. The regulations were not updated to reflect this. Instead a new public policy was adopted under the humanitarian and compassionate grounds provision in the IRPA."

So the intention was to allow all inland applicants to apply in Canada for their spouses. Instead of just doing it the clean way, what happened was that the department decided to change a little bit of policy, and what you have noticed is that all of these people are getting caught. This is happening, according to what the Library of Parliament gave to me, okay?

An voice: What's the history?

Ms. Olivia Chow: I don't know the history; I wasn't here. But one way or another, the history is beside the point. What is happening is that there are people affected by this.

And, Mr. Komarnicki, it is not a small number, because it is not coincidental that in this committee alone, of all the members of Parliament, there are several MPs who have actual cases of people being deported. In my riding, a person's status stopped on January 31, and two days later the police—the police, okay?—knocked on his door and said, “You have to go; we're going to deport you.” He and his wife were not there. This is a person who has been in Canada for 13 years.

So there are these situations, and they are not small in number. We're not talking about fraudulent applications; we're not talking about people who want to cheat the system. We're talking about giving 60 days. But why not just allow them an automatic stay? That doesn't send any message out.

You know what's delaying them? It's not because there are fraudulent applications; it's because of the backlog at the CIC.

The Chair: Right.

Mr. Ed Komarnicki: Mr. Chair—

The Chair: Give Ms. Chow a chance to wrap up, please.

Ms. Olivia Chow: Okay, what I need to say is that all this motion in front of you actually does is allow them to stay in Canada until the application is done. There is no reason not to do that, because why should ordinary folks, ordinary Canadians and the spouse, be punished because of the backlog of the department?

The Chair: Do you have a clarifying point, Mr. Komarnicki, before I go to Mr. Telegdi?

Hon. Jim Karygiannis: No, you should go to Mr. Telegdi.

Mr. Ed Komarnicki: No, no, my point of order has not been dealt with. I think that's arguing on the motion substantively.

My point of order was that we started hearing evidence on this. It's not been completed because the committee asked the department people to bring information as a result of questioning before this committee. We're partway into the evidence and we are not to make a report while that's in process.

I'm asking the clerk and the chair to rule on that. I would say—

• (1710)

The Chair: Yes. Well, the clerk—

Mr. Ed Komarnicki: Just a moment, I would like to—

The Chair: Yes, it's a valid point of order according to the clerk, that that was the original intent of it. It's a valid point of order. Whether or not the committee decides to go that route, it is a valid point of order.

Mr. Ed Komarnicki: You have to make a decision on the point of order. It's your decision.

The Chair: Yes, that's true.

Hon. Jim Karygiannis: On a point of order, there's nothing in the motion that says that we have to call witnesses. The motion is crystal clear.

Mr. Ed Komarnicki: But we did call witnesses.

Hon. Jim Karygiannis: The motion is crystal clear.

Mr. Ed Komarnicki: Bull.

Hon. Jim Karygiannis: The motion is crystal clear, and if you can't read it.... The motion is crystal clear. There's nothing in there about calling witnesses.

Mr. Ed Komarnicki: But I have a point of order and it should be dealt with. I think he's prepared to make a decision on that point of order, and we should make that decision before we deal with the substantiveness of the motion.

The Chair: Yes, and that's a valid point.

Again, the clerk says it's a valid point on whether the briefing is finished, given the fact that the witnesses have indicated that there is additional information to come back. So it's a valid point of order from that point of view, that the briefing has not yet been completed. Included in the motion was the fact that we would hear the briefings from the various individuals who came today, and the fact is that the briefing has not been completed since the members of both departments decided to come back with information. So it is a valid point of order.

Hon. Jim Karygiannis: Mr. Chair, do you want to rule?

The Chair: I've ruled that it is a valid point of order.

Ms. Olivia Chow: Mr. Chair, on that point, if you are declaring this motion not in order at this point, I—

The Chair: No, I'm not. I'm saying that the motion certainly is in order—

Ms. Olivia Chow: Thank you.

The Chair: —but the briefing has not yet been completed. Possibly we need to postpone it a little further to allow the individuals from the Canada Border Services Agency and the department to get back with the additional information that has already been requested of them.

I think we started this whole thing out in that spirit, that we would have briefings. I don't know if there's any great urgency in putting this as a report to the House until we have these individuals come back with the additional information that was requested of them.

So I would rule that it is a valid point of order.

Hon. Andrew Telegdi: Well, Mr. Chair, I'll challenge you on that ruling because there are no compelling reasons presented by the officials. There were confusing reasons presented by the officials, but there were no compelling reasons why we cannot proceed. Any of the stats they might come forward with are not going to substantially change—

The Chair: Is there any great urgency? Let me put it to Ms. Chow.

Hon. Andrew Telegdi: Well, there is, Mr. Chair, because we have people who are being shipped out and we have people who are not working.

The Chair: Let me put it to Ms. Chow.

Ms. Chow, do you feel there's any great urgency in this? I'd like to resolve this in an amicable fashion. Is there any great urgency in having this completed today, or can we wait until officials get back to us with the information?

Ms. Olivia Chow: Mr. Chair, let me tell you that in my situation, in my understanding of cases alone, there are people right now who are facing deportation. Whether it is 500 or 700 or 1,000 or 2,000, at this point I do not care whether it is 200 or 5,000. Just because they can't bring the numbers in front of us.... That's the only thing they cannot give to us.

The sooner we can do it, the signal goes out to the department to stop sending police to these poor spouses who are in Canada. They have their application in, they have been waiting for eight months; it's because of the backlog that they get deported. That is not fair. So the sooner we make that decision, the better it is.

The Chair: Okay. As far as I know right now, Mr. Telegdi has asked if the chair's ruling will be sustained. In other words, he's challenged the ruling.

Do you still wish to pursue that, Mr. Telegdi?

• (1715)

Hon. Andrew Telegdi: Yes, I want to proceed.

The Chair: Okay. The question has to be put.

Mr. Ed Komarnicki: Can we make representation on that? I'd like to make representation on that.

Hon. Jim Karygiannis: Mr. Chair, the ruling has been challenged. There's no debate. Call the vote.

The Chair: The question has to be put.

Shall the chair's ruling be sustained?

Mr. Ed Komarnicki: I'd like to interject. Is that...?

An hon. member: No.

The Chair: The ruling of the chair is that we have a valid point of order here.

Ms. Olivia Chow: Yes, but we're still doing the motion.

An hon. member: No, no, we're challenging the ruling.

The Chair: The ruling is that it's a valid point of order. The question has been put by Mr. Telegdi.

(Ruling of the chair overturned)

The Chair: The chair has been challenged and the ruling has not been sustained; therefore, we will now put the motion.

Is there any debate on the motion?

Mr. St-Cyr.

[*Translation*]

Mr. Thierry St-Cyr: Thank you, Mr. Chair.

I would like to propose an amendment to Ms. Chow's motion. I would like to add "for the first time in their life" or "their first-ever application" to "who has filed an in-Canada spousal or common law sponsorship application", to avoid cases in which the individual files several applications. We spoke about that earlier. It could be worded more appropriately by someone else at the table.

Regardless, I would like to include the idea that the automatic stay would apply only when the first sponsorship application is filed, and

that if an individual files subsequent sponsorship applications, this stay would not automatically be applied.

[*English*]

The Chair: Is that an amendment you're making?

[*Translation*]

Mr. Thierry St-Cyr: Yes.

[*English*]

The Chair: Okay.

Mr. Telegdi, and then Mr. Komarnicki.

Mr. Ed Komarnicki: I'd like to speak—

Hon. Andrew Telegdi: No, no, I'm speaking on the motion. I was on before you, way before you. I was on the list. He has a list.

The Chair: I have a list of speakers. I'm going to Mr. Telegdi, and then Mr. Komarnicki.

Hon. Andrew Telegdi: Look, we're not talking about huge numbers here, but we're talking about people who are impacted. If you go back to the 11% figure that they said it was, then you're talking about something like 1,500 people. But that includes all sorts of other categories.

The issue we are dealing with—the Conservatives should like this—is called family values. You do not split up families. You do not split up spouses. You do not split up parents and children.

What the motion speaks to is that an application is made...and we hear that 90% of the ones who are dealt with are legitimate, so I could make the conclusion that maybe similar numbers of those who get booted out are legitimate as well.

At any rate, what this speaks to is that the department does not deport somebody, does not take away a child from their mother or father, does not take a husband and wife away from each other, does not separate spouses. It's family values. This is the time to walk the talk. And that's what this motion is about. If an application is not legitimate, then removal can take place. But don't do removals of people who have not had their applications ruled on.

It's very simple: family values.

The Chair: Mr. Komarnicki.

Mr. Ed Komarnicki: I think that any motion, including the amendment, is inappropriate—I'm surprised the Bloc would not wait—until all the information is in. I don't understand that. Either Mr. Telegdi and Mr. Karygiannis had a question of some relevance or it shouldn't have been asked.

If we agree that it was relevant enough for him to ask it, and for the department officials to answer it, it impinges upon what we're deciding. To decide it without that is inappropriate. We're talking about democracy here. We're not talking about what's good....

No, it's a fact. You either do a report or you don't do a report.

• (1720)

The Chair: Order, please.

Mr. Ed Komarnicki: Once you do a report, you ought to do it the way reports are normally done in a democracy: you wait until all the evidence is in. You don't go to the court, present half your evidence, and have the judge decide. If you're going to do that, don't do any evidence; just decide.

The Chair: Order.

Hon. Jim Karygiannis: We're the judges here.

Mr. Ed Komarnicki: The fact of the matter is that you're making an amendment before you've heard all the evidence—

The Chair: Order.

Mr. Ed Komarnicki: —after this committee and the chair have determined that the evidence was relevant enough for it to be asked and to be provided.

I think that's inappropriate. If you think that's appropriate, I totally disagree with that, because that's the problem with having reports with half the facts.

The Chair: Exactly. I agree totally and completely, but the chair—

Mr. Ed Komarnicki: After the chair has made a ruling, to overrule a chair on that point without a basis for it really puts the whole integrity of this committee into question.

Hon. Andrew Telegdi: It's family values.

Mr. Ed Komarnicki: It's not family values; it's a question of democracy and how this committee proceeds.

The Chair: I will adjourn this meeting if you don't come to order, please.

I think what you're saying is very valid, Mr. Komarnicki. However, the chair's decision—

Mr. Ed Komarnicki: I'd ask the Bloc member to withdraw that amendment and wait until the evidence is in, if he wants to do it properly, and vote down the other amendment if it's going to go ahead today before the evidence is called. In this democracy and this country, we don't proceed that way.

Hon. Andrew Telegdi: I have a point of order, Mr. Chair.

The Chair: If I can't bring this committee to order in the next minute or so, I'm going to adjourn the meeting, and then no one wins.

Would you please allow me to take this in order?

Hon. Jim Karygiannis: Mr. Chairman, I'm next on the list.

The Chair: You're next on the list after.... I've seen Mr. St-Cyr's hand again. I can't help but feel that he has a response to Mr. Komarnicki, and I'll allow that.

[*Translation*]

Mr. Thierry St-Cyr: Okay. First of all, I am happy to see that Mr. Komarnicki acknowledges how important the Bloc Québécois is. I am very flattered that he has pointed out we are very responsible and that he is disappointed in this case.

I want to talk about the figures we were given, or actually, about the figures we were not given. It should not come as a surprise that we would ask for figures. The governing party controls its officials, the representatives of the government and its departments. It had all

the tools it needed to ensure that we had complete information today. We are not going to wait to have all the information in hand before we make decisions, especially since I do not see how it would change anything.

[*English*]

The Chair: Okay, that's enough on that.

[*Translation*]

Mr. Thierry St-Cyr: No, Mr. Chair.

[*English*]

The Chair: I'm giving you 30 seconds; clew it up. I have other people who need to speak and I've heard all this already today. Please clew it up.

[*Translation*]

Mr. Thierry St-Cyr: I will take the 30 seconds. I do not usually waste time, unlike some of my other colleagues around this table.

Furthermore, the figures do not seem completely necessary. There are two possibilities: either it is an endemic problem and we must vote now, or it is a minor problem that occurs rarely, in which case our adopting this resolution today would not cause any problems.

[*English*]

The Chair: The last speaker on the list was Mr. Karygiannis.

Please be brief, Mr. Karygiannis.

Hon. Jim Karygiannis: Mr. Chair, regarding the numbers, it doesn't matter if they're 10% and it doesn't matter if they're 20%. The numbers don't matter. What matters is that we have individuals who have sponsored spouses, and those people are deported. This is what is at issue.

Should Mr. Komarnicki want us to have a full—if you want to call it that—hearing on this, then do you know what? If he's prepared to move that we stop immediately all deportation until this committee has hearings and reports, that's fine. I don't think Mr. Komarnicki wants to entertain this. If that's the case, and Mr. Komarnicki agrees, we can adopt this very easily: we will stop deportations, we will have hearings, and this committee will report. We will stop deportations until we finalize the hearings and report to the House.

I think there is a spirit on this side that we go this way. I'm not sure if the Conservatives want to go that way. If they do—

The Chair: Before we go to the amendment, do you have a final comment, Mr. Komarnicki? That's a final comment.

Mr. Ed Komarnicki: I would suggest to this committee that before a chair's ruling is overruled, there needs to be some logical basis to it, not just a whim. In this case we started a hearing and we didn't complete it. The chair ruled that it was not appropriate. The clerk ruled it was inappropriate. The material we have for precedent is that Parliament says it's inappropriate. How can you overrule the chair in good conscience when there is no valid basis to it?

I'd ask you to withdraw that.

• (1725)

Hon. Jim Karygiannis: Put the question, Mr. Chair.

The Chair: We've heard all the arguments. The question is on the amendment.

Mr. Clerk, read the amendment, please.

[*Translation*]

The Clerk of the Committee (Mr. Andrew Chaplin): Concerning the motion in French:

Mr. St-Cyr proposed that the motion be amended by inserting in the second line “première” between “une” and “demande”.

[*English*]

And in English, that the motion be amended by substituting in the second line, for “filed an in-Canada spousal”, the words “filed their first in-Canada spousal”.

(Amendment agreed to)

The Chair: The question is on the motion as amended.

Hon. Andrew Telegdi: No, there is another amendment that I raised before to allow them a work permit. That was filed before, and it was raised before, that these people be allowed a work permit.

The Chair: Is this a new motion?

Hon. Andrew Telegdi: No, it's an amendment.

The Chair: Oh, it's an amendment.

The Clerk: Mr. Telegdi circulated this the week before last.

The Chair: This is a further amendment to the original motion.

Hon. Andrew Telegdi: Yes, that is correct.

The Chair: Where is the amendment in all this: “a temporary work permit and an automatic stay of removal”.

The Clerk: Effectively, it is the insertion of four words.

The Chair: It is the insertion of “a temporary work permit”.

Hon. Andrew Telegdi: That's right.

The Chair: Okay.

Hon. Jim Karygiannis: The motion has passed.

The Chair: Mr. Komarnicki on a point of order.

Mr. Ed Komarnicki: Mr. Chair, and to the clerk, if Mr. Telegdi's motion preceded the amendment, should it not have gone before the amendment, or is it now out of order because of the amendment?

A voice: The motion is passed and now it's out of order.

Mr. Ed Komarnicki: Yes, it's out of order.

A voice: The motion has been passed already.

Mr. Ed Komarnicki: We passed the motion, a contrary motion.

The Clerk: The question still remains to be put on the motion as amended. The motion has been amended once, and it is entirely in order for other members to propose—

The Chair: Another amendment, yes.

Mr. Wajid Khan: After it's passed?

The Chair: Yes.

The Clerk: The question has not been put on the motion as amended.

The Chair: That's right. That was on the amendment, but the motion—

Mr. Wajid Khan: Mr. Chair, I have a point of order.

The Chair: Now we're going to vote on the amendment of Mr. Telegdi, is that what you're saying?

Hon. Andrew Telegdi: Yes, that's it.

Hon. Jim Karygiannis: Then you would have to put in there “first time applications”.

The Chair: It's that we would insert in the motion “a temporary work permit”.

Mr. Komarnicki.

Mr. Ed Komarnicki: I again want to put on the record that it is inconceivable that Mr. Telegdi would ask for information that he deemed was relevant to his motion and this report and, before we have that information, ask a report to go to the House. I find that absolutely incredible. I think it is wrong, and I don't think this motion as amended should proceed until he gets an answer to his question.

The Chair: Mr. Karygiannis, on a point of order.

Hon. Jim Karygiannis: I would ask, Chair, that you put the question.

The Chair: No, I won't be putting the question until I've heard from everyone I need to hear from.

Mr. Telegdi.

Hon. Andrew Telegdi: Mr. Chair, I have heard enough in terms of the numbers, and I feel quite comfortable with it—

The Chair: Okay.

Let me put the question, please.

Hon. Andrew Telegdi: —and I want to underline to Mr. Ed Komarnicki that the big crime here is not having family values on the Conservative side.

The Chair: Order, please.

So the question is on the amendment again.

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

The Chair: The question is now on the motion as amended.

(Motion as amended agreed to)

Hon. Jim Karygiannis: Mr. Chair, I have a question.

The Chair: If you're asking me if this is to be presented to the House as a report...is that the question?

Hon. Jim Karygiannis: Yes, sir.

The Chair: It's in the motion. Read the motion.

Hon. Jim Karygiannis: Would the chair tell us when he'll be reporting it?

The Chair: As soon as the clerk gets it ready for me.

Read the motion if you want to know what's in it.

Mr. Komarnicki.

•(1730)

Mr. Ed Komarnicki: I wish to make a dissenting report to the House on this issue, given my strong feelings that this report ought not be going to the House.

The Chair: You're giving notice of a dissenting report.

Mr. Ed Komarnicki: Right.

The Chair: That's permissible as well, with all the usual rules that kick in with respect to dissenting reports.

Hon. Jim Karygiannis: What's that? Was it 72 hours or 24 hours?

The Clerk: It's whatever the committee decides.

Hon. Jim Karygiannis: The committee has decided already. We have a ruling or a precedent.

The Chair: I think it was 24 hours, if I'm not mistaken.

Is there any further business? Seeing no further business, the meeting is adjourned.

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