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Chair

Mr. Mike Wallace

Standing Committee on Justice and Human Rights

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● (1530)

[*English*]

The Chair (Mr. Mike Wallace (Burlington, CPC)): I call this meeting to order. We're at the Standing Committee on Justice and Human Rights. We are televised today. There was a request to televise this meeting, and of course we make that happen when we can.

This is meeting number 62. As per our orders of the day, our order of reference of Monday, November 24, 2014, is Bill C-26, an act to amend the Criminal Code, the Canada Evidence Act and the Sex Offender Information Registration Act, to enact the High Risk Child Sex Offender Database Act and to make consequential amendments to other Acts.

Committee members, we are joined by a number of witnesses to do this clause-by-clause study. We have witnesses from the Department of Justice, the Department of Public Safety and Emergency Preparedness, the Department of Public Safety, the Canada Border Services Agency, and the Royal Canadian Mounted Police.

If you have questions on clauses or amendments, we'll call on these people to answer them.

Let's go right to the clause-by-clause study.

Pursuant to Standing Order 75(1), consideration of clause 1, the short title, is postponed.

(Clauses 2 to 6 inclusive agreed to)

(On clause 7)

The Chair: Committee members, just so you know, we have about five amendments here. They're all in order. You should have received them in advance. For clause 7, the first amendment is from the Liberal Party.

Mr. Casey, the floor is yours to discuss your amendment.

Mr. Sean Casey (Charlottetown, Lib.): Mr. Chairman, this amendment arises directly out of the testimony of Dr. Stacey Hannem, whom we heard from earlier this week.

The purpose of the amendment is to put back into the act the summary conviction option under this section of the code. You heard her explain that the removal of the summary conviction option would make young people who are trading pictures on their phones, perhaps in a juvenile and irresponsible manner, and in a manner that's not malicious, automatically subject to an indictable offence. It arises directly from that testimony, testimony that wasn't seriously questioned or contested.

I urge this amendment upon you as good advice from a respected witness.

Thank you.

The Chair: Thank you, sir.

Is there anything further on this amendment?

Monsieur Dechert.

Mr. Bob Dechert (Mississauga—Erindale, CPC): Mr. Chair, the government does not support this amendment. As Mr. Casey and others will recognize, it's inconsistent with the bill's objectives, in particular, the important objective of treating the two offences that prohibit the making and distributing of child pornography as very serious offences by making them strictly indictable. That is a very profound and important objective of this bill. For these reasons, the government will be opposing this amendment.

The Chair: Thank you, sir.

Madam Boivin.

[*Translation*]

Ms. Françoise Boivin (Gatineau, NDP): Thank you, Mr. Chair.

My question is for the officials from the Department of Justice.

I imagine that you have followed the various testimonies we have heard. As my colleague Mr. Casey said, an example might be a young 21-year-old man receiving a pornographic picture or something like that. The clause as written right now does not leave a lot of room for those exceptional cases. As a result, the minimum sentences that were set out but have been slightly increased could be seen in a certain way.

Wouldn't the proposed amendment make it possible to manage such cases? The amendment is in order; it is fine from a legal point of view. It does not change the spirit of the bill as Mr. Dechert has just claimed. It keeps everything in place. The first part deals with an indictable offence liable to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of one year. Would that not enable the crown prosecutor to handle those cases?

Otherwise, I am afraid that the whole thing will be simply dismissed out of hand or constitutionally challenged .

[*English*]

The Chair: Who would you like to answer that question?

Ms. Françoise Boivin: Well, somebody from the justice department.

The Chair: No, no. I'm asking the Department of Justice who would like to respond.

Ms. Françoise Boivin: Oh, okay, because for me it's whoever has the answer.

Ms. Nathalie Levman (Counsel, Criminal Law Policy Section, Department of Justice): Mr. Chair, just to point it out initially, an offender who is under the age of 18 would be covered by the YCJA, so the mandatory minimum penalties wouldn't apply to—

Ms. Françoise Boivin: [*Inaudible—Editor*]...what we're talking about.

Ms. Nathalie Levman: —such an offender. You mentioned "21", so I understand that. There are other ways of addressing it through prosecutorial discretion. I would turn the committee's attention to the new offence of non-consensual distribution of intimate images, which will come into force in March of this year. That would be an option in these types of what are colloquially known as "sexting" cases, which I believe is what you're referring to.

● (1535)

Ms. Françoise Boivin: The question here is not about non-consensual; it could be consensual. The infraction is having something that could be deemed pornographic. On that basis, there's a difference between a porno ring and some idiot—don't quote me, but I've heard worse here—

The Chair: You are intelligent, by the way.

Ms. Françoise Boivin: Yes, that's true.

But somebody who didn't really intend, although that might come into the guilt or not.... Anyway, my question was more that wouldn't it be more prudent to make sure the constitutionality of it would not be raised?

Ms. Nathalie Levman: There is the personal use exception that exists as a result of Sharpe. That's there to protect young people or anyone who takes photos or videos of consensually engaged in and legal sexual activity. There's that—

Ms. Françoise Boivin: Protection.

Ms. Nathalie Levman: —protection there as well.

The Chair: Thank you for those answers.

Are there any further questions or comments? We are dealing with the Liberal amendment to clause 7.

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

(Clause 7 agreed to)

The Chair: Based on the voting pattern thus far, I'm asking for the indulgence of the committee. We have no amendments between clauses 8 and 21. Do you want to deal with clauses 8 to 20 inclusive? Are there comments on any of them?

An hon. member: No.

The Chair: No?

Mr. Casey.

Mr. Sean Casey: Mr. Chair, I'm happy to deal with them all at once, but I would like to make a comment on them as a group, please.

The Chair: Yes, absolutely.

(On clauses 8 to 20)

Mr. Sean Casey: Thank you.

Clauses 9, 10, 11, 12, and 14 all include increases to mandatory minimum sentences that were already increased once in Bill C-10.

This is the Einstein argument: the definition of insanity is doing the same thing over and over again and expecting a different result. You have all heard that the rate of incidents of these types of crimes has gone up since Bill C-10 has come into effect. The mandatory minimums that were put into effect in Bill C-10 clearly didn't work, so the solution you've come up with is to increase them again.

You've heard incontrovertible testimony before the committee time and time again that there is absolutely no empirical evidence that mandatory minimums will result in fewer victims. You've heard that they do not deter crime. You've heard that they contribute to prison overcrowding. You've heard that they disproportionately discriminate against aboriginal Canadians. You've heard that they are an unjustified attack on judicial discretion.

Yet these clauses, the clauses that I've just set forward, are an example of increasing mandatory minimums that were already increased once in your mandate. Therefore, I would respectfully submit that these clauses ought not to be passed for the reasons that you've heard in the evidence, and for the reasons that I've just put forward.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Casey.

Are there further comments on this grouping? Seeing none, I will call the question on clauses 8 through 20.

(Clauses 8 to 20 inclusive agreed to)

(On clause 21)

The Chair: That brings us to clause 21, where there is a government amendment, G-1.

The floor is yours, Mr. Dechert, to explain the government amendment.

● (1540)

Mr. Bob Dechert: Mr. Chair, this amendment is technical in nature. It would alter the definition of "sexual offence against a child" in clause 21 to (a) clarify that a designated offence as defined in subsection 490.011(1) of the Criminal Code applies where it is committed against a person under 18 years of age and the offender is required to comply with the Sex Offender Information Registration Act; and (b) it would specify that it applies to an offence that is committed in a foreign jurisdiction against a person who is under 18 years of age where the offender has been served with a notice to comply with the Sex Offender Information Registration Act.

The current definition refers to subsection 490.011(1) of the Criminal Code, which includes non-sexual offences under paragraphs 490.011(1)(b) and (f). The proposed amendment clarifies that the definition applies to offenders who are required to comply with the Sex Offender Information Registration Act, which excludes offenders convicted of a non-sexual offence where it had not been established beyond a reasonable doubt that the offender had intended to commit a designated sexual offence.

The proposed amendment would therefore ensure that there is no incorrect interpretation that non-sexual offenders would be among those subject to the proposed new provisions in the Sex Offender Information Registration Act for child sex offenders, such as, for example, reporting obligations regarding travel and information sharing with the Canada Border Services Agency. Also, the current definition does not specifically address sexual offences that are committed outside of Canada against a person under the age of 18 years where that person subsequently returned to Canada and is on the national sex offender registry.

The proposed amendment includes foreign sex offence convictions in the definition, which would ensure that these child sex offenders would be subject to reporting obligations regarding travel and information sharing with the Canada Border Services Agency in accordance with the proposed new Sex Offender Information Registration Act provisions in Bill C-26 for child sex offenders. Similar amendments are also being proposed to clause 29 of the bill in the definition used for “sexual offence against a child” with regard to the proposed new high risk child sex offender database that's contained in this bill.

For those reasons, we're proposing the amendment and will support it.

The Chair: On the amendment, Madam Boivin.

Ms. Françoise Boivin: On the amendment, I'm a bit surprised to hear from the government that they call this technical. I'm wondering why it was not thought of before. I always hate these types of amendments that could have been covered through questions prior to doing clause-by-clause study.

In my legal mind, it doesn't sound technical, especially (b). I'm not saying that I'm against it, but I'm saying that I don't think we can qualify this as technical, because it's bringing a broader thing. For my second point—and I would like some answers to that—give me some examples of the situation in (b), because it is still required to comply with this act. When would it be? Give me examples of that and especially why that was not in the bill at first.

The Chair: Which department would like to answer those two questions?

Daryl.

Mr. Daryl Churney (Director, Corrections and Criminal Justice Division, Department of Public Safety and Emergency Preparedness): I think the answer, Mr. Chair, is that really it was no more than a drafting oversight. It was always the policy intent of the government to include the capture of these two provisions within the scope of the act.

In respect of the first item, the issue there is that as a sexual offence against a child is defined in the Criminal Code, it essentially includes two broad subsets, under new proposed paragraphs 3(1)(a) and (b). Whereas (a) is a list of clearly sexual offences, (b) includes offences that on the face of them are not sexual offences but where the crown has to prove sexual intent behind a particular offence in order to secure a conviction. An example of that would be something like trespassing at night, under section 162 of the Criminal Code, or voyeurism, for example.

On the face of those two examples, those would not be sexual offences unless the crown had proven intent. We wanted to be absolutely certain that we were not, by consequence, including those convictions where there is no sexual intent whatsoever. It's really just a matter of clarity, to make sure that we're not over-capturing people within the definition.

On the second issue, again with respect to foreign convictions for a sex offence, I would reiterate that this was always the government's policy intent to ensure capture of that group. Those persons who return to Canada, whether at the end of sentence with already an existing obligation to register under SOIRA, the Sex Offender Information Registration Act, or who are transferred through an international transfer of offenders application under the International Transfer of Offenders Act and then also have the same obligation to apply under SOIRA, would still be under the broad capture of SOIRA writ large, but we want to also make sure that those persons with a foreign conviction are included in the information-sharing provisions under Bill C-26. Basically it's with respect to the information-sharing provisions between the national sex offender registry and CBSA.

● (1545)

[*Translation*]

Ms. Françoise Boivin: I am trying to understand the following: “an offence that is committed outside Canada against a person who is under 18 years of age and as a result of which the offender is required to comply with this Act.”

That refers to the registry. The person would have allegedly committed an offence somewhere. I am trying to see how you are going to include that in the criteria of the definition listed later in clause 29. I have a bit of trouble seeing the practical side and how you are going to be able to do that.

Perhaps that is one of the reasons why it was not in the bill initially. It is a bit more complex and it should have been studied in more depth.

[*English*]

The Chair: Does anybody from Public Safety want to answer that?

Mr. Daryl Churney: I could certainly ask legal counsel to weigh in, but again, I would just say that we did consult with the Department of Justice to get legal counsel to assess whether or not these amendments were within the purview of the bill—within the scope of our cabinet authority, for one—and to ensure that they were within the scope of a technical amendment. The advice from the Department of Justice was that they were.

Ms. Françoise Boivin: My question is more for our legal....

The Chair: Sure.

Ms. Françoise Boivin: How can we say it's in order when it's bringing in something that is different, that wasn't there? We're covering something that is outside the territory.

I'm just curious about how the legal process works on that.

The Chair: Well, I'm the one who makes the final decision—

Ms. Françoise Boivin: I just want to understand how it works.

The Chair: —but it's on the advice of our legal clerk.

Do you want to say anything to this?

The answer, through me, is that it's based on the amendment and the effect it has on the actual act. They just decide whether it's admissible or not, and they make a recommendation on whether it's admissible or not. Then the chair decides. For example, with Mr. Casey there was a question on whether it was admissible or not, and I said it was.

So it's not really the legal aspect; it's just the procedural aspect.

Ms. Françoise Boivin: Okay. You've convinced me.

Finally, just to be clear, this is not technical. This is something that was in the intent, I understand, but just to be correct, for me, a technicality is more like we had, I think, in the prostitution bill, when Mr. Goguen was presenting certain amendments that were definitely just a little mistake in something. This is bringing something of content, so you cannot qualify it as technical.

Am I right or am I wrong?

Mr. Daryl Churney: I understand your perspective in that "technical" could be something like a misnumbering of the section, or—

Ms. Françoise Boivin: Well, usually....

Mr. Daryl Churney: Right.

All I can say is that it's within the scope of the bill. It's consistent with the policy intent.

Ms. Françoise Boivin: That's better.

Thank you.

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

(Clause 21 as amended agreed to)

(Clauses 22 to 28 inclusive agreed to)

(On clause 29—*Enactment of Act*)

The Chair: We have a number of amendments on clause 29.

The first one is an amendment from the government.

Mr. Dechert, the floor is yours on amendment G-2.

● (1550)

Mr. Bob Dechert: This is related to the amendment we just proposed a moment ago to clause 21. The purpose is to alter the definition of "sexual offence against a child" in proposed section 2 in clause 29 to clarify that it means a non-sexual offence as defined in paragraphs 490.011(1)(b) and 490.011(1)(f) of the Criminal Code only where it has been established beyond a reasonable doubt that the offender committed the offence with the intent to commit one of the designated sexual offences against a person who is under 18 years of age, and to specify that it means a sexual offence that is committed in a foreign jurisdiction against a person who is under 18 years of age, or the offender is currently or was previously required to comply with the Sex Offender Information Registration Act.

As with amendments in clause 21, the purpose is to ensure more precision in the definition of "sexual offence against a child" in the new high risk child sex offender database act.

The current definition refers to subsection 490.011(1) of the Criminal Code, which includes non-sexual offences under paragraphs 490.011(1)(b) and 490.011(1)(f). The proposed amendment clarifies that the non-sexual offences in paragraphs 490.011(1)(b) and 490.011(1)(f) would apply in this definition only where it has been established beyond a reasonable doubt that the offender had committed the offences with the intent to commit a designated sexual offence.

The proposed amendment would therefore ensure there is no incorrect interpretation that non-sexual offenders would be among those who could be included in the proposed new high risk child sex offender database.

You'll note that the proposed amended definition used in this clause varies from that in clause 21 in that it does not include that the offender be required to comply with the Sex Offender Information Registration Act. This allows for the possibility that an offender who may not have been served and ordered to comply with that act prior to 2011 when the requirement for mandatory orders was implemented could be included in the new high risk child sex offender database.

Finally, as in clause 21, the current definition in clause 29 does not specifically address sexual offences that are committed outside of Canada against a person under 18 years of age, subsequent to which the offender returns to Canada and is required to comply with the Sex Offender Information Registration Act.

The proposed amendment includes in the definition for those on the national sex offender registry convictions for foreign child sex offences, to ensure they could be among those included on the proposed new high risk child sex offender database while other criteria for inclusion are also met.

For those reasons we are proposing and will support this amendment.

The Chair: Thank you.

Madam Boivin.

[*Translation*]

Ms. Françoise Boivin: I will not go back over all the points I raised because it is exactly the same thing.

Mr. Churney, in response to one of my questions, you said that you checked with the Department of Justice to make sure that everything was fine.

When did you start working on the idea of extending this provision to those convicted abroad? When did you start analyzing and drafting this provision?

[*English*]

Mr. Daryl Churney: I think this issue came up within the last week or so as Justice drafters were doing a final review. It was brought to our attention just that recently that we had possibly "under-included" and "over-included" some persons within the definition.

[*Translation*]

Ms. Françoise Boivin: Mr. Chair, we are studying Bill C-26, which is a government bill and is quite important. With that in mind, I would like to repeat something so that we at least consider it in the future. When we know that this is being studied, I think we should be able to inform our colleagues on the committee so that we can increase the time for witnesses as required to be able to ask them questions.

Otherwise, we feel that we come after the fact. That bothers me. I am not saying that the content is bad, but I don't feel that we have done an in-depth study.

I keep saying that it won't be easy to meet the criteria of clause 29 for someone who commits an offence outside Canada. I wonder whether this won't be a complete waste of time.

I have no idea how the poor RCMP commissioner will enforce all that. No one gave me a specific example of an offence abroad or of how it would be handled here and how it would correspond to this wording. It is because this issue has not been studied in depth.

We would have liked to be advised earlier. The government might miss something and then we would have something to talk about, which would be better than rushing to pass the provision as fast as we can.

● (1555)

[*English*]

The Chair: Thank you.

Here's my undertaking as chair of the committee. I will write, in this case to both ministers, indicating that with future legislation generated by the government, if there are amendments that are known in advance, it might be an opportunity for them to let the committee know so we can ask questions of witnesses based on those amendments, technical or not.

I will write something along those lines, and we'll send it off.

Is there anything further on G-2?

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

The Chair: That brings us to the same clause 29 and the first NDP amendment.

Madam Boivin, the floor is yours.

[*Translation*]

Ms. Françoise Boivin: Thank you.

Do I introduce both amendments together since they are dealing with the same clause or do I present them separately?

[*English*]

The Chair: We'll do them one at a time.

[*Translation*]

Ms. Françoise Boivin: I will present them separately, then.

The first amendment reads as follows:

> That Bill C-26, in Clause 29, be amended by adding after line 36 on page 14 the following:
>
> "(2) Under no circumstances must the information referred to in subsection (1) be used to identify the victims."

That follows on the evidence we have heard this week about the much touted database. We know that, in approximately 90% of cases, offenders are related to the victim. I was careful to read all the information about the description of offences. Everything that is written there could lead to that.

There should be an additional test to make sure that publishing the information will not disclose anything about the victim. I think that goes without saying. It is just additional protection. It is important to keep this criterion in mind when the information is published.

We can easily imagine a case of incest or sexual assault against a child, where we know that the offender assaulted an eight-year-old child based on the description of the offences committed if we start describing what happened on such and such a date. People could count the years and think of a girl of that age. That may well cause problems, which I don't think is the government's intent.

I think this amendment is reasonable. In fact, it changes nothing to the way the database is set up. It simply seeks to protect victims.

[*English*]

The Chair: Mr. Dechert.

Mr. Bob Dechert: Thank you, Mr. Chair, and I thank Madam Boivin for proposing this amendment.

Unfortunately, the government does not support this amendment primarily because we do not believe it is necessary. I'll explain that.

Under clause 29, the RCMP would be required to only include information in the new public database that had previously been made public by a police service or other public authority. That would have already abided by any court orders that were in place to protect the victim's identity. Madam Boivin will know that in most of these cases those kinds of court orders are specifically in place to protect the identity of a victim in the circumstances that she outlined.

Also, we believe that it's overly broad. She may not have fully appreciated that this could provide a blanket prohibition that would restrain the RCMP in providing information that could be essential in advising the public of specific risks of an offender to the community. For example, that could be a description of the circumstances of the offence that would put the community on notice of the type of danger that the high risk child sex offender database is designed to protect the community against.

If I could, I'd like to ask Mr. Churney to add an explanation from a more technical and legal perspective.

● (1600)

Mr. Daryl Churney: Yes, certainly.

Building on what Mr. Dechert has already articulated, probably the key point to remember is that with respect to the database, the RCMP will not be adding to any information that has already been made public by one of the provincial-territorial jurisdictions in their public notification. The RCMP is merely collating those existing notifications.

Each province and territory will have its own policies and procedures for ensuring that victim information is not compromised or released publicly. That initial round of vetting will have already been done by the local jurisdiction. As a consequence, the RCMP will not be adding anything new that will go beyond what the provinces and territories have already done.

I would invite my RCMP colleagues to add to that if they have anything else they wish to add.

Assistant Commissioner Joe Oliver (Assistant Commissioner, Technical Operations, Royal Canadian Mounted Police): I would add only that I think that's a proper interpretation of how the RCMP would exercise its obligations, which is to only.... The act is very clear: it must contain only information that has previously been disclosed.

The consequence of the amendment might actually create operational challenges for the RCMP to operationalize the bill. Are we now going to have a requirement to assess, before we publish anything, whether an individual whom we have no control over is actually going to try to use this information to identify victims? Also, what consequence does that impose on the commissioner's obligations? Additionally, if there's non-compliance with this provision, I guess the question is, what is the accountability mechanism if there is non-compliance?

The Chair: Madam Boivin.

[*Translation*]

Ms. Françoise Boivin: I am not sure I follow you.

Mr. Churney, are we creating a new database or are we simply saying that the current sex offender database is public and accessible to everyone?

I will stand corrected if I am wrong, but my understanding was that the database includes individuals convicted of sexual offences who are at high risk of committing crimes of a sexual nature. It is not the same thing as the existing database that the RCMP and other police forces are used to working with and that includes all sex offenders.

A new database with information is being created. Section 5 of the High Risk Child Sex Offender Database Act refers to the database in section 4. In that light, I am not sure I can follow your reasoning that the information is already published. We are going around in circles.

In my view, before making the information public, we should make sure that the information mentioned in section 5 will not make it possible to identify a victim. I don't think anyone would want Bill C-26 to help identify victims.

You are talking about a database, but I would like that to be clear. Are you referring to the existing database? I don't think so, because there would be no point in what you are doing right now.

[*English*]

Mr. Daryl Churney: No, I think we're on the same page. I apologize if I was not clear. There is no current database in respect of this issue. The current national sex offender registry is not changing. It is not becoming public. That will remain limited to law enforcement purposes.

What's being created, the database that we're looking at here, is essentially a compilation of existing public notifications done by PT jurisdictions. Right now, all provinces and territories have the authority to advise the public about the release of a high-risk offender in the public. During the course of those notifications, there are certain characteristics about that offender and the offences that are made public, and that's determined by the police force.

In each jurisdiction, they have their own protocols for the way in which those notifications are done and the kind of information that is made public, but that notification is limited to that jurisdiction and that province. What this database seeks to achieve is to essentially widen the access to all of those local notifications on a national scale, so that if the notification is made in Newfoundland, someone in British Columbia, for example, would be able to know of that notification. That's the database I'm referring to.

● (1605)

Ms. Françoise Boivin: That's the database that I was referring to as well.

So it's brand new, and it's a power we're giving, through the bill, to the RCMP commissioner to create it, because it says so:

> 4.(1) The Commissioner must establish and administer a publicly accessible database

There is also a *disposition* in clause 29 later on, in proposed section 11, that says the Governor in Council may make regulations concerning the criteria.

Wouldn't we be more prudent to give a bit of the guideline, at least? I mean, I thought I was soft. Guys, come on. I was protecting the victims. I could have gone way overboard and said that you don't do this, you don't do that, but let's at least make sure....

Mr. Oliver, when you said that you already do that, no; maybe you do that through a de facto type of security in certain communities, but this is a law, a piece of legislation, that states that it's a database that includes all this information.

The Chair: Mr. Oliver, would you like to respond?

A/Commr Joe Oliver: I think to simplify things, essentially what the RCMP will be mandated to do here by Parliament is create the national infrastructure to allow for consistent publication of previously published high-risk offenders.

With respect to the specific amendment, the difficulty is that the RCMP would not have any control over, if we published based on the criteria here, any individual using the Internet to try to identify victims. Do you understand the operational implication?

Ms. Françoise Boivin: Yes.

A/Commr Joe Oliver: The imposition is not on the commissioner to say that you will not publish the name of the victim. It says that under no circumstance must the information in the database be used to identify a victim. So anybody in the public can take the information here, go on the Internet, and try to do media searches and so forth. From an operational perspective—

Ms. Françoise Boivin: Okay, again, it's the difference between the two. I wrote it in French, and in French it's "permit" to identify, not "be used" to identify.

I think it made more sense

[*Translation*]

in French, because it said "ne doivent en aucun cas permettre d'identifier les victimes". It was not supposed to say

[*English*]

"be used" to identify...because I understand your point. I find that in English, it's not what I had in mind. What I had in mind, and I thought was solid, was just that it shouldn't permit identifying. It's not to be used; anybody can try, and go on the Internet and say, "When was he in court? Did I see a certain person?" You're not in charge of that. Okay, I get the point, and I get the position, but that being said, you're already doing it with some, I guess, very serious cases, where you notify certain collectivities.

A/Commr Joe Oliver: If I could correct you there, the RCMP is not doing it as a national federal entity. We're doing it as the police of jurisdiction in those areas, based on where we might be the police of jurisdiction.

Ms. Françoise Boivin: I get that.

Again, Mr. Churney, why not put the criteria in the bill ? Why leave it so wishy-washy? For me, that is why I think this bill will not be really of any use.

[*Translation*]

We cannot be against virtue, but I wish the commissioner good luck in his attempt to implement this type of measure.

Just remember the firearms registry and all that. Would it not have been useful to know the criteria being used to establish the database, given that this is already being done in some communities, where the police officers ask the public to be careful about certain sexual predators? Would it not have been appropriate to give more specific directives to police officers rather than to send them to do who knows what?

[*English*]

The Chair: Mr. Churney, would you like to answer?

Mr. Daryl Churney: I understand the concern you've identified, but I think the issue for us really is that the database will be a partnership between the federal government and the provinces and territories. Because we have to account for the fact that there are gradations and variations of the policies and practices across the country right now among the jurisdictions in the way in which they approach notifications, we have to allow for some flexibility in terms of consulting with them going forward as to what would be the acceptable standards applicable to everyone going forward. There are negotiations or discussions commencing, beginning with our PT colleagues, with respect to developing that criteria and coming to a uniform consensus.

I understand that there are—

● (1610)

Ms. Françoise Boivin: So there are no specific dates for the

[*Translation*]

implementation of the bill, which means that it could take up time in your consultations.

Thank you.

[*English*]

The Chair: Thank you.

(Amendment negatived)

The Chair: We'll move to amendment NDP-2.

Madam Boivin, the floor is yours.

[*Translation*]

Ms. Françoise Boivin: This government often seems to indulge in wishful thinking, but we have to wonder about the practical aspects, as I mentioned to the witness who was here just now.

Paragraph 11(*a*) of the High Risk Child Sex Offender Database Act states that the Governor in Council may establish "the criteria for determining whether a person who is found guilty of a sexual offence against a child poses a high risk of committing a crime of a sexual nature". And paragraph 11(*b*) states that it may make regulations "prescribing anything that, by this Act, is to be prescribed."

There is a lot of uncertainty in Bill C-26. The minister himself admitted that, after almost 10 years of tougher legislation on sexual offences against children, there has been an increase in the rate of those crimes.

All that remains to be pinned down properly. No studies have been done. Most experts who have appeared before the committee told us that there are not a lot of Canadian studies on the issue and that they often had to refer to American studies, where the systems are not necessarily the same.

My colleagues seemed to accept the idea that an annual report be prepared, while still increasing the number of years before being required to do so, which I think is entirely appropriate in this context.

I have asked that Bill C-26 be amended as follows:

> The Minister of Justice must, within one year after the coming into force of this Act and every year after that, prepare a report specifying the number of persons whose name has been added to the database and the information specified in paragraphs 5*f*) and *g*)...

That might allow us to have statistics on the types of offences committed and to identify them. I was not able to ask for the criteria because they have not been drafted yet.

My amendment also asks that the Minister of Justice submit the report to Parliament. I think that is prudent given that the circumstances are even greyer than *Fifty Shades of Grey*. At any rate, it would be worth having those statistics.

[*English*]

The Chair: Thank you for that analogy.

Mr. Dechert.

Mr. Bob Dechert: Mr. Chair, again, I thank Madam Boivin for submitting the amendment. Regrettably, the government cannot support it. The reason is very simple: the information she's seeking is already going to be available. The amendment for an annual report is not required, given that the proposed new database would be public and searchable for review of the information on the offenders. In addition, the information can also be accessed under the access to information legislation. I think she'll find all the things she's asking for are currently available and would be available under the publicly accessible database. In addition, the amendment is technically incorrect in that it misidentifies the Minister of Justice to undertake the proposed report, which would correctly be the jurisdiction of the Minister of Public Safety.

For those reasons, Mr. Chair, we will not be supporting this amendment.

The Chair: Thank you very much.

[*Translation*]

Ms. Boivin.

Ms. Françoise Boivin: Mr. Oliver, just out of curiosity, could you tell me how many of the cases you handle each year fall into this category of people whose identity you make public?

[*English*]

A/Commr Joe Oliver: We're trying to establish those figures in consultation with the provincial partners, but we anticipate that it would be in the order of dozens.

Ms. Françoise Boivin: Per annum.

A/Commr Joe Oliver: It's not a very high number of those that are disclosed as a result of a public disclosure notification.

Ms. Françoise Boivin: The database of Bill C-26 is to cover about 12 people. Is that what you're saying to me today?

● (1615)

A/Commr Joe Oliver: It could be two dozen, three dozen, potentially.

Ms. Françoise Boivin: Okay, that's interesting.

A/Commr Joe Oliver: They would be considered the most serious high-risk individuals on our streets, the worst of the worst, so to speak.

Ms. Françoise Boivin: That's what you're expecting from that?

A/Commr Joe Oliver: That's correct.

The Chair: All right, is there anything further on amendment NDP-2?

Ms. Françoise Boivin: So the name of the minister is right—that's what happens when the government gives us practically no time to write our things. Put the Minister of Public Safety.

The Chair: Okay, I'm ruling that we can change it—

Ms. Françoise Boivin: Perfect. Thank you.

The Chair: —regardless of whatever is procedurally right or not.

Is there any further discussion on NDP-2?

(Amendment negatived)

The Chair: We will now move to clause 29 as amended, because G-2 did pass.

Madam Boivin.

Ms. Françoise Boivin: I have one question for Madam Morency.

In continuation with our S-2, there's the provision in clause 29 at the end:

[*Translation*]

> 11. The Governor in Council may make regulations
> (*b*) prescribing anything that, by this Act, is to be prescribed.

I was wondering whether, under this bill, Bill S-2 could also be enforced through a delegation by reference.

[*English*]

Ms. Carole Morency (Director General and Senior General Counsel, Criminal Law Policy Section, Department of Justice): It's a good question.

I can undertake to provide an answer to the clerk, but I don't have an answer for you.

Ms. Françoise Boivin: I would like to have an official answer to that question. That would be nice.

The Chair: Thank you for that.

(Clause 29 as amended agreed to)

The Chair: We have no amendments on clauses 30 to 34.

(Clauses 30 to 34 inclusive agreed to)

The Chair: Shall the short title carry?

Some hon. members: Agreed.

The Chair: 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: Thank you very much. I will do that tomorrow.

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: Ladies and gentlemen, we are done with Bill C-26.

Thank you to all our guests today, from the Department of Justice, Department of Public Safety, Canada Border Services Agency, and the Royal Canadian Mounted Police.

As a reminder to the committee, we will be dealing with a private member's bill on parole starting on Monday.

We will have the witnesses in, and if there are any changes to that, let us know. We'll be spending all next week on that particular bill, starting with the mover of the bill.

We will see you on Monday.

This meeting is adjourned.