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Thursday, October 21, 2010

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Chair

Mr. Ed Fast

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• (1535)

[English]

The Chair (Mr. Ed Fast (Abbotsford, CPC)): I call to order meeting number 30 of the Standing Committee on Justice and Human Rights. For the record, today is Thursday, October 21, 2010. I would just note that today's meeting is in fact televised.

You have before you the agenda for today. We are continuing and hopefully completing our review of Bill C-22, an act respecting the mandatory reporting of Internet child pornography by persons who provide an Internet service.

To assist us with our review, we have with us the Canadian Centre for Child Protection, its executive director, Lianna McDonald, as well as her assistant, Mary Milner. Welcome to both of you.

We're looking forward to hearing what you have to say. As you know, you have approximately ten minutes to present, and then we'll open the floor to questions from our members. So please proceed.

Ms. Lianna McDonald (Executive Director, Canadian Centre for Child Protection): Mr. Chairperson and distinguished members of the committee, I thank you for this opportunity to provide a presentation on Bill C-22, and the larger issue of child sexual abuse on the Internet. I have had the occasion to review some of the transcripts from the previous meetings, so my goal today is to provide insight and information that has not yet been presented, as well as to make a few clarifications and arguments in support of this new legislation.

The Canadian Centre for Child Protection will offer testimony today based on its role in operating Cybertip.ca, Canada's tip line to report online sexual exploitation of children, and based on its coordinating role with law enforcement and the public and private sectors in combatting online child victimization.

Cybertip.ca was established in 2002 in partnership with the Government of Canada, various provincial governments, a national law enforcement advisory committee, and a federal task force and steering committee.

Like other international hotlines, Cybertip.ca has analysts who are special constables who review, confirm, and triage reports to the appropriate law enforcement jurisdiction. This function permits the verification of the material as potentially illegal and identifies the appropriate jurisdiction, thereby saving very important time for Canadian law enforcement. In particular, the tip line accepts reports relating to child pornography, luring, child sex tourism, and children exploited through prostitution and child trafficking. The tip line is owned and operated by the Canadian Centre for Child Protection.

Since launching nationally, the tip line has received nearly 48,000 reports from the public regarding the online sexual exploitation of children, resulting in over 70 arrests by law enforcement and approximately 25 children being removed from abusive environments.

In 2009 our organization released a research report that provided an in-depth analysis of reports to Cybertip.ca. We have made the summary of that report available to you all this afternoon. It examined almost 16,000 child abuse websites, as well as over 4,100 unique images of child abuse, with the goal of providing an overview of the scope of the problem from the tip line's perspective.

As noted in previous presentations, the data from the report paint a sobering picture of the severity of this global problem. The reality is that 82% of the images analyzed depicted very young pre-pubescent children under the age of 12. Most concerning is the severity of the abuse depicted, with over 35% of all images showing serious sexual assaults. The report addressed the misconception that child pornography is really about young teens in provocative poses; rather, these images depict very young children, toddlers, and infants who are often being abused through vaginal, anal, and oral penetration, and in some instances including bondage and sadistic activities.

It is also important to note that these victims often are silenced because they are being abused by a person in a position of trust. Some of our youngest victims are pre-verbal and therefore unable to tell anyone. While information such as this is difficult to hear, it is more difficult to see, and worse to endure.

Some of the challenges in managing the proliferation of child abuse images on the Internet involve the transient nature of the material, and the challenge of identifying the victims and traders and collectors of the content.

Strategies to address this complex problem involve public education and disruption and enforcement tactics. In Canada, stakeholders in the area of child abuse images and material have made some significant inroads. Beyond our strong legislation, Canada's national strategy to protect children from exploitation on the Internet has provided a deliberate action plan to increase awareness, facilitate reporting, and support law enforcement efforts.

Additionally, it's very important to know that there has been longstanding collaboration from the private sector, most notably Canada's major Internet service providers. The Canadian Coalition Against Internet Child Exploitation, otherwise known as CCAICE, is a voluntary partnership between Cybertip.ca, law enforcement, and the private sector to address this problem. Through CCAICE, a number of important successes have been realized.

One example includes Cleanfeed Canada, which our organization operates. It's a solution to block access to foreign-based websites hosting child pornography. All of the major IPs participate in this program, and to date, over 11,357 unique URLs have been put on this list, blocking these sites from the view of the majority of Canadian citizens.

Similar to countries like Sweden, Denmark, and the United Kingdom, blocking initiatives are one part of the remedy.

After eight years of being directly engaged in the fight to eradicate the proliferation of online child pornography—

The Chair: Ms. McDonald, would you just speak a little more slowly? Our interpreters are having difficulty keeping up. Thank you.

● (1540)

Ms. Lianna McDonald: It's in my nature. Sorry about that. It's my ten-minute time limit; I'm trying to get it all in.

The Chair: Don't worry about the ten-minute time limit. We'll allow you to give your full presentation.

Ms. Lianna McDonald: Thank you.

The Canadian Centre for Child Protection is aware that there is no easy single solution to this problem. To engage other private industry groups in this fight, we are working with the RCMP's National Child Exploitation Coordination Centre, our strategy partner, to establish a Canadian financial coalition against child pornography. This partnership of prominent financial institutions and payment companies will work to identify and eradicate the commercial market for online child abuse imagery in Canada. The goal is to follow the money and disrupt the economics of the commercial child pornography business and to shut down payment accounts used by these illegal entities. This is just another example of the type of cooperation that is necessary to address this complex issue.

We know that reporting is a key component of any country's successful strategy to combat the online sexual exploitation of children. The widespread circulation of child abuse images and the fact that these pictures are viewed, collected, and traded among offenders allow for Internet users to inadvertently come across this type of harmful content. The public nature of the Internet, combined with the viral nature of child pornography, offers the opportunity for the public and Internet service providers to report and assist in the detection of this material.

The results and impact of mandatory reporting are evident in other jurisdictions. Cybertip.ca is the designated reporting agency under Manitoba's mandatory reporting of child pornography legislation. A report that will be released publicly within a few weeks highlights the impacts and success of this legislation. In Manitoba public reporting increased by 126% in the first year that the legislation was enacted, when compared to the previous year.

The goal of the legislation was to facilitate reporting and as a result protect children. Cybertip triaged reports, which resulted in 17 reports containing information related to an identified child victim or suspect in Manitoba being forwarded to a child welfare agency.

The complicated nature of the propagation of child abuse images on the Internet creates additional challenges for those working to combat this issue. On the one hand, we need to stop the sexual abuse of children in homes and in neighbourhoods. By doing so, we will stop the images from getting on the Internet to begin with. On the other hand, we must manage the proliferation of the imagery once on the Internet, which fuels demand, consumption, and the normalization of the sexualization and abuse of children.

Good legislation, adequate resources, global cooperation, technical solutions, and public education are key components to getting ahead of the problem. Mandatory reporting legislation removes the professional and personal dilemma of reporting. It clarifies and reinforces what the major Internet service providers are already doing and offers protection for appropriate action. Companies will also need to develop policies and train employees to help them understand their legal obligations. Through such action, these employees will have additional education and knowledge on the issue, which will impact attitudes and beliefs and ultimately better protect children.

Moreover, this legislation will ensure compliance by others in the industry, including content and hosting providers. Based on reports to Cybertip as of October 19, 2010, there are over 250 live URLs hosting child abuse images in Canada. While Canadian law enforcement agencies currently have the authority to take action in such situations, it is complex and often difficult. Under the new legislation, content providers would also be obligated to report child pornography on their services. This action would serve to ensure that proper and swift remedial action is taken, with penalties promoting compliance.

Legislation also becomes a deterrent and sends the message that Canada will not become a haven for child abuse images in websites. Those profiting from the abuse of children often deliberately move content to avoid detection.

● (1545)

Countries with strong legislation create a disincentive for those involved in providing access to the illegal material. Enacting mandatory reporting legislation demonstrates a cognizance that society as a whole has a moral obligation to protect its most vulnerable citizens and that this obligation is a legal onus on those providing an Internet service, should they come across the content.

In concluding, there is still much work to be done in examining ways that we can better protect children. However, this legislation will put Canada among only nine countries worldwide that meet criteria established by the International Centre for Missing and Exploited Children, which examined existing child pornography legislation and agendas within nations. The report conducted research reviewing more than 196 countries around the world to examine existing legislation and to gauge where this issue stands on national political agendas. The issue of child abuse imagery and material is a global problem that requires strong and harmonized legislation between nations. Canada's leadership and decision to take this additional step sent a clear and strong message to its citizens and other countries that children are a national priority.

I thank you for this opportunity to present.

The Chair: Thank you.

We'll open the floor to questions. Just as a reminder to everyone, after we complete that process I'm hoping to go to clause-by-clause. I'm assuming that everybody has submitted the amendments you want to bring forward.

We'll begin with Mr. Murphy, for seven minutes.

Mr. Brian Murphy (Moncton—Riverview—Dieppe, Lib.): Thank you.

I want to thank you very much for your presentation, for your work, for the written presentations, which are terrific. I'll be taking these home tonight to New Brunswick, which is conspicuous in its absence in not having a provincial law. I guess there are four Canadian jurisdictions who have drafted legislation, two of which are in effect. Your province of Manitoba is probably the gold standard. I know that you're the reporting entity in the legislation; you report on it, and that's fine—good work. I see that Nova Scotia has a proclaimed and “in effect” law. Are you the reporting agency for that? Or do you know what the reporting entity is there? It's not in the law but is by regulation. Do you know who it is?

Ms. Lianna McDonald: Yes, I do. I believe it to be the RCMP.

We have been in discussions with Minister Landry there. The reason we're advocating for the role we play is that, as you can see in these reports, we're able to collect important data. In our discussions right now with Nova Scotia, that is one of the things we are putting forward: needing to have consistency and continuity in the reporting structure.

Mr. Brian Murphy: My understanding is that Ontario and Alberta have also at least drafted legislation. I note in your comments that there are nine countries. We seem to hear a lot about the United States.

Is this federal law in the United States, for which the Congress has entered, or is it state by state? What can you tell us briefly about what the situation is there in terms of legislation?

Ms. Lianna McDonald: What I can say is that in the research they did they looked at child pornography legislation in the United States. It is federal legislation that mandates that what they call ESPs or electronic service providers, to capture the broader types of people providing Internet services, all have a legal obligation to report child pornography, if they come across it in the course of providing services.

Mr. Brian Murphy: Is there anything you came to in the provincial statutes in Canada that is broader than you say in one of your briefs: that Manitoba was the first jurisdiction to have a more universal reporting piece of legislation? Is there anything like that in the United States? How many pieces of legislation like the Manitoba legislation are there in jurisdictions?

Ms. Lianna McDonald: To my knowledge, I can't say factually. I do not believe that there is any other country that has that obligation against all citizens, as it exists right now in Manitoba.

Mr. Brian Murphy: Here is a general question. Obviously we support this to the hilt; it's wonderful. The minister himself says it's a step in a process, so it isn't the end, but is part of the beginning, and we applaud you for your efforts.

My question is simple in words but hard to fathom. It's this: can this federal legislation be improved? Very cautious, erudite lawyers from the Department of Justice have told us that they want to impose a sanction on a duty that's universal to all Canadians and that hasn't to do with child and family services, which are, under the Constitution, certainly the domain of the provinces.

Do you see, however, that there is a broad duty on every citizen to report to the entity a child exploitation crime that is evidenced by child pornography in every instance? Do you see that as something that you'd like to see in federal legislation under the criminal power that the federal government has?

•(1550)

Ms. Lianna McDonald: That's an important question. We wrestle with this in wanting to facilitate reporting. We are certainly passionate about making more people aware and reporting. The challenge we're running into, even on the provincial side and even in our relationship and partnership with Ontario and Alberta, is that the issue surrounding the identification potentially of a child and the role of child welfare within that equation presents a number of complications. Those departments have to be primed, educated, and aware and know what to do. I think the challenge, if there were a federal obligation that wide, would really be how we then properly prepare the front-line folks and individuals who are going to be responsible for it.

That's part one. Part two is part of what we're seeing, and you will see this in the research report. We received 48,000 reports. Of that number, only 44% were triaged and forwarded to police because they would be deemed potentially illegal. Of that 44%, only a much smaller number ended up actually going to Canadian law enforcement agencies, meaning that the majority of the content is hosted outside of Canada.

So to answer the question, it's hard for us to say how we would institute and manage something that was so broad as to apply to every citizen in Canada under federal legislation.

Mr. Brian Murphy: I appreciate the argument about effecting a law, but do you think that the criminal power is broad enough to cover the duty of all Canadians to report to the reporting entity a crime when they see one, as is evidenced in the worst, I guess, of child pornography?

Ms. Lianna McDonald: I'm certainly not trying to avoid the question. I can't answer legally as to the criminal law powers. I don't have that knowledge.

Mr. Brian Murphy: I'm probably running out of time, but I just want to say this. There are two provinces, I think, that have proclaimed legislation and two others that are looking at it, but there are 13 provinces and territories. I'm in New Brunswick; there's no law at all. There will be this about the Internet service providers—I get that—but there's no law that's universal.

Ms. Lianna McDonald: One of the things we are working on in partnership with the provinces right now is to look at similar legislation that can properly apply within the provincial jurisdiction. We support provincial legislation in addition to this. We advocate for departments of family services to be looking at this, in terms of simply extending the definition of “child abuse” to include child pornography within the definition.

So from our agency's standpoint, we are working in tandem with the provinces as they review and explore this, and certainly with the federal government.

The Chair: Thank you.

We'll move to Monsieur Ménard, for *sept minutes*.

[Translation]

Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ): Thank you, Mr. Chair.

I am going to have to ask you questions when I am barely familiar with your organization and I have had only a few minutes to become informed about it and read your interesting brochure.

You are testifying about a bill we are considering. We are aware that this bill provides partial solutions that a problem that is in fact very complex. If we wait for a perfect law, we might let a decade go by before anything gets done. Do you agree with us that this bill is a good step in the right direction and that it is essentially a good bill?

• (1555)

Ms. Lianna McDonald: Yes.

Mr. Serge Ménard: Good. Obviously, this bill does not create an obligation for the public to report a pornographic site where there are children, if they happen to stumble across one when they are on the Internet. Would you like us to go that far, eventually?

[English]

Ms. Lianna McDonald: In terms of my earlier answer, really I can't speak to the powers of the criminal law spectrum and what we can do there.

It is important that we expedite and move quickly on this. I think this is good legislation. It is, as you've mentioned, sir, one piece of the puzzle.

I do think, though, that there is a reason why in provincial jurisdictions there is the responsibility for child welfare, which is

more complex than simply taking in information. There is a whole different spectrum of proper training and evaluation and looking not just at maybe a child in a picture but the children within a home environment, other siblings, etc. They possibly would, and should, complement one another.

[Translation]

Mr. Serge Ménard: Your message is received. However, when I listen to you, I am not too clear on where you want to go. For example, do you want Internet service providers to have an obligation to look at the Internet sites they offer as part of their services to make sure that no child pornography is being offered to their customers?

[English]

Ms. Lianna McDonald: Just so I am clear on your question, I am understanding that you're asking if I agree that service providers should go to websites and look at the sites and then make sure that their customers are not viewing child pornography. Is this correct?

[Translation]

Mr. Serge Ménard: I really wanted to know whether they would make sure they are not offering their customers access to child pornography sites.

[English]

Ms. Lianna McDonald: Yes, we do that right now in Canada—I know it is a lot of information to take in—under Cleanfeed Canada. So we would make this available to Internet service providers, ISPs, on a voluntary basis. Right now we are covering between 80% and 90% of Canadian customers; we are right now blocking known child pornography sites from their clients' ability to view them. That is something we are doing and we are exploring other ways to broaden those lists to make it more comprehensive. That is what we are currently doing with other countries.

[Translation]

Mr. Serge Ménard: You also say that a majority of these child pornography sites come from outside Canada.

[English]

Ms. Lianna McDonald: Right, and under Cleanfeed Canada.... There are two pieces to this that are very important to understand. Within Canada, when a Canadian or someone is involved in the making available of child pornography, we use the Criminal Code to take action against those people to be able to charge them and take action. When we are outside of our jurisdiction yet Canadians have access to it—that is, when we are getting foreign-based websites, so content posted outside Canada—we are putting it on that list because we don't have jurisdiction. That is what we're currently doing.

[Translation]

Mr. Serge Ménard: From what I understand, when the sites come from Canada, it's possible to make sure they are withdrawn from circulation, they are no longer accessible to the general public. Is that in fact possible?

• (1600)

[English]

Ms. Lianna McDonald: It is possible, however—

[Translation]

Mr. Serge Ménard: This bill will help you, since it will give you an agency to which you can report child pornography sites. Then it will be up to the agency to take action.

[English]

Ms. Lianna McDonald: Yes, so under this legislation the service providers who come across and become knowing of sites are not going to know jurisdiction, and that's not their job to assess all of that. They would then report to the designated agency that URL and that agency would then take appropriate action. They are working with police or other options.

The Chair: Thank you.

We're going to move to Mr. Comartin for seven minutes.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Thank you, Mr. Chair.

Thank you, Ms. McDonald and Ms. Milner, for being here.

I want to pursue the same line of questioning, but before I do that, there was some suggestion at the meeting when the minister was here that your agency was one of the ones that was being considered to be the designated agency. Are you in any kind of negotiation with the government at this point to be the designated agency?

Ms. Lianna McDonald: We certainly are not in any negotiations at this point surrounding that, to be very direct and honest. Our agency feels that definitely we would want to be considered for that and has made that clear. And getting back, and just really for my opportunity to say this, I think the role of our agency again is to allow that police are involved in investigating and using their time and resources wisely, not necessarily taking phone calls on e-mail spams, etc. And I think we also play an important triaging role and clearing house for information so that we can present information like this, because we have a picture of what's happening in Canada.

Mr. Joe Comartin: At the present time—this legislation not in place—you get a report of this material being on a site someplace. If you believe it to be criminal, you report it to the local police force?

Ms. Lianna McDonald: Part of our job is to find out where it is, what jurisdiction it falls in, so we use the various online tools. We'll say, for example, this is sitting on a server in Toronto. We would then send that report to Toronto police. We do not do any investigation; that is a law enforcement responsibility.

Mr. Joe Comartin: Let me just stop you there. So once you've identified the source, you report it to the police force in that jurisdiction—

Ms. Lianna McDonald: That's correct.

Mr. Joe Comartin: —who would have jurisdiction. What if the site is outside of Canada?

Ms. Lianna McDonald: Then we report it to the RCMP's National Child Exploitation Coordination Centre in Ottawa.

Mr. Joe Comartin: What do they do with it when it's outside of Canada?

Ms. Lianna McDonald: They would send it to Interpol, who will make sure it gets to the proper police agency for local investigation.

Mr. Joe Comartin: So if you were the designated agency, would you follow that same procedure?

Ms. Lianna McDonald: Yes.

Mr. Joe Comartin: Do you have the capacity at the present time to handle what we would expect would be a significant increase in volume of work?

Ms. Lianna McDonald: I believe so.

Mr. Joe Comartin: How many staff do you have now?

Ms. Lianna McDonald: The entire agency has 40 staff. We have seven full-time content analysts, French and English, who currently do that job right now.

Mr. Joe Comartin: Are you all in one location?

Ms. Lianna McDonald: Yes.

Mr. Joe Comartin: And in terms of the volume of this, Mr. Ménard was on one of the committees about four or five years ago, and we went through this, and it was identified at that point that in fact a vast majority of this material is being produced and is on site outside of Canada. That remains the case?

Ms. Lianna McDonald: Yes, it does.

Mr. Joe Comartin: There have been, say in the last two years, three notorious cases where in fact the material was being produced in Canada and on Canadian sites. Can you help us: does that in any way indicate that there's a growth in the industry in Canada?

Ms. Lianna McDonald: One of our limitations is we base information on reports we receive. We cannot purport to tell a global story because we're analyzing reports that have come in through the tip line. What I can say is that rightly, in reading many of your discussions, it's moving all over the place. I would say—

• (1605)

Mr. Joe Comartin: Ms. McDonald, let me stop you. My time is short. Can you tell me, has there been an increase in the number of Canadian sites in the last three to five years?

Ms. Lianna McDonald: I would say yes.

Mr. Joe Comartin: Do you have any percentage on it?

Ms. Lianna McDonald: I don't have that exact number, but I can find that.

Mr. Joe Comartin: Those are all my questions, Mr. Chair.

Thank you.

The Chair: Thank you, Mr. Comartin.

We'll now move to Mr. Dechert for seven minutes.

Mr. Bob Dechert (Mississauga—Erindale, CPC): Thank you, Mr. Chair.

Thank you, Ms. McDonald and Ms. Milner and all of your colleagues, for the very good work you're doing to help keep our children and children from around the world safe from sexual exploitation.

I have a couple of questions for you. I really very much appreciated your presentation. Perhaps you could just tell us generally how you think this legislation that we're examining today will help reduce child sexual exploitation. And in answering that question, perhaps you could just describe for us why you use the term "child sexual exploitation", as opposed to just "child pornography", which I take it is the material itself.

Ms. Lianna McDonald: Sure. When we refer to child pornography, we are being more specific regarding legislation. That's how it's defined, and we provide that clarity. Generally, we will say "child sexual abuse images and material", which encompass audio, recordings, written material, etc. We use the term "child sexual exploitation" because, through the work of the tip line, we accept reports in a number of categories that fall under that overarching umbrella of child sexual exploitation—for example, luring. That would be my answer to that question.

On the issue in terms of this legislation, I think it definitely will help. As I mentioned in my presentation, while we have fantastic cooperation from the major service providers right now, this legislation captures a broader group of content providers, which is definitely where we see this legislation going a long way toward helping this and in facilitating reporting.

Mr. Bob Dechert: Thank you.

When the minister was here on Tuesday, he mentioned that part of the scope of legislation and desire of the government in introducing it was not only that it would stop people from using this material, but also that it would help our police authorities actually rescue the children involved and prevent other children from being drawn into these sorts of situations. Can you describe how this legislation might help in that regard?

Ms. Lianna McDonald: Yes. This is a very basic point. With the tip line and the role that we're playing, citizens or online users become the eyes and ears of the Internet. They become a neighbourhood watch—and that's certainly more of a moral suggestion.

When we're looking at this, there are many instances—and I would expect this in the future too—when content providers or service providers are going to be the first people to come across it. So if you take an example where someone who is providing an Internet service is aware of a client with child pornography or has found actual child pornography, it's not just about the child pornography they've seen, but there could also be children with and connected to that client or person who is interested in the material. So there is a direct connection between what we see on the Internet and those individuals who are collecting, possessing, and trading this type of material.

Mr. Bob Dechert: Is it also fair to say that if people are using this material, they're more likely to go out and abuse a child?

Ms. Lianna McDonald: We're very careful on that in sourcing the literature. Our agency very much supports that view. In the research document that I've supplied, we source and qualify that point, but there are a number of studies now that make the connection between consumption and viewing of child pornography and contact offences against children, and that's sourced in the report.

Mr. Bob Dechert: Thank you.

The legislation puts forward a duty on Internet access providers, Internet content providers, and also, I understand, electronic mail providers. That's a little new to me and perhaps to some others on the committee.

Why do you believe that e-mail service providers should also have a duty to report child pornography and child sexual exploitation?

Ms. Lianna McDonald: I can give you one really direct example. You can have a family e-mail account. There can be links within an actual e-mail that drive people to the child pornography or child abuse site. We had one report where the public were coming in crying because they'd inadvertently received a spam e-mail containing graphic images of a little young girl being sexually assaulted. That is something we want to stop, especially as children and others are having an open view and access to seeing this type of terrible content.

•(1610)

Mr. Bob Dechert: Thank you.

I understand that the stated goals of the Canadian Centre for Child Protection include reducing the incidence of missing and sexually exploited children, educating the public on child personal safety and sexual exploitation, assisting in the location of missing children, and advocating for and increasing awareness about issues relating to missing and sexually exploited children. Do you think this legislation will help you achieve those goals?

Ms. Lianna McDonald: Yes.

Mr. Bob Dechert: Very good.

My final comment is to congratulate you and your organization for receiving an award, I understand, from Prime Minister Stephen Harper earlier this year for all of your good work. So congratulations to you.

Mr. Chair, if I have any time left, I'd like to pass it to Mr. Norlock.

The Chair: Mr. Norlock, you have just over a minute left.

Mr. Rick Norlock (Northumberland—Quinte West, CPC): Thank you.

I have a couple of quick questions. I'm very familiar with Project P in the province of Ontario. I think that's a joint forces operation between the Ontario Provincial Police and the Toronto police that is hosted by the OPP. Are these some of the agencies you would pass that information on to?

Ms. Lianna McDonald: Yes. We have over 1,100 law enforcement contacts across Canada that we directly send information to. They are definitely in the statistics that we've made available. I'm sure they are available. They're very significant partners with our agency.

Mr. Rick Norlock: You also mentioned that most of the Internet child porn is offshore. However, I'm given to believe by some people who work for Project P that there is a huge market in Canada for people to trade child abuse images. In particular, they share information and trade these images and abusive pictures in the same way that people trade baseball cards and hockey cards. Have you found that in your research and your reporting?

Ms. Lianna McDonald: Absolutely. Again, when you look at the report, we're dealing with very young children in the imagery. There are a number of closed networks of people regularly trading this type of material.

As a last comment, it's important to understand too that this becomes like a currency. It's not only.... To be able to get a picture, you might have to make a picture—abuse a child—to send the picture. There are people who have this sort of issue, and this is a big problem.

The Chair: Thank you.

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

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Thank you, Chair.

Thank you so much for your presentation.

As my colleague Brian Murphy mentioned, we're very pleased to see the government finally come forward with legislation. It appears that the legislation is the right step in the right direction. It will not solve everything, and probably there will be a requirement later on for further legislative responses, but for now it is a good step forward.

I have basically two questions for you. Prior to Cybertip's existence, coming here as a Quebecker I'd never heard of you, so I'd like to know what work Cybertip has done in order to become known in Quebec to ordinary citizens who would then report directly to you. That's my first question.

Second, you were asked by one of the members of the committee whether the government has approached Cybertip.ca to be the organization that's mentioned in the legislation, and you said that it has not been approached. There are no negotiations going on. In that case, I want to ask Cybertip.ca, through you, what your competition would be, if any. What other organizations within Canada already carry out the same mandate that you do, to the same or a greater extent, and could be potential competitors?

My last question, because I had only three, was whether you have people among the 40 staff who are monitoring sites who are French.

• (1615)

Ms. Lianna McDonald: Thank you for your questions.

Quebec is our second-largest reporting province, again in line with population. In fact, Cyberaide.ca is the branding and the tip line *en français*. We also have very close working relationships with the Sûreté du Québec and Montreal and Laval police, so we are carrying out public awareness campaigns in that province. As you know, the challenge is making sure that people are really paying attention and know who we are. We are very committed to raising awareness in that province, and we are actually exploring a partnership right now

with the Montreal police service through which we will perhaps plant someone there and then go out and offer prevention and education within that province. That's my first answer.

In terms of the competition, we were set up to do this very specific and narrow function. I would argue that there is not an entity in Canada with the same capacity and capabilities. We have eight years under our belts now in terms of knowledge and experience. I would say that we are the logical agency. I'm hoping.

Finally, as mentioned, in terms of our reporting in Quebec, we deal with a lot of sites and reports that go into Quebec, whether they are websites, luring cases, or other things. So while we're not monitoring in that sense, we are still offering through Cleanfeed and through our normal reporting process those important services.

Hon. Marlene Jennings: And they are offered in French.

[Translation]

Ms. Lianna McDonald: Yes.

Hon. Marlene Jennings: Very good, thank you.

[English]

And you did an excellent pitch for the government. Once this legislation is enacted, receives royal assent, it starts negotiating with Cybertip.ca.

The Chair: Thank you.

We'll move on to Monsieur Lemay, for five minutes.

[Translation]

Mr. Marc Lemay (Abitibi—Témiscamingue, BQ): Thank you, Mr. Chair.

I was very surprised when I read your brochure, because I had never been aware of it. I think the work you are doing is extraordinary. It must not always be easy.

At page 45 of your document, I see only photographs of aboriginal people. Was that intentional? In fact, all of them are in Manitoba. Is that because you only work in Manitoba? Is it because this is the information you have received? There must not be just these children.

[English]

Ms. Lianna McDonald: That's a very good question. We, as the Canadian Centre for Child Protection, offer three national programs. Cybertip.ca is our signature program. Kids in the Know, Enfants avertis, is an education program we offer to every province and every school in Canada, and then Commit to Kids is another prevention program in all provinces and territories. Then we also operate Child Find Manitoba in the province, which is a missing children's organization. So the reason you see the Manitoba children showcased in this report is not at all to reflect that we're only dealing with Manitoba children, but it is one of our smaller little programs that we carry out there.

We do, however, sir, work with the Missing Children's Network and all of the Child Finds and other missing children's agencies across Canada and look for children right across the country.

[Translation]

Mr. Marc Lemay: Is this brochure, which is very well done, distributed in Quebec? Like Ms. Jennings, I wasn't familiar with you before coming into this room at 3:00 this afternoon.

Is this brochure distributed in Quebec at present?

[English]

Ms. Lianna McDonald: It is, and I take very seriously your concerns and comments about that. We are, as mentioned, looking to establish another office in Montreal. All of our prevention and educational materials are made and put out fully in mass advertising and marketing campaigns right through the province. In fact, I'll just add that the police service of Laval just carried out an important luring arrest that was the result of a report that we did. They did a joint announcement and campaign with us that they distributed right across within their jurisdiction.

However, sir, I take your note, and we will work harder to become better known in your province.

• (1620)

[Translation]

Mr. Marc Lemay: I come from Abitibi, but my colleague who comes from Laval has never heard of it either. The Sûreté du Québec has a squad and I think it would be important for this to be in all the schools as soon as possible.

If I stumble on a website that seems dubious to me and I want to make a report, what should I do? Should I go to Cyberaide.ca and then you will look after it? For the people who are listening to us now and who might want to do this, can you explain how it works?

[English]

Ms. Lianna McDonald: Thank you.

What happens is a person comes across what they believe to be potentially illegal or child pornography. They come to Cyberaide.ca. They go in. They fill up whatever information they have and know. We also accept anonymous reports. People come in, they fill it out. It's submitted. Within 48 hours our agency reviews all of the reports coming in, triages that information, and makes sure it gets into the hands of the appropriate police jurisdiction.

So we have two pieces to our mandate. One is making sure that reports go right to the appropriate law enforcement jurisdiction and swift action is taken. In the other we field direct telephone calls right across Canada, and we provide education and prevention. If a mother is concerned her daughter is communicating with someone on the Internet, we provide advice and information to families as well.

[Translation]

Mr. Marc Lemay: The site operates 24 hours a day, 7 days a week, 365 days a year?

[English]

Ms. Lianna McDonald: Yes, it's 24 hours a day, 7 days a week, 365 days a year.

[Translation]

Mr. Marc Lemay: Thank you.

[English]

The Chair: Thank you.

We have one short question from the government side. Mr. Woodworth.

Mr. Stephen Woodworth (Kitchener Centre, CPC): One short question?

The Chair: I always like to be efficient.

Mr. Stephen Woodworth: I was hoping for a little more than one short question.

The Chair: You have up to five minutes.

Mr. Stephen Woodworth: Well, thank you. That's better.

I want to first of all thank you for being here and for bringing us this evidence, because I think it's very important and I think what you've told us bears repeating and saying out loud: that 61% of all victims of sexual assault are children; that you monitored 4,110 images and that 82.1% of those images depict very young, prepubescent children under the age of 12; and that of those 4,110 unique images, over 35% actually depict sexual assaults against children.

So I say that even if there are people who might claim that crime rates are going down, these incidents are unacceptable. I'm just glad that the government is getting tough on these crimes.

I'm supposing that if I asked you whether you think the government is on the right track with this bill, the answer would be a resounding yes. Is that correct?

Ms. Lianna McDonald: Yes.

Mr. Stephen Woodworth: And do you agree that this bill will help to protect children from online sexual exploitation?

Ms. Lianna McDonald: Yes.

Mr. Stephen Woodworth: Thank you.

I also will ask you, because I think my friend Mr. Norlock was pointing out to me a moment ago that we are here as members of Parliament to ask the questions that our constituents would ask.... I noticed in the brief you gave us that one of the things your agency does is educate parents and others about risks posed to teens using mobile phones and highlight strategies that can be used to keep them safe.

Since I think I have a couple of minutes left and we are being televised, I'd like to invite you to expand on that a little bit and maybe tell us some of the strategies that our constituents can use to keep teens safe in this respect.

Ms. Lianna McDonald: This is a huge question. I think most Canadian parents, especially those of teenagers, are being bombarded with so many issues. Our agency is equally committed to educating the Canadian public.

In terms of the whole issue concerning cellphones, we have a whole website called “textual education”, TextED.ca. Families can go in there and learn about texting. We have a site called “Mobile Safety” site. We have age-appropriate safety tips for all families, by which they can learn how to keep their kids safer.

One of the things we are really trying to educate parents on is that the way you deal with a young grade 6 or grade 7 child is going to be very different from the way you're dealing with your grade 11 or grade 12 child. So really, we've tailored the information to be appropriate and to give parents tools to navigate through this complicated space. We have a number of website resources.

I should note that last year we distributed 1.6 million pieces of educational material, to every school across Canada, in French and in English, and this was one of the issues we dealt with.

• (1625)

Mr. Stephen Woodworth: Excellent. So our constituents can check out your websites, which you just mentioned. Thank you very much.

Mr. Chair, if I have any time left, I would be happy to share it with my friend Monsieur Petit.

The Chair: Monsieur Petit has waived his right to speak.

Mr. Stephen Woodworth: I'm complete, *fini*. *Merci*.

The Chair: All right. Thank you.

I wanted to commend both of you, Ms. McDonald and Ms. Milner, for the work that you do. I think Canadians understand that government can only do so much, and we need Canadians to work together with us on this problem. You're doing yeoman's service to Canadians by continuing to fight the fight against the sexual exploitation of our children. So thank you.

What we're going to do now is have Department of Justice officials take their places at the table. We'll suspend for two minutes and then we'll continue with clause-by-clause.

• (1625)

(Pause)

• (1625)

The Chair: I reconvene the meeting.

I want to welcome to the table Ms. Catherine Kane, Mr. Normand Wong, and Mr. Jean-François Noël. Welcome back to our committee.

They are here as resource people if we have any questions regarding the bill; they're here representing the Department of Justice.

We're going to move to clause-by-clause consideration.

Pursuant to Standing Order 75(1), I'm going to postpone consideration of clause 1.

Mr. Lee.

Mr. Derek Lee (Scarborough—Rouge River, Lib.): Mr. Chair, just on a point of order, we don't have anybody representing the government here on this bill.

• (1630)

The Chair: What do you mean?

Mr. Derek Lee: We have departmental officials, but this bill is put forward by the government, and there isn't anyone representing the minister here. Has someone decided not to have the parliamentary secretary represent the minister?

The Chair: The parliamentary secretary is here.

The normal practice here, in the two years that I've chaired this committee, is not to have the minister here. We typically have the parliamentary secretary sitting as one of the government members and we typically have Department of Justice officials here. So there's nothing uncommon about what we're doing today.

I know you're new to the committee. I don't believe there's any requirement that we have the minister or someone representing the minister at the other end of the table. The parliamentary secretary is here. Actually, we have two parliamentary secretaries; you're getting a bonus.

Mr. Derek Lee: If the members sitting opposite will be representing the government position—

The Chair: Yes, they are.

Mr. Derek Lee: —and if they're prepared to deal with it that way, I'm fine.

You've only been here two years; I've been here 22 years. I can tell you what my normal is. It may vary from what your normal is. However, I'm prepared to have the existing arrangement, if it's the understanding that the parliamentary secretaries will, if necessary, speak for the government, as opposed to departmental officials doing so.

The Chair: Mr. Lee, I know you've been here a lot longer than I have, but I know that over the last two years the arrangements we have right now at this committee have been the ones we've used. In the previous two and a half years, back to 2006, the committees I sat on also used the same process.

Now, your committees may have had a different understanding, but I don't think we should get bogged down on this. I think everyone is in agreement that the parliamentary secretaries are present and will be representing the government's position at the table.

Mr. Derek Lee: Thank you.

Mr. Bob Dechert: Mr. Chair, just to put Mr. Lee at ease, I'd like to state for the record that Mr. Petit and I will jointly officially represent the Minister of Justice here today.

The Chair: Thank you. I think we've solved that problem.

Just to restate, I'm postponing consideration of clause 1, which is the title. That's pursuant to Standing Order 75(1).

I'll call clause 2. There is an amendment that has been presented by the Liberals, if you would like to introduce it.

(On Clause 2—*Definitions*)

Mr. Derek Lee: Thank you, Mr. Chair.

In reading the bill, members will note that there's a difference in format between the English version and the French version of the definition of Internet service.

The French version—and I'm using my own English words to paraphrase it—refers to Internet “services”, meaning services of type A or B or C, but all of them being services.

The English version reads:

“Internet service” means Internet access, Internet content hosting or electronic mail.

There is no reference here to the “service” of Internet content hosting or “service” of Internet access, or, most importantly, the “service” of Internet mail. It simply says “electronic mail”. In my reading, as I mentioned at a previous committee hearing, this would implicate anybody who sends electronic mail, in contrast with what I think was intended and what the French version reads: anyone who provides electronic mail services. There's a difference between somebody who simply sends electronic mail and somebody who provides electronic mail services.

So my amendment would add the word “service” after the words “electronic mail” so that it reads “electronic mail service”.

The Chair: Thank you.

That amendment has been moved. Is there any further discussion?

We'll go to Mr. Dechert, and then Mr. Woodworth.

Mr. Bob Dechert: Thank you, Mr. Chair.

We have the Department of Justice officials here. I believe they've had an opportunity to review Mr. Lee's proposed amendment. I wonder if I could ask them to comment on it.

The Chair: Ms. Kane.

Ms. Catherine Kane (Director General and Senior General Counsel, Criminal Law Policy Section, Department of Justice): Thank you.

To respond to Mr. Lee's concern, we have, as Mr. Dechert said, looked at the proposed wording and would suggest that perhaps the intent can be accomplished in a slightly different way.

The proposed motion adds the word “service” at the end, which would seem to just modify the term “electronic mail”. And if we were to propose wording that said “‘Internet service’ means a service providing Internet access, Internet content hosting or electronic mail”, it would cover all three as services. “A service means a service”—it seems a bit redundant, but it is clear, and it is consistent with the French.

We would suggest that would be an appropriate way to meet your objective in a manner that is appropriate drafting.

• (1635)

Mr. Derek Lee: Mr. Chairman, I would accept that proposal coming from the Department of Justice if the wording is clear on the record.

Is there a draft of that?

Ms. Catherine Kane: Unfortunately I don't have it in writing, but I can read it slowly, with your permission.

Mr. Derek Lee: If Ms. Kane reads it, I'd be happy to move it.

Ms. Catherine Kane: Okay.

So the proposed wording for the motion would be that Bill C-22, in clause 2, be amended by replacing, in the English version, lines 1 and 2 on page 2 with the following:

“Internet service” means a service providing Internet access, Internet content hosting or electronic mail.

[Translation]

Mr. Marc Lemay: Can you repeat the last few words?

[English]

Ms. Catherine Kane: Yes.

“Internet service” means a service providing Internet access, Internet content hosting or electronic mail.

The Chair: All right, Mr. Lee, I'll just repeat that once more, and you'd be withdrawing yours and replacing it with this one. I believe that's a proper process.

It would read, again, that Bill C-22, in clause 2, be amended by replacing, in the English version, lines 1 and 2 on page 2 with the following:

“Internet service” means a service providing Internet access, Internet content hosting or electronic mail.

Is that acceptable to you?

Mr. Derek Lee: Yes, and I will move that amendment.

The Chair: All right. So it's moved.

Monsieur Ménard.

[Translation]

Mr. Serge Ménard: Do we have to put the words “Internet service” in quotation marks?

[English]

Ms. Catherine Kane: Oui.

[Translation]

Mr. Serge Ménard: Thank you.

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): To be certain we are talking about the same definition.

[English]

The Chair: Just for the record, the words “Internet service” would be in quotation marks.

Mr. Marc Lemay: *Parfait.*

(Amendment agreed to)

(Clause 2 as amended agreed to)

(Clauses 3 and 4 agreed to)

(On clause 5—*Preservation of computer data*)

The Chair: Moving on to clause 5, we have an amendment, Liberal-3.

Mr. Murphy, you would like to introduce that amendment?

Mr. Brian Murphy: Very simply, it changes or moves forward the number of days that computer data shall be preserved from 21 to 30 days. And in making that I'll say this: the longer the better was my thought.

The answer from the officials—and I'll give them an opportunity to flesh out their answer to the committee—was that it was consistent with other timelines elsewhere. This is a way of maybe tweaking a further response from the government or the Department of Justice as to why 21 days was picked and why isn't 30 days better, which is what we believe.

The Chair: Ms. Kane, do you want to respond before I go to Mr. Dechert?

Ms. Catherine Kane: I will begin the response, and my colleagues may provide additional information.

With respect to the motion, as you know, the 21-day period was also the period of time that was reflected in former Bill C-46 and Bill C-47, introduced in the last Parliament. As our minister has indicated, the intention of the government would be to reintroduce, dealing with investigatory powers for police and so on. The consistency with the 21-day period was with respect to that period as well.

The other thing that we would note is that your motion proposes to change the 21-day period in subclause 5(1), but there is no similar proposal to change that 21-day period in subclause 5(2). That would need to be—

• (1640)

Mr. Brian Murphy: Maybe we should have done that too.

Ms. Catherine Kane: If there is going to be any change in the date, that would need to be looked at, but in our opinion, the 21-day period is an appropriate length of time. Mr. Wong can comment on what needs to be done or not done in that 21-day period.

Mr. Brian Murphy: I'd like to do the 21 days in subclause 5(2) as well, but there's not much meat on that, so I hope there's more.

The Chair: Go ahead, Mr. Wong.

Mr. Normand Wong (Counsel, Criminal Law Policy Section, Department of Justice): Thank you, Mr. Chair.

The 21-day period was identified by Ms. Kane as being consistent with former Bill C-46. In Bill C-46 it related to a preservation demand by a peace officer. Through the machinations of our policy development and legislative development, we've had discussion about the appropriateness of the time. That period of preservation would allow police, under former Bill C-46—and of course that's not law right now—either to obtain a preservation order under that bill to extend the preservation period or to obtain a production order or a search warrant to obtain those materials as evidence.

For us 21 days is, I think, still consistent. We've consulted with police forces across Canada in terms of the appropriateness of the time. In order to obtain a production order or a search warrant, they can go before a justice of the peace, and it's quite a rapid process. It doesn't have to be a lengthy process. They can normally get that 24 to 48 hours later. If they can get it in 24 to 48 hours, 21 days seems to be more than ample for them to be able to secure that information.

Mr. Brian Murphy: I'm not making a big deal of it. I think I'll withdraw my amendment. It's not an unreasonable time, it seems. I withdraw my amendment.

The Chair: Okay. The amendment is withdrawn, presumably with the consent of the committee.

Some hon. members: Agreed.

The Chair: All right. We'll go to Mr. Lemay—actually, Mr. Dechert, did you have any further comments?

Mr. Bob Dechert: No.

The Chair: Go ahead, Mr. Lemay.

[Translation]

Mr. Marc Lemay: In fact, I support removing it, but I would like to ask Mr. Wong a question.

Do you think 21 days is sufficient for police forces to do what they have to do, to get a search warrant or whatever else?

[English]

Mr. Normand Wong: That is what they have indicated to us, and we've consulted with police forces across the country.

[Translation]

Mr. Marc Lemay: Thank you.

[English]

The Chair: All right. We'll go to Ms. Jennings.

Hon. Marlene Jennings: Pertinent to this point and to this particular clause, I have a suggestion.

Given that the 21 days is based on previous government draft legislation that was before the House, that is no longer before the House, and that the government has yet to reintroduce before the House, I think there's a good chance that this piece of legislation may in fact be enacted before we see the light of day with regard to that previous legislation. It would give time to see whether or not that 21-day period turns out to be sufficient. It might be—

[Translation]

Mr. Marc Lemay: Mr. Chair, a point of order. There seems to be a problem with the interpretation service.

Hon. Marlene Jennings: I will repeat it in French.

[English]

The Chair: Before you proceed, I'm going to ask if the technical problem in the booth has been resolved. Are members hearing the French channel? Yes? All right; we'll proceed.

Please continue, Ms. Jennings.

[Translation]

Hon. Marlene Jennings: And now I feel like speaking French.

My suggestion is this. If this bill were in force for a period of time before the government moves on its former Bill C-46, we might have enough experience to know whether the 21 days is enough. If experience shows that it isn't enough, you can suggest that the government, whichever one it may be, extend the time and amend the legislation.

• (1645)

[English]

The Chair: Thank you.

[Translation]

Hon. Marlene Jennings: I will support it when it's time to vote.

[English]

The Chair: The amendment having been withdrawn, I will call the question.

(Clauses 5 to 9 inclusive agreed to)

(On clause 10—*Provincial or foreign jurisdiction*)

The Chair: Now we move to clause 10. There is an amendment from the government side.

Mr. Woodworth, I believe you're introducing it.

[Translation]

Mr. Stephen Woodworth: Thank you, Mr. Chair.

[English]

Bill C-22 imposes two duties on those who provide an Internet service to the public. First, under clause 3 providers are required to report, in effect, Internet address tips that they might receive regarding websites where child pornography may be available. In addition to that, under clause 4 providers are required to notify police if they have reason to believe that a child pornography offence has been committed using their Internet service. Of course, as we were discussing a moment ago, in that case they are also required by clause 5 to preserve the evidence for 21 days.

The clear intent of clause 10 is to avoid any duplicate reporting under clause 3 when a service provider has already reported the same incident under the laws of a province or of a foreign jurisdiction. However, under the current wording of clause 10, which deems that reporting to be compliance with the act, one could well be saying that this would relieve the provider of its obligation of notifying and of preserving evidence under clauses 4 and 5. That is not the government's intention.

The amendment is intended to replace the reference to the act with reference to section 3 of the act, and only deem that requirement to be satisfied in cases when reporting to a province or a foreign jurisdiction has occurred. That will make clear that it does not relieve the provider of compliance with clauses 4 and 5.

The Chair: Thank you.

You've heard the amendment. Did you want to hear from the officials?

Mr. Comartin.

Mr. Joe Comartin: I have a question to put to the officials.

The effect of this, which obviously I support.... If you are mandated by law in another jurisdiction to report, in effect, the content as described in clause 4, there will be a duplication. You would report to that jurisdiction and you would report to Canadian authorities.

Mr. Normand Wong: There would be a duplication in that case, only when the....

Mr. Joe Comartin: Mr. Wong, let me put it to you this way. We just heard from Ms. McDonald that the vast majority of this material is being produced offshore. A number of those jurisdictions have requirements for reporting. So a Canadian service provider here, knowing that the material has been on a site in, let me say, eastern

Europe—because we know that's one of the major sources of this.... They have law there that requires them to report. Would they be required to report to them and to our police authorities?

Mr. Normand Wong: The extraterritorial applicability of this section would apply to them, but only to the extent of the information that they have. The duty under clause 4 to notify police arises when you have reasonable grounds to believe that a child pornography offence has been committed.

The way the couple of Internet service providers that are U.S.-based whom we've talked to are structured is that their servers are in the United States. Their corporate entity in Canada would probably never form the reasonable grounds to believe that a child pornography offence has been committed over their system until their parent company informed them. At that time, they'd be required to notify police. But really, the only information they would have is the e-mail notification that their parent company has it.

In the United States it works out well, because in the United States there is a mandatory reporting regime. The NCMEC, the National Center for Missing and Exploited Children, works hand in hand with the RCMP in Canada. It forwards any tips or any information it has to the RCMP in Canada.

• (1650)

Mr. Joe Comartin: Thank you.

The Chair: Thank you.

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

(Clause 10 as amended agreed to)

(Clauses 11 and 12 agreed to)

The Chair: When we get to clause 13, there is a Liberal amendment.

Mr. Murphy, I believe that's yours as well, if you would introduce it.

(On clause 13—*Regulations*)

Mr. Brian Murphy: Yes, I was carrying Derek's message on this.

I realize it's a bit odd to have the power to make regulations stunted like this, but I think Mr. Lee brought up some points that worried us: that perhaps paragraph 13(f), which is the general or the catch-all provision that's effectively being proposed for deletion here, might provide too much scope to provide by regulation the creation of a criminal offence, when we want to be very careful about what we're creating here.

I want, if I may, to ask the departmental officials to tell us how many acts like this, in which there is a section for regulations, don't have a general catch-all. Has it ever happened before?

The Chair: Ms. Kane.

Ms. Catherine Kane: We can give you some examples.

Is your question whether there are acts that don't have that kind of provision or acts that do?

Mr. Brian Murphy: Well, in acts that call for the promulgation of regulations by Governor in Council to shepherd the act to its intentions, when that happens usually they're specific—you know: “We will make regulations for specific aspects”—which is very clear from paragraphs (a) through (e) of clause 13. Those are very specific and unobjectionable; there's no way they could overstep the bounds of the act. But I think....

I served on the scrutiny of regulations committee for a year, a fascinating committee—

Some hon. members: Oh, oh!

Mr. Brian Murphy: Why are people laughing at that? That's an amazing committee, because it shows you the power of regulations, and I think we have to be watchdogs concerning them—rendering homage to Derek Lee, who's been here 22 years, I think he said earlier.

If we took this out, I think it would be okay with me, because there's quite a bit of power in paragraphs (a) through (e).

So my question was does every act that has a subsection saying that regulations may be brought forward have the catch-all, which is the one I'm trying to get rid of?

Ms. Catherine Kane: I couldn't say whether every act has, but I could direct you to, for example, the Fisheries Act and the Environmental Protection Act—and we can provide you with copies of those—which have very similar provisions to paragraph (f), which is a more general clause.

I would also mention for your consideration that this provision is circumscribed in some way, because it says it's “for carrying out the purposes and provisions of this Act”. It's not a wide-open power to make regulations; it's only with respect to the provisions of this act. So wherever there are provisions in the act that don't refer to what's going to be set out in regulations, it's not going happen.

Regarding the concerns that were raised the other day about whether this could create new criminal offences, the Minister of Justice made it very clear that it would not happen. The regulation power is derived from this statute, and the purposes of this act are for the mandatory reporting of child pornography. So the regulations are going to deal with the agency that will receive those tips, the way the reporting is to occur, and so on.

This last provision is in case some of those other things aren't specific enough to cover the circumstances that arise. But it's not an invitation to change the purposes or the provisions of this act through regulations.

• (1655)

Mr. Brian Murphy: Just to take you on a bit on that, I find paragraphs (a) through (e) of clause 13 extremely specific and encompassing the act. I can't imagine other aspects. There's quite a regulatory power to make the proper regulations for reporting, notification, security, etc. I'm happy with (a) through (e).

I'd be happy to hear other members' comments.

The Chair: Right now we have Monsieur Ménard, then Ms. Jennings, and then Mr. Woodworth.

[Translation]

Mr. Serge Ménard: I would like to know whether the translation of paragraph 13(f) is standard, whether it is in common use in federal regulations. It seems to me that there is a difference between the English text and the French text. To the extent that I understand the English text, it is clear. The French text is more vague, in that it says the Governor in Council may, “*par règlement ... prendre toute autre mesure d'application de la présente loi*”. When it says “*mesure d'application de la loi*,” it's undoubtedly talking about regulations, but it can also mean other things.

But if that is the standard way of writing federal legislation, because I imagine these expressions are in common use in federal legislation, and the translation is always the same, then it's wise for it to be the same in all legislation. But I find it surprising, because this is the first time I have noticed this kind of difference between the two versions of this clause, which is probably common to a lot of legislation.

[English]

Ms. Catherine Kane: My colleague has noted that the Canadian Environmental Protection Act, which has a similar provision in English, uses exactly that terminology *en français*.

[Translation]

Mr. Serge Ménard: I understand that in the Canadian Environmental Protection Act, the expression “*toute autre mesure*” has a general meaning and it's not just that regulations can be made, because the intention is to take other measures as well.

But here, it seems the only power that is intended to be given, generally speaking, is the power to make regulations. The word “*mesure*” in French does not necessarily mean just regulations, while in English, clearly, it refers only to regulations.

I understand that there would be measures in the Canadian Environmental Protection Act, because of the nature of the subject matter. The translators really are the experts. In my opinion, the translators at the Department of Justice are the best in the world in terms of translating from French to English, so they could certainly tell us.

[English]

Ms. Catherine Kane: The legislation isn't translated from one language to the other. Two versions of the legislation are drafted simultaneously, one in English and one in French, so it's not always an exact word-for-word translation. It's for the meaning and the content, so that the section flows. The comment I made earlier was only to note that this particular term is used quite often in the French-language version to convey the same notion: that for the purposes of carrying out the act, other regulations can be made. It's not to change the content of the act.

We all need to bear in mind as well that regulation-making power isn't a law-making power in the same way as Parliament would proceed with this bill. The regulations have to draw from this bill; the authority to make them has to be found in this bill, and they have to be for the purposes of the act as enacted by Parliament.

The Chair: Thank you.

We'll go to Ms. Jennings.

Hon. Marlene Jennings: Given that I, like Mr. Lee and Mr. Murphy, have sat on the committee for the scrutiny of regulations, and that I'm now again on scrutiny of the regulations, I do have a very lively interest in the issue of regulations and the authority upon which to adopt regulations. I am cognizant of the fact that there are a number of pieces of legislation that do have that catch-all phrase. Therefore, I would like you to give us some concrete examples of legislation—for instance, you talked about the fisheries and the environment—that has the catch-all phrase that the Governor in Council may make regulations generally for carrying out the purposes and provisions of this act. Do you have examples of using that Governor in Council catch-all phrase to make a regulation that went through scrutiny and was found to come within the scope of the law and the authority of the law, etc., and wasn't ultra vires?

Do you have an example? That's our concern: where has it actually been used, and been used correctly, and not been found to be beyond the bounds or the scope of the enabling legislation, *la loi habilitante*? Do you have an example?

● (1700)

Ms. Catherine Kane: I don't have an example with me today of a piece of legislation, another federal statute, that has that provision and that also has regulations that have been enacted and have gone to the committee—

Hon. Marlene Jennings: I mean under that specific provision.

Ms. Catherine Kane: I don't have that with me today, and I don't know how easy it would be to determine what the Standing Joint Committee for the Scrutiny of Regulations has looked at, but subject to not stalling this bill, we could discuss with our drafters what regulations, in their experience, have been enacted under other federal statutes.

Hon. Marlene Jennings: I'm going to interrupt you right there, Ms. Kane. I do not appreciate your use of the term “other than stalling” or “outside of stalling this bill”—

Ms. Catherine Kane: I'm sorry. I apologize—

Hon. Marlene Jennings: I do not believe that any member on this committee dealing with this particular legislation or any other legislation that comes before us, whether it comes from the government or from an individual member, is interested in or has a goal of stalling legislation. When we ask questions, our questions are based on good faith. We are attempting, especially in the case of this legislation.... I think every member sitting around this table has made it very clear that we welcome this piece of legislation. We see it as a good step in the right direction. It is clearly not the answer-all and be-all to everything, but it is definitely a step in the right direction, and now our concern is not to stall it, but to get some clarification.

I understand that you may not have come here prepared for the question that I have asked or for the point that my colleague raised, and therefore the simple response would be “Yes, they do exist; yes, there have been cases in which regulations have been adopted under a provision like that under other legislation. I do not have the examples with me”, and leave it at that.

Ms. Catherine Kane: Yes, I apologize. It was an inappropriate use of language. I had heard you indicate earlier that you wanted to move ahead with the bill.

Hon. Marlene Jennings: Thank you.

Ms. Catherine Kane: You are right. I do not have those examples with me, because it was not something that we had expected we would be required to prepare. Most of our legislation deals with the Criminal Code. This is a stand-alone statute, so I don't have personal familiarity with the range of other federal statutes that have had regulations promulgated that have been considered by the committee.

We can undertake to inquire of colleagues whether that information is available. I don't know how long it would take to provide that information.

The Chair: Thank you.

Hon. Marlene Jennings: That's fine. Thank you very much. I appreciate your apology.

The Chair: Thank you.

Go ahead, Mr. Woodworth.

[Translation]

Mr. Stephen Woodworth: Thank you.

First, Mr. Lemay, if you read the preamble, you will see the words “*par règlement*”. Those words qualify the other words in this section. So the last section

[English]

only relates to regulation. I say this simply to reassure you on this point. I hope it does.

With respect to other issues, I would like to refer the committee to section 155 of the existing Youth Criminal Justice Act, which empowers the Governor in Council to make regulations. After two specific paragraphs—

● (1705)

Mr. Brian Murphy: What section is that again?

Mr. Stephen Woodworth: It's section 155.

After two specific sections it includes a clause that is exactly equivalent to the one before us today—that is, generally for carrying out the purposes and provisions of this act.

I was grateful to Mr. Lee for bringing this issue to our attention and specifically mentioning that this is criminal law legislation so we must be careful with regulations. I looked in other criminal law legislation, and I think we can agree that the Youth Criminal Justice Act is criminal law legislation.

I also want to commend Mr. Lee for having spent 22 years on the scrutiny of regulations committee and still having the brain cells to rub together to raise this issue. But I also want to point out that thanks to his efforts and the efforts of that committee, every regulation that does get promulgated under such authority as we are dealing with today is scrutinized to ensure that it is not ultra vires or unconstitutional in any fashion. That is the role of the scrutiny of regulations committee.

I am not asking that we search the whole history of regulations to see if one got through okay, but whether anyone knows of any regulation under section 155 of the Youth Criminal Justice Act that is unconstitutional and somehow escaped Mr. Lee's eagle eyes and those of his colleagues on the scrutiny of regulations committee. I have such confidence in Mr. Lee that I'm willing to stake money on the fact that there is no regulation under the Youth Criminal Justice Act that is unconstitutional and escaped the committee's justified scrutiny.

I also wish to refer to one other example in the way of criminal law jurisdiction, and that is the Controlled Drugs and Substances Act, which I hope we will all agree is a criminal law statute. Section 55 of that act says that the Governor in Council may make regulations for carrying out the purposes and provisions of this act; then it goes on to make 25 specific references, without limiting or restricting the generality of that.

Again it has substantially the same wording. It seems to me completely proper to include that, because we cannot predict every contingency. We try, but we cannot, in the end, being human, predict every contingency. Therefore these general clauses have been used for many years, to my knowledge. I would be willing to bet some of them were even in the legislation passed under the former Liberal government and accepted by them. We do rely on the scrutiny of regulations committee to ensure the constitutionality.

The Chair: Mr. Dechert.

Mr. Bob Dechert: Thank you, Mr. Chair.

I have three points. I think Mr. Woodworth has done a very good job of pointing out that there are several criminal law statutes that use the exact or very similar phrasing. I have three more to suggest, which admittedly were not criminal law, and I'm happy to share the specific section references with Ms. Jennings and anyone else who is interested. I have the exact wording here on the BlackBerry.

There are two more important points, and one is simply that my recollection from 25 years of practice in law, which is slightly longer than Mr. Lee has been here in Parliament, is that there is a general rule of statutory interpretation that charging powers can only be in statutes and may not appear in a regulation where they are not specifically referenced in the charging powers in the legislation itself.

Secondly but more importantly, this whole bill is about Internet dissemination of child pornography that leads to sexual exploitation. We all know that Internet technology changes every single day. The people who put this heinous material out there on the Internet are constantly looking for another way to get around every law and every regulation so they can get it to the people who want to use it. We're here today to protect those children, to rescue them, and we don't want to hamstring the police authorities, the proper authorities, in their enforcement of this act because we have to come back to Parliament and pass another law to add something that could simply be added by regulation through this very general wording in the act.

• (1710)

The Chair: Thank you.

Mr. Lee, you wanted to speak. Please go ahead.

Mr. Derek Lee: Mr. Woodworth has done a good job of describing the background here. My purpose in raising it is that I think it should be raised where it comes up in any criminal or quasi-criminal statute—something we should advert to as legislators before we move it back to the House for passage.

This is a straight-line, straight-up criminal statute. That's how the government has described this. For example, in the regulations section, regulations can be made regarding the modalities of notification. It would be possible to make a regulation that restricted or enhanced the burden on the citizen—in fact, made it a trick notification on the citizen. All kinds of things can happen, even without the basket clause in paragraph 13(f). Mr. Woodworth points out that our law prevents using regulations to impose criminal burdens on citizens.

Ms. Kane referred to the Fisheries Act, and it is a fact that at the present time, in front of the Standing Joint Committee for Scrutiny of Regulations, there are provisions of the regulations that are being looked at for disallowance, precisely because the regulations have been used to create offences under the act.

I can't say that we should never enact this type of basket clause on a regulation-making power. At the time we pass the statute we should be getting the government to confirm that it won't be used to create a new criminal law or a new criminal burden. That's without prejudice to the use of the clause. I mean, the government has to do what the government has to do, but as legislators we have to deal with this.

If they pass the new regulation under this that says a breach of the regulations will constitute a breach of the act, how valid is that? Does a citizen always have to rely on Parliament to take care of this regulatory thing, because there are 1,200 regulatory instruments passed every year?

I'm not moving an amendment. I don't know how to restrict it, but I did want to hear from the government that the use of this clause is intended to be consistent with the way Ms. Kane described it and will not be used to create a new criminal burden on citizens.

The Chair: All right. Thank you.

Briefly, please.

Mr. Bob Dechert: As Ms. Kane stated, you were here, Mr. Lee, on Tuesday when we last met. The Minister of Justice said exactly that to you when you asked him exactly that question. I'm here today to make it absolutely 100% clear to you in no uncertain terms that the minister has no intention of using this....

Mr. Lee, could I have your attention, since you want this clarification?

The minister has no intention of using this provision to create any new criminal offence.

Mr. Brian Murphy: It's an exercise. You may think it's futile, but I have seen court cases where, believe it or not, the *raison d'être* behind sections being passed has been used by lawyers, and this is a good discussion. I'm pretty assured that it won't go beyond the scope. It may in the future—I'm persuaded by Mr. Dechert or Mr. Norlock, I forget—hamstringing this growing, emerging field.

So I will withdraw the amendment if there is consent for that.

(Amendment withdrawn)

(Clauses 13 and 14 agreed to)

• (1715)

The Chair: Now we will move to the short title. I understand that there is an amendment LIB-1 on the short title.

Mr. Murphy, would you like to introduce it?

Mr. Brian Murphy: The bill, properly described, although not very easily said in a soundbite, is “an act respecting the mandatory reporting of Internet child pornography by persons who provide an Internet service”. That’s precisely what the bill does. It’s very accurate. That’s the formal title.

We’ve slipped away, it seems, from calling bills by their boring long titles like that, which are meant to be precise as to what they do, to these soundbite-driven phrases that perhaps mislead people and oversell what a bill’s actually about.

This is a good bill. The minister himself said it’s but a step in a process. The ladies here before from Cybertip.ca corroborated that. There’s nothing wrong with this bill. To put it out there as a panacea, which I believe—this is a matter of subjective view—the short title does, Protecting Children from Online Sexual Exploitation Act, I think that’s overreaching.

I guess I put it to my friends on the other side, why aren’t we content with the actual title of the bill, or why don’t we follow what other provinces have done? In two cases they have called it, so that people understand it better, the Child Pornography Reporting Act, because that’s really what it is.

That’s the nature of my amendment, short and sweet. I’ll forewarn you that if this amendment doesn’t pass, I for one shall be voting not to pass the short title part of this bill, because I’m content with the actual formal title.

That’s my two bits. Thank you.

The Chair: All right. Thank you, Mr. Murphy.

I have a ruling to read. I’ve consulted with our staff and I rule as follows.

The amendment seeks to amend the short title of the bill. As *House of Commons Procedure and Practice*, second edition, states on pages 770-71:

The title may be amended only if the bill has been so altered as to necessitate such an amendment.

It’s the opinion of the chair that there have been no amendments requiring a change to the bill’s title. The amendment is therefore inadmissible.

Having heard my ruling, we’ll move on to the question, if you don’t mind.

(Clause 1 negatived)

The Chair: We’re left, then, with the—

Mr. Stephen Woodworth: Mr. Chair, as a point of order, for future reference for me, I can certainly do without debating that

motion, but would it be customary not to debate such a motion? I thought we would have had a debate on it.

The Chair: Well, sir, I didn’t see anyone wanting to debate that.

Mr. Stephen Woodworth: We finished with the amendment and then the question was called immediately. I’m not raising it to say that I need to debate it, but I just want to know, for future reference, if we’re doing another clause-by-clause, that the short name is subject to debate as an....

The Chair: Actually, Mr. Woodworth, if an amendment is ruled inadmissible, the chair typically would rule. Once that ruling is made, there is no further debate on that.

Mr. Stephen Woodworth: That would be on an amendment. Then when we move to the adoption of the short title, is there an opportunity for debate, ordinarily?

The Chair: Yes, normally there would be. You’re absolutely correct. I didn’t see anyone raise their hands to debate that.

Mr. Bob Dechert: We weren’t fully cognizant of the procedure there.

The Chair: Well, the reality is that the short title did not carry.

Mr. Dechert.

Mr. Bob Dechert: If I could make a comment, Mr. Chair, we heard from Ms. McDonald a few minutes ago and I had asked her some questions. I don’t know if Mr. Murphy had an opportunity to hear those questions. I specifically asked her about why she used the term “child sexual exploitation”—

• (1720)

Mr. Stephen Woodworth: Can I raise something? I’m sorry. I apologize to my friend for interrupting.

The Chair: Is this a point of order?

Mr. Stephen Woodworth: It’s a point of order, yes. My perception is that perhaps Mr. Dechert and I might want to debate that. I don’t know if the chair could in some fashion seek the consent of the committee to go back, open that for debate, and do it again.

The Chair: Well, we’ve had the vote and I think we’re going to move on.

Mr. Dechert, back to you.

Mr. Bob Dechert: I think it’s incumbent upon me, representing the government, Mr. Chair, to explain why that short title was there. The reason is if Mr. Murphy—

Mr. Brian Murphy: Point of order.

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

Mr. Brian Murphy: That’s not a point of order. That’s a speech on what topic—on the long title? You have to keep some sort of order and decorum.

Mr. Bob Dechert: It seems to me that there was some political motivation. Why would you object—

Mr. Brian Murphy: Could you rule on my point of order?

Mr. Bob Dechert: Why would anyone object to describing the statute as—

The Chair: One moment, Mr. Dechert.

We've dealt with the short title. I know there are some views here, some justification for the short title. We have to move on. We have a long title that still has to be dealt with. Out of respect for the process, I understand. Next time, if you want to debate the short title, just raise your hand and I will recognize you. Nobody did. We moved on. So I want to respect that process.

Let's move on to the title. Is there any discussion on the long title?

Mr. Bob Dechert: Mr. Chair, I'd like to speak to that.

The Chair: Mr. Dechert.

Mr. Bob Dechert: In illustrating the purpose of the long title, I'd like to refer to the short title, which, unfortunately, we didn't have an opportunity to discuss a moment ago.

The Canadian Centre for Child Protection was here today and gave us a very good presentation on why this bill is about more than simply the material of child pornography, why this is about protecting children both in Canada and around the world from sexual exploitation.

If my honourable friends opposite had taken the time to read the very good materials that were presented by the centre, they would have seen the term "sexually exploited children" used in virtually every line, phrase, and recommendation of the report.

I asked Ms. McDonald why she used that term, why she didn't simply refer to child pornography. And she made a very good and very fulsome argument about how the actual material itself leads to the exploitation and abuse of children.

This bill is about more than just restricting a picture. This bill is about putting in place criminal provisions and sanctions against people who use this material and who therefore may actually be abusing the children in order to create this material. We want to be able to use this legislation to rescue children who can be identified by the images that are disseminated on the Internet. We want to be able to prevent other children who have not yet been abused from being abused, because the people who get this material, who see other children being abused, might get the idea that maybe somehow that's okay. That's what this is about. And that's why this bill had the proper short title, Protecting Children from Online Sexual Exploitation Act. For the life of me, I can't understand why any reasonable person would object to that.

Thank you.

The Chair: Thank you, Mr. Dechert.

Next is Mr. Woodworth.

Mr. Stephen Woodworth: Thank you, Mr. Chair.

The Chair: Keep in mind, by the way, that we have five minutes, and then we have to adjourn.

Mr. Stephen Woodworth: I'm well aware of my propensities.

I want to speak in support of the motion for the reason that the title describes child pornography reporting. We want child pornography reporting because it will protect children from online sexual exploitation, just as was mentioned in the short title. It will protect them not only from pornography. Our witness mentioned that the provisions of this bill will prevent children from being lured. The provisions of this bill will permit police to rescue children who are

being sexually exploited. The provisions of this bill will be used to prevent people who consume pornography from going out and exploiting children. The whole idea of preventing child sexual exploitation is at the heart of this bill. And I agree with Mr. Dechert; there is absolutely no reason we couldn't have adopted the short title to say that, because that's really what's behind this title.

Thank you.

• (1725)

The Chair: Thank you for being brief.

Mr. Lee, will you be brief?

Mr. Derek Lee: I'll try to be brief too. I know we want to wrap this bill up today, and we don't, and I don't, want to extend this.

As much as I could agree with a lot of what Mr. Dechert and Mr. Woodworth have said, if it was just this one bill, fine, but the speech writers and slogan guys in your backrooms have preceded you.

We are supposed to be adopting a short title, not a big long paragraph commercial. This is supposed to be a short title. I will just refer members to other legislation we now have in front of us.

Bill C-21, the long title is "An Act to amend the Criminal Code (sentencing for fraud)". The short title is called—believe it or not, this is supposed to be short—"Standing Up for Victims of White Collar Crime Act". This is how the bill is expected to be cited by people in courts of law, and the short title is actually not very short.

And as if to really, really cap this, Bill C-16, which is simply called "An Act to amend the Criminal Code", the government drafters have walked away from the short title, which is what we normally do—give it a short title so people can refer to it. They now describe Bill C-16—go check it out—with an alternative title. Why do we need an alternative title? It now reads, "This Act may be cited as the Ending House Arrest for Property and Other Serious Crimes by Serious and Violent Offenders Act". How short is that?

So I am sorry, but in this particular Parliament, it is my hope that members, legislators, will grab hold of this—the attempt to torque the short title of a bill for a political purpose—and bring the thing back to a normal level where we can have a nice, clean, accurate short title.

That is why Mr. Murphy took the approach he did, and that's the approach I'm going to be taking in the future. And we'll have a chance to debate this again probably.

The Chair: All right, we have a question, if someone wants to call the question. You can't call the vote in that sense, but I will call the question.

Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill as amended carry?

Some hon. members: Agreed.

The Chair: Shall the chair report the bill as amended to the House?

Some hon. members: Agreed.

The Chair: Shall the committee order a reprint of the bill as amended for the use of the House at report stage?

Some hon. members: Agreed.

The Chair: Thank you, everybody.

The meeting is adjourned.

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