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Tuesday, December 11, 2007

Chair

The Honourable Shawn Murphy

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● (0905)

[English]

The Chair (Hon. Shawn Murphy (Charlottetown, Lib.)): At this point in time, I'd like to call the meeting to order pursuant to the Standing Orders and extend to everyone here a welcome.

Today we have with us Deputy Commissioner Barbara George, from the Royal Canadian Mounted Police. She is accompanied by her lawyer, Mr. Jack Hughes.

Ms. George and Mr. Hughes, welcome to the committee.

As everyone is aware, this meeting—I don't think it will be a long one—has been called to examine potential alleged discrepancies in the testimony of Ms. George when she first appeared before this committee on February 21 of this year.

I'm just going to make a prepared statement. We're then going to ask Ms. George to reply to the statement, and we'll take it from there.

Ms. George, the committee has called you back because it feels that you were untruthful in your testimony before this committee under oath on February 21, 2007. In particular, the committee's concerns relate to the following testimony, given on that date:

Committee member: "Did you or Mr. Zaccardelli order that Staff Sergeant Frizzell be removed, and was it you or Mr. Zaccardelli who ordered that the investigation be shut down?"

Your answer: "I can state with absolute finality that it was neither Commissioner Zaccardelli nor me who had anything whatsoever to do with, as you say, the removal of Sergeant Frizzell."

Committee member: "Can you tell us who it was?"

Your answer to that question: "No, I'm not aware of who it was. The best I can state is that when Sergeant Frizzell left, I understood he returned to his home division, which was "A" division. ... I understood it was for health reasons."

The committee is particularly concerned in your case, Ms. George, as you are a senior uniformed member of the Royal Canadian Mounted Police, and as such, a professional in the field of conducting investigations, gathering evidence, and weighing testimony. You were and are an important witness in the committee's inquiry into the alleged improper use of RCMP pension and insurance plan funds. As Deputy Commissioner of the Royal Canadian Mounted Police responsible for human resources, you had a central role in the matter under investigation by the committee. There was every reason for committee members to see your

testimony as critical to establishing what took place, and you ought to have known this.

In this case, the testimony sought related to a specific situation—namely, the manner by which Sergeant Frizzell was removed from the investigation being conducted into the alleged improper use of RCMP pension and insurance plan funds to meet administrative costs.

You would know, Ms. George, that sworn testimony can be based on either the personal knowledge of the witness as to the relevant facts or the honest belief of the witness where the witness has information on which to base this belief. This is often referred to as testimony based on information and belief.

This is an important consideration with respect to your testimony, Ms. George. As a police officer trained in conducting investigations, gathering evidence, and weighing testimony, you must be familiar with those words, "information and belief". The courts accept affidavits based on "information and belief". In your testimony before this committee on February 21, you used the expression "to the best of my knowledge", and prefaced a response with "I believe", and at one point you said, "As far as I know, and I believe this to be so...".

In your testimony on April 30, in a lengthy answer to the same questions posed on February 21 about the removal of Staff Sergeant Frizzell, you described the events leading up to the removal and explained why it would have been either Assistant Commissioner Gork or Inspector Roy who caused the removal. You shared this with the committee on April 30, but for some reason you couldn't share this with the committee on February 21. Of course, our question is, "Why?"

As well, Mrs. George, you had two meetings with staff prior to the February 21 appearance before this committee and you were warned that the committee might ask you about the removal of Staff Sergeant Frizzell and whether you caused his removal.

Surely in the course of these preparatory meetings, only a week or so ahead of your appearance before this committee, the circumstances surrounding the removal of Staff Sergeant Frizzell would have been reviewed and all possible questions to you by the committee considered. In your e-mail of February 12, 2007, to a staff member about these preparatory meetings, you say: "Let's make sure that the Qs and As are as complete as possible."

Despite this, when you appeared before the committee on February 21 and you were asked who, if it was not you, removed Staff Sergeant Frizzell, you said only that you did not know. In testimony before this committee on April 18, 2007, you testified that on June 20, 2005, which is the day that Staff Sergeant Frizzell was removed from the investigation, Chief Superintendent Lang told you that Staff Sergeant Frizzell had been removed on the orders of Assistant Commissioner Gork.

Two months later you admit to having had knowledge on June 20, 2005, that you denied having when testifying before this committee on February 21, 2007.

The committee heard the testimony of Assistant Commissioner Rogerson on April 30, in which he reviewed the events of June 2005, including his conversation with you by cell phone on June 16, 2005, where he says you indicated that you wanted Staff Sergeant Frizzell removed because he had left a phone message that you thought was harassing your staff. Assistant Commissioner Rogerson testified that he told you that you would need to talk to Assistant Commissioner Gork to get Staff Sergeant Frizzell removed. Assistant Commissioner Rogerson testified that he had first-hand knowledge of what was done and said that the removal related to your harassment allegation against Staff Sergeant Frizzell. Assistant Commissioner Rogerson, in his testimony, showed that Chief Superintendent Lang and Superintendent Newman agreed with him that you were involved in the removal of Staff Sergeant Frizzell.

Assistant Commissioner Rogerson also showed that you knew exactly who served the removal order on Staff Sergeant Frizzell. Assistant Commissioner Rogerson summarized his testimony on April 30 in the following terms, and I quote:

In summation, the aforementioned info is how I understood things to have been done. Deputy George was actively seeking Staff Sergeant Frizzell's removal because he was harassing one of her employees. Based upon what I've become aware of, this was accomplished through her direct liaison with both Assistant Commissioner Dave Gork and Superintendent Lang shortly after contacting me on June 16.

....

The fact remains that the formal removal of Frizzell commenced between June 15 and June 20, 2005. Chief Superintendent Lang's actions were no doubt influenced by Deputy Commissioner George's direct and clear involvement in Frizzell's being served such an order. In this regard, as mentioned, he was contacted by her directly, along with others, during this exact same timeframe. He consulted with them on the order, he served the order, and, when executed, advised them when it was done, which showed that Deputy George also knew about the order and who served it.

You appeared before the committee on April 30, alongside Assistant Commissioner Rogerson, if memory serves. Before Assistant Commissioner Rogerson gave his opening statement, you gave an opening statement in which you set out the e-mail exchanges that showed how you came to believe that Staff Sergeant Frizzell was removed for health reasons, which is what you told the committee on February 21. You said you did not order the removal of Staff Sergeant Frizzell. Admittedly, this is how the question on February 21 was phrased, whether or not you ordered the removal, but you answered in much broader terms, that you had nothing whatsoever to do with the removal. Your answer on February 21 was unequivocal and unlimited.

By April 30, particularly after the testimony of Assistant Commissioner Rogerson, it was not simply a matter of who ordered the removal but whether you had any involvement in events leading up to the issuance of this order. You had an opportunity to testify more fully in your opening statement about your involvement in the removal of Staff Sergeant Frizzell, but you did not do so.

It is only after having heard Assistant Commissioner Rogerson's testimony, in which he clearly implicates you in the removal of Staff Sergeant Frizzell, that you respond more fully to the question that was first put to you by a committee member on February 21 about the removal of Staff Sergeant Frizzell. Your response was that you only asked that Staff Sergeant Frizzell's harassing behaviour be stopped, not that he be removed.

● (0910)

Eventually, when pressed once again by a committee member whether you requested removal, you answered, "I cannot give you a yes or no answer." This was two years ago. The committee took this response as indicating an inability to recall the events of two years earlier.

You admitted to speaking with Assistant Commissioner Rogerson, to Assistant Commissioner LaFosse, and to Chief Superintendent Lang, and they recall that you asked for removal. Why is it you can't remember these events in 2005, but these other officers can remember? In other testimony on April 30 you recalled a meeting in 2001 quite vividly.

So, Ms. George, the truthfulness of your February 21 testimony that you didn't know who removed Staff Sergeant Frizzell is hard for this committee to accept in view of the other testimony and evidence before the committee in respect of the events of the period June 15 to June 20, 2005, including the evidence that you were very unhappy with the manner in which Staff Sergeant Frizzell was conducting his investigation, and that you wanted something done about this. When you learned that he had been removed, you were grateful for the quick action taken against Staff Sergeant Frizzell.

Ms. George, with the foregoing in mind, you might understand why members of this committee feel that in your testimony before this committee on February 21 you were less than truthful, and that you knew you were being less than truthful in your testimony. The committee is particularly concerned that false or misleading testimony would be given by a senior uniformed member of that cherished Canadian institution, the Royal Canadian Mounted Police.

In the circumstances, Ms. George, how can we believe you when you deny, as you did on February 21, with "absolute finality"—to use your words—that you had anything whatsoever to do with the removal of Staff Sergeant Frizzell?

I'm going to ask you now to respond to that statement, Ms. George.

● (0915)

Deputy Commissioner Barbara George (Deputy Commissioner, Royal Canadian Mounted Police): Mr. Chairman, on November 28, 2007, I received a letter from this committee inviting me to appear here today to address concerns members had about testimony I had given on February 21, 2007. The letter stated that I was being given an opportunity to explain my testimony and provide a full and unequivocal response to any concerns—

The Chair: I really hesitate to interrupt you, and I apologize for doing so, but the interpreters here will have difficulty translating your statement at that rate, so I will ask you—we do have lots of time—to slow your speech down somewhat. I apologize for interrupting.

D/Commr Barbara George: Thank you.

The letter stated that I had been given an opportunity to explain my testimony and provide a full and unequivocal response to any concerns that might exist. The spirit of the letter, as well as other informal assurances given, clearly suggested that the committee would not make any final conclusions in respect of this matter until I had had an opportunity to speak here today.

I believed that the committee's invitation was being made in good faith and in the interest of procedural fairness. The facts now suggest otherwise. Late yesterday, less than 18 hours ago, the committee tabled its final report with respect to the RCMP pension and insurance plans. I admit that I was concerned when the tabling of the report was scheduled only after I had committed to being here today, and my suspicions were not unfounded.

The report contained a recommendation that the House of Commons denounce my behaviour as someone who had tarnished the reputation of the RCMP through negligence, partiality, or dishonesty. Inexplicably, this recommendation comes in the middle of a section that does not even mention me by name. In fact, the report, which spans some 100 pages, does not even include any specific allegation of wrongdoing on my part. The report does not conclude that I was negligent. The report does not conclude that I was partial. The report does not conclude that I was dishonest. Yet the report specifically calls on the House to denounce me for one or more of these alleged sins.

Worse still, the recommendation in question groups my name with those of Jim Ewanovich and Dominic Crupi. This is grossly unfair. I have never been accused of mismanaging pension or insurance funds. I have never been accused of accepting golf or hockey tickets. I have never been accused of hiring family members. I have never been accused of improperly awarding government contracts.

The committee, by its action, has forced me to conclude that it isn't truly interested in what I have to say today. Still, I have honoured my commitment to be here in the hope that fair-minded Canadians have an opportunity to hear both sides of this story. For more than eight months, my family and I have fought to clear my name and restore my reputation. I do so again now.

Mr. Chairman, this is the fourth time I have appeared before the public accounts committee in respect of the RCMP pension and insurance matter. My first appearance was on February 21, and it was subsequently followed by appearances on April 18 and April 30.

In total, I have appeared before this committee for more than six hours of questioning.

Throughout the course of these hearings, like members of the committee, I have learned a great deal about what took place between June 2003 and June 2005. When I appeared here on February 21, there were aspects of this investigation I had no prior knowledge of. On more than one occasion since, I have been surprised by what I have heard.

The purpose of my appearance here today is to address concerns that committee members may have about the first two answers I ever gave this committee. To that end, I would like to put that first appearance and those first answers in their proper context.

Ostensibly, the meeting on February 21 was arranged to discuss the Auditor General's report of November 2006 into the RCMP pension and insurance plans. I was asked to appear because interim Commissioner Beverley Busson had only recently succeeded Commissioner Zaccardelli and had no personal knowledge of the events in question. As a member of the RCMP senior executive committee and as deputy commissioner of human resources, I had expected to field questions on a response to the Auditor General's report.

In fact, the events in question had transpired under the direction of my predecessor, Jim Ewanovich, and a particular director, Dominic Crupi, whose actions, among others, were the focus of the Ottawa Police Service investigation and the Auditor General's report. I was therefore prepared to answer questions about the procedures we had put in place to ensure that the management and misconduct she had found were never allowed to happen again. Mr. Chairman, those were what the questions and answers specifically focused on.

To be clear, however, the Auditor General's report of November 2006 did not mention Sergeant Mike Frizzell, nor did it discuss any allegations that an RCMP investigator had been improperly removed from the investigation.

Consequently, Mr. Wrzesnewszky's first question to me about whether I had ordered the removal of Sergeant Frizzell was totally and completely unexpected—a proverbial bolt from the blue. Nevertheless, I answered the question as best I could, based on my personal recollection of the events at the time. The answers I gave were honest and accurate, as I did not order nor did I have any desire to have Sergeant Frizzell removed from the OPS investigation some 15 months into their investigative work.

● (0920)

Members of the committee will recall the testimony of retired Staff Sergeant Ron Lewis, who confirmed that I had played an important role in having the investigation started back in early 2004. There was never any intention to mislead or misinform the committee, and to this day, Mr. Chairman, I insist that I did not.

The events surrounding the conclusion of the OPS investigation and the written order delivered by Chief Superintendent Doug Lang had occurred more than a year and a half before my first appearance. Despite the elapsed time, I answered all questions to the best of my recollection, and I stand by my answers again today.

My memory of these events had not been refreshed by any personal notes or conversations with others, and I had not reviewed any documents or e-mails from that period before my appearance here. When the issue was brought up that I might be questioned on Sergeant's Frizzell's removal, I absolutely dismissed it, saying I had nothing to do with this.

So my Qs and As were focused on chapter nine of the Auditor General's report. All I knew was that I had not ordered anyone to remove Sergeant Frizzell from the OPS investigation, and I recalled that he had gone on a period of sick leave around that time. Those two facts, which have been supported and confirmed by subsequent testimony and evidence, formed the basis of my response to Mr. Wrzesnewskyj.

It is important to note that at the conclusion of the February 21 hearing, while still in the committee room, Mr. Wrzesnewskyj came to shake my hand. At that time, I offered to meet with him to discuss anything he was unclear about, as well as I could. He acknowledged that this would be a good idea, but as it turned out, my office could never set a time with Mr. Wrzesnewskyj's office.

Mr. Chairman, another fact that must be explained is that prior to our appearance on February 21, I had met with RCMP legal services to confirm what I could and could not discuss as a witness before this committee. It was my first experience as a witness before a parliamentary committee, and I was unfamiliar with both the process and the concept of parliamentary privilege.

RCMP legal services advised that while parliamentary privilege would cover much of our testimony, we had to remain mindful of the proper application of the Privacy Act. While we could discuss our work and ourselves, we were to be cautious about making comments on the personal details of other RCMP members or officers.

Indeed, if you look at the transcript from the meeting of February 21, you will note that I and other witnesses cited privacy concerns and the Privacy Act in the course of our testimony.

Whether or not you agree with that interpretation of the Privacy Act, the effect of that advice was that I was both careful and cautious in discussing anything that dealt with other RCMP officers or members. While this did not change the answers I gave that day, it limited the extent to which I was able to volunteer additional information beyond what was asked of me. I mention this because my answer to Mr. Wrzesnewskyj's second question specifically addressed privacy concerns and because I think it is important for the committee to fully appreciate my state of mind on that day.

Mr. Chairman, later in my first appearance, I was asked by Mr. Wrzesnewskyj whether Assistant Commissioner David Gork had ordered the removal of Sergeant Frizzell. As I wasn't entirely certain and did not want to mislead the committee, I said that I could only speculate, if he wanted me to do so. At that point, Mr. Chairman, you intervened, and I quote:

If I can interrupt, Mr. Wrzesnewskyj, I don't want anyone to speculate at this hearing.

Had I been allowed to answer, had I been allowed to speculate, I would have said that it would have likely been Assistant Commissioner Gork or Inspector Roy. In fact, if you look at the transcript for the meeting of April 30, you will see me testify to that

effect in response to a question from Mr. Sweet. As it turned out, I was only able to verify the relevant information and give a more detailed answer on April 18, after I had already been accused of perjuring myself.

In subsequent appearances before this committee, members, including Mr. Williams, have asked me why I did not volunteer the fact that I had spoken with other officers about Sergeant Frizzell. I can honestly say that they did not come to mind in those first moments on February 21, and I did not immediately appreciate their connection to Mr. Wrzesnewskyj's question. All I could do and all I did was answer the question as it was put to me.

In my defence, however, once that link had been made, I provided full details of those calls at my next appearance on April 18, along with several e-mails and other supporting documents.

For these reasons, in considering if I have misled this committee, it is absolutely critical that you consider all six hours of my testimony and not merely the first six minutes.

● (0925)

In its report yesterday, the committee indicated that one issue left unresolved was whether Sergeant Frizzell was removed from the OPS investigation or was merely sent back to his home unit because the investigation was over. I would like to offer now what I believe is the best summary version I can of what took place in June 2005. In so doing, I am relying on both the oral testimony before this committee and the documentary exhibits tabled by witnesses.

I will also refer to the sworn statements that were given to Chief Superintendent Bob Paulson and his team in the course of his code of conduct investigation. These interviews form the heart of the so-called Paulson report, which was tabled with this committee by Commissioner Busson in mid-May 2007. The sworn statements in question were appended to the report as appendix C. It is my understanding that due to a lack of translation resources these interviews were never translated, and therefore never distributed to members of this committee.

While I respect that the committee may have felt it had no choice in the matter, I believe it was a mistake for the committee to conclude its review of this matter without having read those sworn statements. The statements often provide additional detail and clarification of matters discussed in this committee, and I believe they would have been of tremendous value to you in your inquiries.

As you know, I was suspended from my duties for a period of eight months starting on March 30, 2007. During my suspension I had ample time to read and review these documents. Accordingly, I believe I now have a much better and more complete understanding of what happened to Sergeant Frizzell in June 2005.

On May 30, 2005, at 9:11 a.m., Inspector Roy wrote an e-mail to his investigative team, which included Sergeant Frizzell, that read in part as follows:

First, the interview phase is over and we need to move on. This simply means that no more interviews will take place until I direct so. We have two weeks to put the investigative report together and I want the draft in my hands at the latest on June 10th.

On June 7, 2005, Inspector Roy received a call from Rosalie Burton, who complained about the behaviour of Sergeant Frizzell and said he had requested a meeting with her on June 17, 2005. Inspector Roy's notes from that day, which were tabled with this committee, show that he told Ms. Burton that Frizzell was doing this on his own and not as the representative of the OPS investigation.

Later that same day Inspector Roy met with Frizzell and suggested that if he had ongoing concerns he should state as such in his portion of the investigation report, and it would be communicated by the OPS when the report was given to Commissioner Zaccardelli. As Inspector Roy has noted here, for reasons that are unclear Sergeant Frizzell did not include any reference to these concerns in his final investigative report.

A few days later, on or about June 13, 2005, Rosalie Burton complained to me, as she had to Inspector Roy, about Sergeant Frizzell's behaviour. On June 15, 2005, I called Assistant Commissioner Darrell LaFosse. As he has testified here, his total contact with me on this matter did not last longer than one minute.

I conveyed to him my concerns relating to what I had been told about Sergeant Frizzell's behaviour. But he quickly advised me that he was no longer responsible for him and I should call Assistant Commissioner Bruce Rogerson. As he later testified, once he pointed me in the right direction to the appropriate supervisor he completely dismissed my telephone call. Moreover, in his interview with Chief Superintendent Paulson on April 10, 2007, Assistant Commissioner LaFosse stated in six separate answers that he could not and would not say that I had asked him to remove Sergeant Frizzell.

As an example, on page 15 of the interview transcript Assistant Commissioner LaFosse said, "She wanted something done with Mike Frizzell, but specifically saying I want Mike removed, I can't say she said that: I really can't."

On page 28 he said,

She was upset and she had a raised voice, but she was agitated about the actions of Mike Frizzell, no question. There was no grey area in that whatsoever. As far as specifics—Darrell, I want you to remove Mike Frizzell—I can't say that. I could not say what end result she wanted, but she wanted it.

On June 16, further to Assistant Commissioner LaFosse's suggestion, I got in contact with Assistant Commissioner Rogerson, who was in his car on his way back from Montebello. It was his testimony and evidence that our call also lasted less than a minute. In fact, his cell phone records show that the call lasted a mere 50 seconds.

• (0930)

Assistant Commissioner Rogerson and I disagree as to the exact words spoken during that call, but there is no dispute that he informed me that Frizzell did not report to him and that I should speak with Assistant Commissioner Gork. Assistant Commissioner Rogerson later confirmed the substance of our conversation in an e-mail to me at 2:04 that same afternoon. In part, it read as follows:

Just to reiterate my comments, I have purposely avoided any contact with the investigators in relation to their work. In this regard they are still under A/Commr. Gork's direction.

He then added, and I quote: "Having said this, If there is anything you would like for me to do to correct such behaviour, I will assist from that aspect."

That e-mail, which has been tabled with this committee, suggests that Assistant Commissioner Rogerson understood that we were talking about correcting behaviour, not removing an investigator.

Later, on June 16, I contacted Chief Superintendent Doug Lang, as I knew that he was acting in place of Assistant Commissioner Gork, who was by then serving in Lyon, France. As I had with both LaFosse and Rogerson, I advised Chief Superintendent Lang that I had received complaints about Sergeant Frizzell's behaviour. It is his evidence and testimony that I asked him to address the matter with Inspector Roy.

He has further given evidence that at no time did the words come out of my mouth that Frizzell had to cease and desist. Lang has said that I did not give him any direction on what had to be done, nor that Frizzell had to be immediately taken off the investigation.

I now know that Chief Superintendent Lang went to see Inspector Roy that same day. Lang has told investigators that Inspector Roy was already aware of the allegations that Frizzell was continuing to take investigative steps by trying to interview people and doing things he had already been told not to do. Inspector Roy further advised Chief Superintendent Lang that he had been having problems with Sergeant Frizzell during the investigation, all related to his adherence to direction.

Inspector Roy and Chief Superintendent Lang then discussed what needed to be done. They determined, according to Lang, that "enough was enough", but they did not come up with the decision to serve him with the order.

That same day, June 16, sometime shortly after his meeting with Inspector Roy, Chief Superintendent Lang received a call from Assistant Commissioner Gork. Lang has explained that he believed and understood that Gork and Roy had spoken by that point and it was during that call that Gork directed Lang to serve Frizzell with a written order.

To be clear, I had not spoken to either Inspector Roy or Assistant Commissioner Gork about the complaints I had received with respect to Sergeant Frizzell's behaviour.

Following his call with Assistant Commissioner Gork, Chief Superintendent Lang prepared a draft written order to serve on Sergeant Frizzell. As Chief Superintendent Lang has testified, I did not assist him with the drafting of the order. Indeed, I do not believe that I ever spoke with him again until after he had served the order on Frizzell on June 20, 2005.

Chief Superintendent Lang's further evidence is that the order was completed on the afternoon of June 17 and that they would have served it on Sergeant Frizzell then. I believe they did try to serve it, but Sergeant Frizzell had already left for the weekend. In a separate interview with the Paulson investigative team, Sergeant Frizzell confirms this by saying that he had left half-way through the day on June 17 to go on a field trip with one of his children.

The committee must recognize the following critical points.

Inspector Roy gave his final report to Chief Bevan of the Ottawa Police on June 17. The report submitted by Inspector Roy included a final report from Sergeant Frizzell, which had been given by Frizzell to Roy at approximately noon that day. As a result, we can say without any doubt that Frizzell was not served with the written order until after the final investigation report had been submitted.

On Saturday, June 18, I had a conversation with Assistant Commissioner Gork. When I mentioned to him the complaint of Ms. Burton regarding the alleged behaviour of Frizzell, he told me that it was now a moot point, as the investigation was over and all the investigators were being returned to their original positions.

Let me repeat that I did not speak with Assistant Commissioner Gork until after he had already directed Lang to serve Frizzell with a written order and after the final report had been given to Chief Bevan.

On Monday morning, June 20, I had a meeting scheduled with Sergeant Frizzell. Knowing what I had been told by Gork, I sent an e-mail to Lang asking what was being done about Frizzell. Lang subsequently notified me after the fact that he had served the order on Frizzell and that Frizzell was going to speak with a doctor.

I believe this represents a fair synopsis of what took place during that crucial week in mid-June, 2005.

● (0935)

Members may ask themselves why this version of events was not fully articulated in April of this year, when I last appeared as a witness. The reason is very simple: it was not until I had received and reviewed the sworn statements given by the relevant officers, as contained in the Paulson report, that I knew the full story. Prior to receiving the Paulson report in early July, I did not have detailed knowledge of the conversations that had taken place between Roy, Lang, and Gork. To that end, I did not have a complete understanding of the timeline of events that resulted in the written order having been served on Frizzell.

I believe it is crucial that this committee draw the necessary distinction between what I knew on February 21 and what I know today. Like all members of this committee, I learned more details about what happened as this inquiry went on. Back in February I simply could not have given the detailed testimony that I provided today, as I did not have the detailed information.

Mr. Chairman, in closing, I would like to address three other issues that I think are of considerable importance.

First, I would like it to be said on record that despite the fact that several witnesses have given conflicting or even contradictory versions of events, I am the only one who has been called to explain myself.

To cite just one example, I would point to the allegation made by Chief Superintendent Macaulay that I had told him that he was on an island and that people would not tell the truth about what happened. On March 28, in response to a direct question from Mr. Christopherson, Chief Superintendent Macaulay testified that this was an exact quote and was based on notes he had taken at the time. However, when interviewed by members of the Paulson investigation team on April 3, 2007, Chief Superintendent Macaulay gave

evidence that his notes were made a year after the event in question. The Paulson report into the code of conduct allegations also states that Chief Superintendent Macaulay paraphrased my statement, as he was unable to provide my exact words, which the investigators themselves noted was contrary to his exact quote reference during his March 28 committee appearance.

As the committee itself noted in its report yesterday, it has heard conflicting and often contradictory evidence from many witnesses. This is as much a point of frustration for me as it was for the committee, and to that end I intend to pursue these matters through the appropriate channels in the days and weeks ahead.

Mr. Chairman, my second point relates to the real reason I am here today. I believe that I have been unfairly singled out because of Mr. Wrzesnewskyj. From the first day that I appeared before you, Mr. Wrzesnewskyj has identified me as a target. He has, on at least two occasions, quoted documents grossly out of context in a manner that has painted me either as a liar or a thief. He has also repeatedly used the term "perjury", despite having been asked not to do so in public sessions by both you, Mr. Chairman, and other members of the committee. This is particularly unacceptable, given that the term "perjury" was seized upon and repeated in the media, notwithstanding that the appropriate term is "contempt of Parliament".

Mr. Wrzesnewskyj has been criticized by other members for hoarding documents in secret and then springing them on unsuspecting witnesses without having first shared them with other members on the committee.

Mr. Wrzesnewskyj met with key witnesses such as Chief Superintendent Macaulay prior to their testimony to discuss allegations they were going to make and to determine which would best hook the committee's interest.

Finally, on at least two occasions he was invited to recuse himself by another member for being in a clear conflict of interest.

It goes without saying that Mr. Wrzesnewskyj and I have ongoing disputes that extend beyond the mandate of this committee, and I would ask that they be allowed to resolve themselves in the proper legal forum.

My third and final point, Mr. Chairman, is the issue of parliamentary privilege. As you are aware, on March 30, 2007, interim Commissioner Busson initiated a formal code of conduct investigation into my actions. The main allegation was that I had misled this committee during my testimony on February 21.

A week later, on or about April 3, the investigating officer initiated a concurrent criminal investigation to determine whether I had violated section 131 of the Criminal Code. I was forced to challenge these investigations in Federal Court, and ultimately the court declared portions of the code of conduct investigation to be unlawful.

On May 2, 2007, the chair send a letter to the commissioner asking her to confirm that no investigation was under way that relied on my testimony before this committee. The interim commissioner's response, sent on May 14, did the opposite: not only did it confirm that an investigation was ongoing, but it also suggested that it would continue, as the law surrounding parliamentary privilege was unclear.

• (0940)

Shortly thereafter, Chief Superintendent Paulson wrote to Speaker Milliken asking him to get the House of Commons to waive its privilege as it related to my testimony. In reply, Speaker Milliken wrote to Paulson and advised him that testimony before a committee could not be questioned outside the committee, even by an agent of the crown in the context of an investigation.

Chief Superintendent Paulson did not terminate his investigation into my testimony until the House of Commons held a formal vote on the question in mid-June. In fact, just this past week Chief Superintendent Paulson had to be ordered to return exhibits seized under warrant from my office. For two and a half months, my testimony was being aggressively investigated by no fewer than 12 RCMP officers, all contrary to the doctrine of parliamentary privilege.

I believe this situation arose as a direct result of interim Commissioner Busson's panicked reaction to the media frenzy caused when Mr. Wrzesnewskyj publicly accused me of perjury.

It is my hope and belief that this will be my last appearance before this or any other standing committee, yet the question of how and when a witness is protected when testifying before these committees remains open. If the House does not enforce its privileges, they will be slowly eroded, to the detriment of the rule of law and our system of parliamentary democracy.

Mr. Chairman, as troubled as our past history has been, I would like to thank all members of this committee for giving me this last opportunity to address your concerns.

The RCMP is currently facing a very difficult time. The past few months, indeed the past year, have been a time of great sadness and tragedy within our force. Still, I am optimistic that our best days lie ahead under the direction of our two senior leaders, Commissioner Bill Elliott and Deputy Commissioner Bill Sweeney. These two individuals undertook to obtain all the facts of my situation. They looked at every perspective and motive before arriving at the conclusion that the right thing to do was to reinstate me, and to permit me every opportunity to regain my good name in the face of seemingly irreparable damage done to my career and reputation. I am thankful for and I applaud their integrity and courage.

Mr. Chairman, I watched you on CBC Newsworld last night, and I heard you say I was not totally truthful in my testimony, so I am prepared to stay here all day if necessary to discuss any concerns you may have.

The Chair: Thank you very much, Mrs. George.

I want to thank you, on behalf of all members of the committee, for your appearance here today.

I want to also thank you, Mr. Hughes, for your assistance.

Mrs. George, the transcript of the entire proceedings will be translated and will be circulated to the members. The members will again be examining the entire record, including the Paulson report. They will be deliberating on the matter. They will be coming to a decision in due course.

I know this issue is troubling to you, and it's troubling to the members of the committee also. When we do have inconsistencies in testimony, it is an issue that this committee does take very seriously.

Following up on your comments on the privileges of the House, that is another issue that this committee takes very seriously. It is prepared to defend, as it did in your case, the privileges of the House.

Again, I want to thank you very much. We will be making a decision, and we will be getting back to you.

Thank you.

We have another witness, colleagues, but we'll suspend and take a short break.

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_____ (Pause) _____

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• (0945)

The Chair: Members, I'd like to resume the meeting and welcome everyone back.

I want to welcome to the committee Commissioner William Elliott, the Commissioner of the Royal Canadian Mounted Police. Welcome, Commissioner Elliott. Thank you very much for your attendance here today on reasonably short notice.

Members, the purpose of Mr. Elliott's appearance here today is restricted. I do have instructions from the steering committee to restrict it. We're going to allow certain questions, but it's going to be restricted to only the reinstatement of Deputy Commissioner George. That's the only issue we've asked Commissioner Elliott to appear on, and that's the only issue he will be questioned on here today.

Before inviting Commissioner Elliott to make opening remarks, I will mention that one of the members has suggested that I table, in both official languages, the letter sent to Barbara George on November 27. That letter will be tabled with the committee and circulated to all members. The clerk has indicated that it's being distributed right now.

Okay, back to business.

Again, welcome, Commissioner Elliott. I invite you to make your opening remarks.

[Translation]

Commr William Elliott (Commissioner, Royal Canadian Mounted Police): Thank you, Mr. Chairman.

At the outset, I would like to tell you that there may have been a little bit of confusion between the committee clerk and my office.

● (0950)

[English]

I don't have a written statement, but I would certainly be happy to begin by commenting or responding to the motion that is the subject of my appearance this morning, and then I'll try to respond to any questions.

As I understand it, you're interested in knowing more about the reinstatement of Deputy Commissioner George, particularly in relation to the timing of those events. Perhaps I could start by giving a brief chronology.

I appreciate that some of what I am about to say the committee is very familiar with, but I think it would be helpful, just to set the context, if I start with the suspension of Deputy Commissioner George by the previous Commissioner of the Royal Canadian Mounted Police, Beverley Busson.

That occurred, as I said, on March 30. There were three allegations made respecting Deputy Commissioner George, which were included in the formal notice of suspension.

As part of the process for disciplinary hearings under the RCMP Act, an appropriate officer was appointed. That appropriate officer was Deputy Commissioner Bill Sweeney, who at the time was the deputy commissioner of the northwest region and the commanding officer of K Division—that is, Alberta.

Deputy Commissioner Sweeney, as you will know, has since transferred to Ottawa and is serving as a special adviser to me.

On June 21, after having reviewed the results of an investigation launched with respect to the three allegations that I have mentioned, a notice of disciplinary hearing initiating the formal discipline process was issued.

Between June and the fall, additional information was brought to the appropriate officer's attention. I understand that, among other things, Deputy Commissioner Sweeney had a number of discussions with parties in headquarters who had information. Those included the officer in charge of the investigation, Chief Superintendent Bob Paulson; the former Commissioner of the Royal Canadian Mounted Police, Beverley Busson; and legal counsel.

Deputy Commissioner Sweeney subsequently informed me that he had determined that there were not grounds to proceed on the first and third allegations contained in the notice of suspension. The second allegation was related to Deputy Commissioner George's appearance before this committee. And I'm sure, Mr. Chairman, that you and your colleagues are familiar with the issues concerning parliamentary privilege and the rulings by both the House of Commons and the Federal Court in that regard.

On November 19, Deputy Commissioner Sweeney, as the appropriate officer, formally withdrew the allegations against Deputy Commissioner George. Those allegations were the basis for the suspension; therefore, on November 23 I signed a notice of revocation of the suspension. On November 28 I issued a statement to all the employees of the Royal Canadian Mounted Police announcing that the deputy commissioner had been reinstated and that she would be returning to active duty on November 28.

I would be happy to entertain your questions, Mr. Chairman.

The Chair: Thank you very much, Commissioner Elliott.

I'm in the hands of the committee, but we could have one round of five minutes. That would be six people at five minutes each. Does that sound reasonable? Okay.

Mr. Wrzesnewskyj, you have five minutes.

Don't feel that you have to take the five minutes. And again, I caution members that we're restricted to the reinstatement. That's the only issue Commissioner Elliott was invited to talk about today, and that is all we're going to talk about.

Go ahead, Mr. Wrzesnewskyj.

Mr. Borys Wrzesnewskyj (Etobicoke Centre, Lib.): Thank you, Chair.

Commissioner, from day one in testimony before this committee on the RCMP, we've heard that there's an appearance or in fact it's the case of no consequences for inappropriate actions at the top echelons of the RCMP. As you stated, there's a very detailed investigation by Chief Superintendent Paulson that had three findings or recommendations that went to Deputy Commissioner Sweeney: that Deputy Commissioner Barb George be charged with conduct unbecoming, misleading Commissioner Busson, and providing false testimony.

As a consequence of us not waiving parliamentary privilege and the court decision about parliamentary privilege, a number of those had to be withdrawn.

Commissioner, you were aware that we were ongoing with our investigations in preparation of a report. Did you think it would be appropriate to wait until such time that we had concluded—

● (0955)

Mr. Pierre Poilievre (Nepean—Carleton, CPC): On a point of order, Mr. Chair, I am concerned about the questioning.

Given that Parliament has explicitly told the RCMP that it cannot use any of the testimony or any of the proceedings that occur before this committee as consideration in its investigation of its own employees, nothing that happens here can be used in proceedings out of this place. Yet Mr. Wrzesnewskyj is now using what's happening here as the premise for a question over how the commissioner has addressed the issue of staffing within his agency.

So I think we are contradicting ourselves if we're going to invite the commissioner here and ask him to explain why he's not listening to the testimony and the hearings that occur before this committee, when we've explicitly, through the Speaker, told him he cannot do so.

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

I've been listening very carefully to the question. Mr. Poilievre is right that the law of parliamentary privilege would preclude the commissioner and anyone in the RCMP from using the evidence given by Ms. George before this committee. However, they can use the decisions, if they so desire, of the committee in a report to the House.

So I certainly find the question in order. But again, I reiterate that the evidence given by any witness, including Deputy Commissioner George, is not to be part of a formal code of conduct proceeding—or any other proceeding, for that matter—but the actual decision of the committee could, if the authorities so chose, be taken into consideration and given whatever weight they deem necessary.

Mr. Borys Wrzesnewskyj: Just to respond to that as well, before the clock starts, that's exactly the point I was making, Mr. Poilievre. That's why I reiterated that parliamentary privilege prevented these proceedings from going forward.

My question was one of caution, knowing that there was an imminent report that would come out with recommendations, as to whether or not the commissioner felt that it was impossible to wait until recommendations came out of this committee.

Commr William Elliott: Thank you, Mr. Chairman.

As I indicated, when I became Commissioner of the Royal Canadian Mounted Police, a formal process had already begun. That process was based on three specific allegations. As we have noted, the second of those three allegations was beyond the purview of the investigation and the process, following actions taken by this committee and the House of Commons as confirmed by the Federal Court.

Maybe I could refer to the decision of the Honourable Madam Justice Tremblay-Lamer, dated May 29, 2007, wherein the justice says, in the closing comments of the judgment:

... the RCMP is free to investigate allegations that the Applicant breached the RCMP's Code of Conduct in the discharge of her duties, but may not investigate the specific allegation that the Applicant provided false testimony to the House. Parliamentary privilege protects what is said in the House and, if the House believes it was misled, it is for the House alone to investigate and punish this offence.

I therefore did not think it was necessary or appropriate to wait for the committee's report with respect to an allegation we were no longer advancing and were no longer investigating.

With respect to the other two allegations, the decision by the appropriate officer, Deputy Commissioner Bill Sweeney, was that there were not sufficient grounds to proceed to an adjudication. I therefore had no reasonable basis not to reinstate the deputy commissioner.

As I have said on other occasions, I'm the Commissioner of the RCMP. I and the RCMP believe in due process. Due process was followed in this case. As soon as I was notified that the appropriate officer intended to withdraw the allegations, I instituted the process to reinstate Deputy Commissioner George. I believe it was the only reasonable and honourable thing for me to do.

• (1000)

The Chair: You can have a very short question. You have 30 seconds, Mr. Wrzesnewskyj.

Mr. Borys Wrzesnewskyj: What were the terms of settlement? Is she fully reinstated?

Mr. John Williams (Edmonton—St. Albert, CPC): A point of order, Mr. Chairman.

The Chair: There is a point of order.

Mr. John Williams: I don't think we need to get into settlement agreements that other organizations reach with people. I don't know that this is an appropriate question. Perhaps you could ask the law clerk.

Mr. Rob Walsh (Law Clerk and Parliamentary Counsel, House of Commons): Obviously, it's relevant to the line of questions that the committee wants to look into, but as you know, sometimes committees are concerned about privacy rights. The employer-employee relationship is by nature private in some respects, but in other respects is quite public, particularly where, as here, it's within a public institution.

The status of this individual in that institution as an employee has been very much in question, particularly in the reinstatement to full employment. It's understandable that the committee might be interested in knowing whether there were any conditions attached to that reinstatement, but I think points about privacy might be kept in mind.

The Chair: The question is in order, so go ahead, sir.

Commr William Elliott: Thank you, Mr. Chairman.

There was no agreement with respect to the reinstatement. I and others indicated to the deputy commissioner that she would be reinstated. I informed the deputy commissioner that I would not be reassigning her to the position of deputy commissioner of human resources and chief human resources officer. We had discussions about her return to duty. We agreed on a start date, but there were no other agreements made with respect to the reinstatement.

The Chair: Thank you, Commissioner Elliott.

[Translation]

Mr. Laforest, you have five minutes, please.

Mr. Jean-Yves Laforest (Saint-Maurice—Champlain, BQ): Thank you, Mr. Chairman.

Mr. Elliott, you announced that Ms. George was being reinstated in her position. She resumed her duties further to a recommendation made by a deputy commissioner who had conducted an investigation.

Did you personally assess the situation before agreeing to the recommendation made by a deputy commissioner? In your opinion, have you completely cleared Ms. George by reinstating her in her position? You do have some responsibility with respect to that issue.

Ms. George told us earlier that when the facts involving her first came out, when she made these declarations, she did not have full knowledge of the file.

I would like to ask you the following question. While there may have not been any fault, was there not incompetence? However, you have nonetheless allowed her to resume her duties.

Commr William Elliott: Mr. Chairman, I would like to clarify an important matter: Deputy Commissioner Sweeney never made a recommendation.

[English]

He was, pursuant to the code, appointed as the appropriate officer. It is up to the appropriate officer to make a determination with respect to whether to proceed or to not proceed. I would point out that the Federal Court, in its decision also when addressing questions of procedural fairness, underscored that the commissioner—in that case the court was speaking of my predecessor, but the reference certainly applies to me as commissioner, as well—does not make the determination as to whether or not someone is guilty or not guilty, or whether there is a case to be made for adjudication.

Deputy Commissioner Sweeney did not make a recommendation to me. Deputy Commissioner Sweeney conveyed his decision to me, and I took action pursuant to that decision.

● (1005)

[Translation]

Mr. Jean-Yves Laforest: So you are saying that you were not the one that had to make a decision, even though you were the commissioner, and that it was rather up to the deputy commissioner in charge of the inquiry to do so. Is that correct?

[English]

Commr William Elliott: Deputy Commissioner Sweeney was appointed the appropriate officer, which is the process followed when a formal discipline process is initiated under the RCMP Act. He made a determination based on his evaluation of the evidence as to whether there were sufficient grounds to proceed to adjudication. In his opinion there were not sufficient grounds to proceed; therefore, he withdrew the allegations. My role then was to deal with the consequences of the fact that there was no longer a disciplinary process pending, and to reinstate Deputy Commissioner George. I made a number of decisions in relation to that.

Frankly, the question of reinstatement was not a terribly difficult one, because the bases on which the suspension had been made were no longer in existence. So the question for me really was whether or not she would go back to her previous position as the deputy commissioner for human resources.

[Translation]

Mr. Jean-Yves Laforest: Exactly what position did she go back to? Could you clarify that for us? Perhaps you mentioned it earlier. I really thought that you had said earlier that Mr. Sweeney had made a recommendation. However, you clearly stated that no recommendation was made. And yet it seems to me that you did use this word. That is why I used it.

[English]

Commr William Elliott: The deputy commissioner will be doing a number of projects pending the start of educational leave that was agreed to in an agreement entered into by Commissioner Busson on March 27, 2007.

The Chair: Thank you, Mr. Elliot.

Merci, Monsieur Laforest.

Mr. Williams, five minutes.

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

Mr. Elliott, Ms. George told us that you looked into all information before you reinstated her, and actually you quoted text from the court decision regarding the testimony before this House that said that the RCMP had no capacity to pursue the matter of the evidence given under parliamentary privilege.

I understand that you have reinstated Ms. George. But I'm rather concerned that you would reinstate the deputy commissioner of the RCMP when, in your words, you said there was no disciplinary process pending. Well, I beg to differ, because there is a disciplinary process pending. It's going on right here this morning, Mr. Elliott, where we had Ms. George defending herself on her statements. I'm concerned that you reinstated someone of that rank in the RCMP when she was under a disciplinary process of another venue. And I agree it is another venue. Even though it was outside your purview, it was within our purview to have a disciplinary process.

I want to know why you reinstated her when we were still looking into a matter that Chief Superintendent Paulson referred to as perjury. Now, that's a serious allegation. In Parliament, as Ms. George pointed out, we call it contempt of Parliament. But it's the same seriousness of charge.

Given that was hanging over her, why would you reinstate her at that time?

● (1010)

Commr William Elliott: Thank you, Mr. Chairman.

I would like to clarify that. In my response, when I referred to there being no discipline process, I was referring to matters within my purview and the purview of the RCMP, and those are disciplinary procedures pursuant to the RCMP Act.

In answer to the honourable member's question, I refer again to the decision of the Federal Court, which in essence directs me as commissioner, and I quote again: "...if the House believes it was misled, it is for the House alone to investigate and punish this offence."

I do not believe that the fact that this committee and the House still have issues before it can be used by me with respect to a disciplinary matter under the RCMP code of conduct.

Mr. John Williams: I'm not talking about the RCMP code of conduct. I'm talking about the reinstatement of Barbara George at that particular time, given the fact that there was a serious disciplinary process in place and ongoing at that time.

I think what the commissioner is trying to tell me, Mr. Chairman—and he can correct me if I'm wrong—is that a senior member of the RCMP could be under a cloud of accusation in any other venue outside the RCMP and it means nothing to the RCMP. Even for deputy commissioners—they can continue working and so on with no appropriation of any kind because it's in another venue. This is a serious charge hanging over Ms. George. She realizes that. I would hope that the RCMP and the commissioner realize that.

My concern is for the 26,000 RCMP officers who are putting their lives on the line to uphold the law, and we have lost far too many of them over the last few years. Therefore my concern is that we would have a deputy commissioner who is under a cloud of potential contempt of Parliament, which Chief Superintendent Paulson referred to as perjury, and yet the commissioner reinstates her as deputy commissioner, even with that allegation hanging over her head.

That's why I want to know what the commissioner is doing at this time. Why didn't he wait until this committee resolved whether or not it believed there was a contempt of Parliament or that she had misled the committee, and then he would have been free to make his decision?

Commr William Elliott: Mr. Chairman, I believe I have been directed by the court and by Parliament not to deal with the question of contempt. I again refer to the judgment of the Federal Court, in paragraph 65:

Finally, if Parliament has reason to believe that a witness has deliberately misled the House, it is up to Parliament, and Parliament alone, to initiate proceedings and discipline such conduct. Misleading the House is contempt of the House, punishable by the House. If a court or another entity were allowed to inquire into whether a member or a witness had misled the House, this could lead to exactly the type of conflict between two spheres of government that the wider principle of parliamentary privilege is designed to avoid.

Mr. John Williams: Therefore, Mr. Chairman, what he is telling us is that if we find "contempt of Parliament", akin to perjury, it means nothing to the RCMP and she can continue on in her position. Is that what he's telling us?

The Chair: I'll clarify just briefly, Mr. Williams, that it won't be us; it will be the House on the contempt. It's a minor point, but I just want to....

Mr. John Williams: Okay. But if this committee finds that the allegations are upheld, it means nothing to the career of a senior member of the RCMP? Where are we going from here if we find the allegations are upheld?

Commr William Elliott: I don't think it would be appropriate for me to speculate, but if and when matters unfold, we will consider those matters and consider what, if any, further action is warranted.

The Chair: There's just one point I want to make before we go to Mr. Christopherson.

Commissioner Elliot, I want to clarify. You're quite right, and you're quite right in quoting the court case about the parliamentary privilege concerning the evidence of Deputy Commissioner George that could not be used by the RCMP in their code of conduct investigation. But there are all kinds of allegations in the Paulson report, and that is your report. You certainly are entitled to look at that, look at the allegations, and give it whatever weight you think it deems necessary in coming to your decision. So did you consider that report? Or are you confused that you can't consider those allegations also?

Commr William Elliott: Thank you, Mr. Chairman.

First of all, I'd just like to clarify. In your question, when you used the term "you", if you mean the RCMP, then I certainly agree with you. But I do think that it's important to be clear, as well, with respect to which officer of the RCMP played which specific role in all of this.

Chief Superintendent Paulson conducted an investigation. He initiated investigations into all three allegations. The investigations continued into allegation number one and allegation number three. If it would help, I can refer you specifically to those allegations. It was on those allegations that he reported to the appropriate officer, Deputy Commissioner Sweeney, and it was with respect to those allegations, having reviewed the results of the investigation and other information, that Deputy Commissioner Sweeney, the appropriate officer, determined that there were insufficient grounds to proceed to adjudication.

•(1015)

The Chair: Mr. Christopherson, you have up to five minutes.

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

Thank you, Commissioner, for attending today.

I would benefit from being reminded of those three allegations, if you would. Very quickly, please, just remind us of the essence of them.

Commr William Elliott: The first is addressed to Deputy Commissioner George:

That on or about September 19, 2003, at or near Ottawa, Ontario, you did conduct yourself in a disgraceful manner that could bring discredit on the Force. During a meeting with Chief Superintendent Fraser Macaulay, you advised him that he was on an island by himself and that others would not tell the truth. You explained that Chief Superintendent Macaulay was naive to think anyone would stand beside him in this type of situation. This is contrary to subsection 39(1) of the Royal Canadian Mounted Police Regulations, 1988.

Number three:

That, between February 21, 2007, and March 28, 2007...you did conduct yourself in a disgraceful manner that could bring discredit on the Force in that, knowing that you had been involved, directly or indirectly, in Staff Sergeant Mike Frizzell's removal and knowing that I had undertaken, as Commissioner of the RCMP,

—that's Commissioner Busson speaking—

to provide the Standing Committee on Public Accounts with all of the information pertaining to Staff Sergeant Frizzell's removal, you failed to inform me, your superior officer, of the above. Failing to disclose the extent of your involvement resulted in an incomplete response being provided to the Committee. This failure to disclose your involvement is contrary to subsection 39(1) of the Royal Canadian Mounted Police Regulations, 1988.

Mr. David Christopherson: Thank you.

The second one pertained to the actual testimony that was here, which the court removed. Was that number two?

Commr William Elliott: That's correct. The allegation refers to giving false testimony before the Standing Committee on Public Accounts on February 21, 2007.

Mr. David Christopherson: Yes. Okay.

So that was already ruled by the courts to be out of your purview, and you are left with one and three?

Commr William Elliott: Yes.

Mr. David Christopherson: Can I ask the law clerk something, Mr. Chair?

Could I have the attention of the law clerk?

You've heard the answer. I need some legal advice as to where the interface is. I understand the responsibility that we have in terms of what we're looking at. I'm hearing the commissioner talking about the allegations number one and three that were left, which the RCMP had to come to grips with. They are the same matters we are dealing with, but those allegations are within the RCMP, and not necessarily what's come here. I'm having some trouble understanding the interface between our role and that of the commissioner vis-à-vis allegations one and three. Can you provide me with some guidance, please?

Mr. Rob Walsh: I don't know that I can usefully comment specifically on allegations one and three as such without just making a general remark that would apply to all three allegations, particularly the second allegation.

Mr. David Christopherson: I'm sorry, the second one is clear. It's one and three I need a little help with, but go ahead.

Mr. Rob Walsh: I think there's a lack of clarity there, which leads to some lack of clarity, perhaps, that you are suffering with one and three.

Mr. David Christopherson: Very good.

Mr. Rob Walsh: Regarding the second allegation pertaining to her testimony before this committee, I believe Commissioner Elliott is quite correct in pointing out that the court had indicated that testimony could not be used by the RCMP for purposes of any investigation, whether criminal or internal disciplinary investigations. However, with the greatest respect to the witness, I think he's taking that decision further than it ought to be taken. I mean that with reference to Chief Superintendent Paulson's report that there was an inappropriate attempt by Ms. George to cause Staff Sergeant Frizzell to be removed.

I'm making an assumption here, Mr. Chairman, that it would be inappropriate to try to get an investigating officer removed for other reasons. That, I would have thought, was a legitimate point of inquiry by the RCMP regarding the internal conduct of both Ms. George and any other officer who might have interfered with an investigation, whether or not it was discussed before this committee. They can't use the testimony before this committee for purposes of laying any proceedings, but they could still—as I believe Chief Superintendent Paulson did in his report—investigate into how it was or it seemed to be that Deputy Commissioner George played a role in the removal of Staff Sergeant Frizzell. I'm making an assumption here, and perhaps I shouldn't. However, were she to have done so, it would have been inappropriate for her as a matter of police practice, never mind committee testimony. I think what the court said was that they couldn't use committee testimony.

To the extent that committee testimony touches on points one and three, or one and three are free of that, they can be investigated by the RCMP for internal purposes.

My concern here—and I don't know, Mr. Christopherson, whether I'm responding to your question—

Mr. David Christopherson: Yes, you are.

● (1020)

Mr. Rob Walsh: —is that the court ruling, in my view—to properly understand its impact—restricts the use of testimony. It doesn't mean that the same subject matter can't be the subject of inquiry elsewhere. It's just that you can't use the testimony before this committee for purposes of those proceedings.

Commr William Elliott: Can I make a comment, Mr. Chairman?

The Chair: Yes.

Commr William Elliott: I would like to state that my understanding of the implications of the decision of the Federal Court and the application of parliamentary privilege is completely in sync with the comments just made by Mr. Walsh. The matters referred to in allegations one and three of the notice of suspension were in fact fully investigated by Chief Superintendent Paulson and others. They were the subject of a report to the appropriate officer and they were the subject of the evaluation and decision by the appropriate officer with respect to not proceeding to adjudication.

Mr. David Christopherson: I know I'm running short on time, Chair.

The Chair: You have a minute and a half.

Mr. David Christopherson: Thanks.

That's why I wanted the clarification, because I was having some trouble understanding it. Unless the law clerk or you, Chair, want to correct my direction here, it seems to me that we can't have it both ways. We can't tell them, on the one hand, that you can't use anything that comes up here, and yet at the same time try to take what we're doing here and cross the line into personnel matters within the RCMP. I just heard from the law clerk that they were able, notwithstanding the Supreme Court ruling, to go ahead and have independent investigations.

What makes those independent investigations of an internal matter any different from any other that is going on at this time? Given the number of officers there are, there are likely one or two rattling around out there, so I'm having some trouble understanding where we would hold the commissioner to account on this reassignment, given that the part of it that is our responsibility has been supported by the courts as being within the parliamentary domain and nowhere else, and the separation is clear. So how can we expect the commissioner to take account of what we're doing at the same time we're saying don't take account of what we're doing?

So I'm having a little trouble understanding where we hold the commissioner to account on this particular order that he has issued.

The Chair: I'm going to invite another response from the law clerk.

Mr. Rob Walsh: Mr. Chairman, I can understand the member's confusion. It might be difficult.

The subject matter on which someone testifies before a committee is not itself privileged. The testimony given is privileged. All I said a moment ago, or tried to say, was that if the subject matter of Superintendent Paulson's inquiry is the attempt to remove an investigator, that, to me, is an appropriate point of investigation internal with the RCMP. In doing that, they can't rely on what may have been said or not said here. That's the first point. Secondly, they clearly can't investigate whether a witness was telling the truth or not telling the truth in front of this committee. So in that sense, what is said here is beyond their reach.

The subject matter of the testimony, the issue, if you like—whether it was an inappropriate attempt to remove somebody—is a matter of legitimate concern to the institution itself, and they might well want to investigate it and could do so, in my view, but they couldn't rely on testimony here or go after her for apparently giving false testimony here.

Mr. David Christopherson: Perhaps you'll allow me one bit of latitude.

So the measures, allegations one and three, that they have the right to follow up on, at that point that's no longer our business as a committee, correct?

Mr. Rob Walsh: It might be your business. You might choose to make it your business, and if you do, the testimony given here is privileged, but the subject matter isn't necessarily removed from the RCMP. They may have their own reasons to look into those other matters. It's just that they can't use the testimony given here for their own purposes.

Mr. David Christopherson: I understand. I'm just trying to see where there remains a tie-in between our work and the decision of the commissioner to reassign or not reassign a senior officer, based on allegations that are not the direct responsibility of this committee.

I am done. Thank you.

• (1025)

The Chair: One last response, Mr. Walsh.

Mr. Rob Walsh: I think the tie-in, Mr. Chairman, is not so much in the substance of the allegations but in the fact that the committee had not finished its business and there could well be relevance to the decision of reinstatement, whether the House did or did not find the individual to have been contemptuous of the House. That's not reliance on testimony. That's recognition of a public act by the House of Commons, and it could well be relevant, in my view, to a question of reinstatement. The commissioner perhaps made a decision, it would appear, on the basis that the testimony could not be taken into account, therefore it was out of the picture, and the other allegations were withdrawn, so we had no basis to not reinstate.

The Chair: Mr. Holland, five minutes.

Mr. Mark Holland (Ajax—Pickering, Lib.): Thank you, Chair.

Thank you, Commissioner, for appearing today.

Mr. John Williams: A point of order, Mr. Chair. Mr. Walsh has tried to put some words in the commissioner's mouth, and I just wanted him to give his opinion that he saw it the same way.

The Chair: Do you have a comment, Commissioner Elliott?

Commr William Elliott: Mr. Chairman, I think I've already indicated I did not believe there was any basis for me to continue the suspension.

The Chair: Mr. Holland, for five minutes.

Mr. Mark Holland: Commissioner, we've just heard from the law clerk that the subject matter is relevant. We know from the Paulson report that there were serious questions about Ms. George and her involvement in this matter. Furthermore, with respect to this committee particularly, we know that parliamentary privilege does not protect a witness from contempt of Parliament, or perjury, to use the equivalent term in other processes. It most certainly does not protect a witness from lying. And while it may be true, certainly, that the evidence or testimony given before this committee is not something you can use, the outcomes certainly are.

After the testimony given today by Ms. George, I can say there are deep and troubling concerns about what she said. There are inconsistencies that don't add up, and it stretches all imagination that the truth has been told in certain instances. So we are left with a very troubling circumstance.

What concerns me, Commissioner, in what you're saying here today, in not taking this seriously and not having reserved your judgment until our report came out and the committee and the House made a determination about whether or not there was contempt of Parliament, is what is at stake. We know there is a great deal of public concern about the RCMP right now and that your job is to restore faith in that institution. From the Air India inquiry to Maher Arar to the Mayerthorpe incident to the tasers and to the pension fiasco we're investigating today—

The Chair: Mr. Holland, we're talking about the reinstatement only. We're not going to get into the Maher Arar case and—

Mr. Mark Holland: No, this is only contextual, to say what's at stake.

The Chair: But it's getting pretty broad.

Mr. Mark Holland: Okay, to bring it back, if we have that as context and that at stake, why on earth would you not have waited for this committee and the House to make a determination whether or not contempt of Parliament had occurred before you reinstated Ms. George?

Commr William Elliott: Mr. Chairman, I'd like to clarify that I do not believe I have said or done anything indicating I treat the matter of contempt of Parliament lightly. And I'd like to clarify that I do not treat that matter lightly at all. But I do think it's important for us.... I talked earlier about due process. There was a process initiated. That process was based on three specific allegations. Decisions were made with respect to those three specific allegations, one as a result of parliamentary privilege and the direction of the Federal Court, and the other two based on a careful evaluation of the evidence. Because there's been a determination with respect to a specific process and specific allegations, that is not a reflection of my views as an individual, or as the Commissioner of the RCMP, or of the RCMP as an organization, with respect to another matter outside of the process I was called to testify on this morning.

Mr. Mark Holland: The decision to reinstate Ms. George was made in advance of a report from this committee on the investigation of this pension fiasco. It just doesn't make any sense to me that you wouldn't wait for this committee's report, a report that condemned the actions of Ms. George and took great exception to what occurred there. Yet she was reinstated before that report came into place. And while we know you can't consider the testimony, it certainly is public. Why have you not at least waited for the outcome, given a couple of very specific facts?

We heard from Ms. George today that it was a shot out of the blue when she was asked about whether or not she was involved in the removal of this officer. We know from the Paulson report that she was specifically advised in advance—this is point 9(c) on page 24—that Mr. Frizzell was going to be raised as an issue, and yet she said it was a bolt out of the blue. And then she took the time in her testimony to state in absolute, unequivocal terms: “I can state with absolute finality...”—and these aren't equivocating terms—that she had “anything whatsoever to do with...”—

• (1030)

Mr. Pierre Poilievre: Point of order, Mr. Chair. Point of order—

Mr. Mark Holland: My point is that these are public proceedings, and that the outcome—

The Chair: Order. Order, please.

Go ahead, Mr. Poilievre, on a point of order.

Mr. Pierre Poilievre: Nothing Mr. Holland is saying is even admissible with the RCMP. None of that testimony can even be considered in disciplinary proceedings against any of its employees, because it is entirely immune. I'm not the person saying so; it's the Speaker of the House who has written the RCMP to instruct them as such. Why are we even reading this testimony, which would not even have been admissible in the decision the RCMP made?

Mr. Mark Holland: My point is simple, Mr. Chair. It is that the outcome is actionable; the subject matter is actionable.

To the commissioner, I am not suggesting that you make a determination on what your thought is of this process, but you are aware that there are grave inconsistencies here. I'm asking why you would not simply wait for the outcome, which is actionable—and, I would suggest, must be actionable. Why would you not wait, when there are such serious questions before the House of Commons and before this Parliament?

The Chair: Mr. Holland, your time is up.

Go ahead, Commissioner Elliott.

Commr William Elliott: Mr. Chairman, it is my understanding that the matters the honourable member raises as being actionable, to use his term, are not actionable within the context of the disciplinary process initiated on March 30, 2007, against Deputy Commissioner George by the then Commissioner Beverley Busson.

The Chair: Thank you very much, Commissioner Elliott.

Thank you, Mr. Holland.

Mr. Poilievre, this will be the last question. You have five minutes.

Mr. Pierre Poilievre: Commissioner, Mr. Holland went on at some length reading excerpts of testimony before this committee—

excerpts that the Parliament of Canada, through its Speaker, has indicated that you cannot take into consideration in your disciplinary proceedings against Ms. George.

What I think you're waiting for is for Parliament to make a decision. We've been advised by our law clerk that the RCMP cannot use any testimony before the committee; however, it can use decisions by Parliament. No such decision has been made. To this point, Ms. George has not been found in contempt of Parliament. If she were to be found in contempt of Parliament, you could consider that as an agency, but as of now, there is not such a finding. Is it therefore your understanding that you cannot discipline her for things she has said in this room as part of proceedings of this parliamentary committee?

Commr William Elliott: That's clearly my understanding.

Mr. Pierre Poilievre: Not only is it your understanding, it is the instruction—

The Chair: There is a point of order.

Mr. Mark Holland: On a point of order, I don't think it's factually correct that there was nothing that is a matter of public record as an outcome; there was a report by this committee dealing specifically with this.

The Chair: No, this is not a point of order.

Please, Mr. Poilievre, just continue. You've got three and a half minutes left. We are only talking about the reinstatement. We're not going to go back in the history of the whole issue; let us talk about the reinstatement only, please.

Mr. Pierre Poilievre: Even more narrowly, we're talking about whether that reinstatement should have occurred prior to this Parliament's decision on the possibility of contempt by Ms. George. Thus far, the RCMP has no usable evidence that Ms. George has been in contempt of anything.

• (1035)

The Chair: Well, do you have questions?

Mr. Pierre Poilievre: I do have a question for him.

Is it the view of the RCMP that allegations one and three have not been proven?

Commr William Elliott: Yes.

Mr. Pierre Poilievre: The RCMP has determined that allegations one and three have not been proven. We are left, then, with allegation two.

Allegation two is that she perjured herself before this committee. Even if it were true, and even if one day it is found true, you cannot legally take it into consideration in your proceedings, because our Speaker has written you and said you may not. Is that correct?

Commr William Elliott: Yes. There is just one minor point of clarification. The allegation that we're referring to as allegation two, which is so numbered in the formal notice of suspension, is based on an allegation of giving false testimony.

Mr. Pierre Poilievre: That's right. We have three allegations. The first is of an inappropriate conversation Ms. George allegedly had with Mr. McCauley. The third is that she participated in Mr. Frizzell's removal—

Commr William Elliott: Number three actually is.... That is not the exact language of the allegation. Basically, the allegation is that she misled or failed to inform Commissioner Busson.

Mr. Pierre Poilievre: You have dismissed the first and third allegations. You're left with only the second allegation, which deals specifically with her testimony, her words in this committee. The Speaker of the House has since written to you telling you that you may not use her words. Therefore, having dismissed allegations one and three, you're only left with allegation two, and you've since been told that you're not allowed to even consider allegation two, because it is privileged.

Commr William Elliott: With respect to allegation two, I agree with the description the honourable member has made. With respect to allegations one and three, just to be technical and precise for a moment, a decision was made not to proceed to adjudication, which I think is somewhat different. It has the same effect, but dismissal sort of sounds like there was a formal adjudication and a dismissal. What happened was that those responsible for presenting the case to a board determined that there was insufficient evidence to proceed.

Mr. Pierre Poilievre: I would just conclude through the use of deductive reasoning. We have three allegations. You've decided not to pursue the first and the third. The second involves testimony before a parliamentary committee, which you are not allowed to use in your proceedings according to our own Speaker in a letter to you. Therefore, the responsibility rests with us to determine whether she is in contempt. It is the responsibility of parliamentarians now to do our job in determining her comportment before this committee. It is beyond the scope of the law for you to make that determination for us.

Is that your understanding?

Commr William Elliott: That's my understanding.

Mr. Pierre Poilievre: Thank you.

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

We'll have Mr. Sweet.

Mr. David Sweet (Ancaster—Dundas—Flamborough—Westdale, CPC): If I could ask the indulgence of the committee, a number of things were thrown around there—one and two and three. There's one fact that we didn't get on the record. I don't want to ask a question, but I would ask if you would confirm it.

For allegations one and three, was it at the sole discretion of Deputy Commissioner Sweeney to make a decision that allegations one and three were not actionable?

The Chair: I'm going to ask the member to repeat the question to the commissioner.

Mr. David Sweet: Commissioner Elliott, was it at the sole discretion of Deputy Commissioner Sweeney, after Paulson had tabled his report, not to action allegations one and three?

Commr William Elliott: Yes.

Just to clarify, after the report was provided to Deputy Commissioner Sweeney, as I indicated in my opening comments, he made a number of further inquiries. Those included further discussions with Chief Superintendent Paulson, discussions with former Commissioner Busson, and the seeking and receipt of legal advice. He then determined, as the appropriate officer, not to proceed to adjudicate.

The Chair: Okay.

We'll go to Mr. Christopherson.

Mr. David Christopherson: I have a very relevant question. If you don't think it is, Chair, it won't go.

• (1040)

The Chair: Go ahead, Mr. Christopherson. I trust your judgment.

Mr. David Christopherson: I would like to know, for the purposes of what we're looking at here, if there was any senior officer—I'm asking now hypothetically—and there was a finding of contempt by the House, would the commissioner then have the right to take that decision and do something in terms of the officer now having done something that—

The Chair: I think that would be highly speculative.

Mr. David Christopherson: It's speculative, Chair, but we called the witness here because we're saying that he shouldn't have made the appointment. I think it's fair to get a picture in our minds, because we're not a legal body, of what would have happened, to its full extent, to get a sense of how much traction this issue has.

The Chair: I'm going to ask the commissioner if he has any comment on that point.

Commr William Elliott: I think my two comments are that the matter is speculative and that it would be complicated by the fact that all the documents that have been referred to, including correspondence with the Speaker, the chair of this committee, and the Federal Court, talk about the fact that it's not only the sole purview of Parliament to investigate such matters, but also to punish them.

All I can say is that if future events arise, we would certainly look at them and see whether further action is warranted.

Mr. Pierre Poilievre: Chair, I just want to state for the record that what the commissioner has just indicated is not the opinion of the clerk. It is the unanimous opinion of the House of Commons.

The Chair: We'll have a chance to discuss this afterwards, Mr. Poilievre. We're not going to get into a debate or argument right now.

As everyone knows, this committee will discuss this in camera at a later date.

The room is starting to fill up. I'm suspicious that they're not all here to watch us, so I'm going to adjourn now.

On behalf of each member of the committee, Commissioner Elliott, I want to thank you for your attendance here today. You were very helpful. This matter is somewhat troubling to the committee, and I'm sure it's been challenging to you, too. But again, we want to

thank you very much for coming today, under reasonably short notice, and we certainly appreciate your assistance.

The meeting is adjourned.

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