HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Public Safety and National Security

SECU • NUMBER 141 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Thursday, November 29, 2018

Chair

The Honourable John McKay

Standing Committee on Public Safety and National Security

Thursday, November 29, 2018

● (1530)

[*English*]

The Chair (Hon. John McKay (Scarborough—Guildwood, Lib.)): Ladies and gentlemen, I call the meeting to order. I see it close enough to 3:30 to get ourselves started.

We certainly have quorum. I'm pleased by the enthusiasm that all members are showing for our time together. Let's hope our time together is not quite as long as the [*Inaudible—Editor*]. I'm counting on Mr. Motz to keep the Christmas cheer going here.

First of all, may I thank Mr. Paul-Hus for subbing for me on Tuesday? I'm told that the next motion is an impeachment motion for me.

I appreciate your standing in.

The analysts and I were down in Washington getting an education in American politics—

Mr. Glen Motz (Medicine Hat—Cardston—Warner, CPC): He even gave me less time than you do, Chair.

The Chair: —and this seems to be an easy challenge, relatively speaking.

Arising out of Tuesday, do I have the permission of the committee to report the supplementary estimates to the House?

Some hon. members: Agreed.

The Chair: Thank you for that.

With that, we will engage in the business of the day. I thank the officials for being here.

We start off with what I hope is a pattern here, which is, shall clause 1 of Bill C-83 carry? There are no amendments.

(Clause 1 agreed to)

(On clause 2)

The Chair: That puts us into clause 2. The first amendment to clause 2 is NDP-1. We'll go with NDP-1 and note the relationship between NDP-1 and PV-1.

Go ahead, Mr. Dubé.

Mr. Matthew Dubé (Beloeil—Chambly, NDP): Thank you, Mr. Chair. Hopefully, my voice survives this whole process.

I want to say while I have the floor as I move the amendment that in seven and a half years as a parliamentarian, I have not seen a bill that has been panned by every single witness who has appeared before this committee, notwithstanding the minister and his officials.

That said, the amendments that I'll be presenting today, including this one, represent what the witnesses have suggested to us would be the best possible solution, again, notwithstanding that this is probably a bill that would be best thrown out and taken back to the drawing board. We'll wait to see what happens in the B.C. courts.

Mr. Chair, NDP-1 seeks to reintroduce language that used to be in the act prior to being removed a number of years ago. It was actually in Bill C-56, the original attempt this government made at resolving the awful issues related to solitary confinement, and is constitutional, but, as many witnesses said when it came up, should also be in the legislation.

That language is:

> the Service uses the least invasive and restrictive measures consistent with the protection of society, staff members and offenders;

It is so moved.

The Chair: Thank you, Mr. Dubé.

The Christmas cheer ended rather abruptly.

Go ahead, Ms. Damoff.

Ms. Pam Damoff (Oakville North—Burlington, Lib.): Thank you, Chair.

We will accept this amendment with the removal of “invasive and”. I would move an amendment that we remove the words “invasive and”, so that it would read “the Service uses the least restrictive measures....” I believe—and I could be wrong on this—that this is actually what was in the previous legislation. We would accept it with that amendment.

The Chair: That amendment to the amendment is moved, so we're debating the subamendment.

Go ahead, Ms. May.

Ms. Elizabeth May (Saanich—Gulf Islands, GP): Mr. Chair, because of the terms of the motion this committee passed, which compel me to be here should I want to put forward some tandem amendments—and you'll recall that this motion is not one I requested or appreciate—I do want to mention that one of the terms of that motion was that although I don't move my own amendments because they are deemed moved, I do get to speak to them.

The effect of what we're talking about here is “least restrictive”, exactly what's in my amendment, so I just wanted to speak to it and support it.

The Chair: Is there any other debate?

We would move to the subamendment first, and that is just simply removing the word “invasive”...?

Ms. Pam Damoff: It removes “invasive and”.

The Chair: Those in favour of removing “invasive and”? Those opposed?

(Subamendment agreed to)

The Chair: Is there any other debate on the main motion? Seeing none, those in favour of the motion as amended?

(Amendment as amended agreed to)

The Chair: PV-1 now cannot be moved.

We have Ms. Damoff now, on LIB-1.

Ms. Pam Damoff: Thank you, Chair.

This motion has two parts to it. One part is adding the words “sexual orientation and gender identity or expression” and the second part of it adds the words “visible minorities”. While visible minorities in the past would have been captured by other groups, it was actually my colleague Celina who brought this to our attention and suggested that pulling out visible minorities.... In fact, we struggled a bit with the words to use there because I don't think any of us love “visible minorities” as a terminology, but it's one that exists in law. We've settled on that.

The second part was actually Celina's initiative, and then adding the other two to that clause.

● (1535)

The Chair: Is there any debate?

Go ahead, Mr. Paul-Hus.

[*Translation*]

Mr. Pierre Paul-Hus (Charlesbourg—Haute-Saint-Charles, CPC): It's not that I'm opposed to the principle, but I think it's already there. We're talking about gender, ethnic, cultural and linguistic differences. That includes everyone, and this would be adding words for no purpose. That's just my opinion.

[*English*]

The Chair: Okay.

Sorry; I think I saw Mr. Motz first, and then I saw Ms. Sahota.

Mr. Glen Motz: I wouldn't mind hearing from our officials on whether they feel that these proposed changes will have substantial impact on the intent of the original language.

The Chair: Go ahead, Ms. Connidis.

Ms. Angela Connidis (Director General, Crime Prevention, Corrections and Criminal Justice Directorate, Department of Public Safety and Emergency Preparedness): I would just say that all actions of the Correctional Service of Canada are covered by the Canadian Human Rights Act, and these provisions are consistent with that act.

Mr. Glen Motz: Do you mean in the original language or in the amendment?

Ms. Angela Connidis: It's the amendment.

Mr. Glen Motz: Then you're supportive of the language in the amendment? Is that what I'm hearing you say?

Ms. Angela Connidis: I'm not here to support. I'm only here to give advice.

The Chair: Ms. Sahota is next.

Ms. Ruby Sahota (Brampton North, Lib.): Chair, I'd like to move a subamendment to the amendment, because I think there's still something missing to make it more inclusive. That is to add after “gender, ethnic, cultural” the word “religious” before “and linguistic differences”. Then also further down remove the “or” and add “and” to make it more consistent with the human rights code that we're referring to, because I believe it's usually stated as “gender identity and expression” not “or expression”.

The Chair: Then it reads “gender, ethnic, cultural, religious and linguistic differences, sexual orientation and gender identity.

Sorry?

Ms. Ruby Sahota: I think we remove that “and” and put a comma.

The Chair: Oh, sorry; it's “gender identity and expression”.

Ms. Ruby Sahota: Yes.

The Chair: Okay, I see.

There's a subamendment on the floor.

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

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

The Chair:

Shall clause 2 carry as amended?

Oh, sorry; I missed CPC-1. Go ahead, Mr. Paul-Hus.

[*Translation*]

Mr. Pierre Paul-Hus: Thank you, Mr. Chair.

It's clear from conversations with MP Harold Albrecht and testimony from the John Howard Society and the Elizabeth Fry Society of Ottawa that inmates don't have access to satisfactory programs to prepare them for today's labour market once they're released. Inmates are frustrated that the waiting list for programs and services is such that offenders serving long sentences can access those programs before those who are serving short sentences or are granted early release.

In a perfect world, all individuals would have access to the programs they need, but we know that's not the case. Consequently, we must give priority to preparing those who are released into society. That's why we're moving this amendment.

[*English*]

The Chair: Is there any other debate on Mr. Paul-Hus' motion?

Go ahead, Monsieur Picard.

[*Translation*]

Mr. Michel Picard (Montarville, Lib.): The mental health-based risk assessment, for example, shouldn't be conducted based on a date, but rather on the status and needs of the individual. For that reason, I'm going to oppose the amendment.

[*English*]

The Chair: Is there any other debate?

Hearing none, those in favour of CPC-1?

Those opposed?

(Amendment negatived)

(Clause 2 as amended agreed to [*See Minutes of Proceedings*])

(On clause 3)

The Chair: We're now on clause 3.

Ms. Dabrusin has LIB-1.1.

Ms. Julie Dabrusin (Toronto—Danforth, Lib.): This makes a consequential amendment to clause 3 to make it more consistent with an amendment that I will be proposing later on as well with respect to mental health care review. It just cleans up the wording, so we should support it.

● (1540)

The Chair: You'll take note that it's consequential to LIB-2.2 on page 14.1 of the package. This vote will apply to both amendments.

Is there any debate on the amendment as proposed?

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

The Chair: We're now on to LIB-2.

Go ahead, Monsieur Picard.

[*Translation*]

Mr. Michel Picard: The idea here is to harmonize the English and French versions. The French version refers to the "unité d'intervention structurée". However, that concept is rendered in English by a single word, "unit". The idea here is therefore to state *structured intervention unit* in the English version, thus harmonizing the text as a whole by specifying the type of unit concerned.

[*English*]

The Chair: Is there any debate?

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

The Chair: We're now on PV-2.

Go ahead, Ms. May.

Ms. Elizabeth May: Thank you, Mr. Chair.

On page 2, the second line of the bill deals with the situation of an offender being placed in a structured intervention unit. The decision is made, the way the bill currently reads, such that the offender's plan should

> be updated, in consultation with the offender,

My amendment would have the effect of allowing the update to include other individuals involved in administering the programs and services to assist a prisoner. My amendment stems from some of the testimony from the minister, who said that it "depends on the individual, of course", but the point is that if we don't make appropriate efforts at treatment, rehabilitation, and ultimately reintegration, people will come out of correctional facilities no better, or perhaps worse, than when they went in.

The goal of my amendment is to ensure a more collaborative team approach within that system. If the offender is in a structured intervention unit and if there has been a change in the plan, you consult with the prisoner, but you also consult with those other individuals who are involved in administering the programs so that they have updates on the prisoner's correctional plan.

The Chair: Is there any debate?

Go ahead, Ms. Damoff.

Ms. Pam Damoff: While I appreciate the intent behind the amendment, I believe this is what is already happening now, with further investments being made in corrections to allow even more to be done in the SIUs. Already the parole officer and the primary workers would be involved in it, so I don't think it's necessary to add this to the bill.

The Chair: Is there any other debate?

Ms. May.

Ms. Elizabeth May: When we look at the process as it's laid out here, including in proposed sections 37.3 and 37.4, we can make the assumption, I suppose. There is no question that the minister is ramping up and better funding the treatment programs and so on, but it doesn't appear that all of the individuals who would be part of those programs would be updated on the plan. It might be implied, but I don't see any harm in making it explicit that everyone who is involved in those treatment decisions, everyone who is administering the programs and services employed in that Correctional Service relating to that prisoner, is also updated.

Pam, in the day-to-day course, one would hope that everybody would be involved and updated, but my amendment seeks to ensure that everybody is.

The Chair: Mr. Motz is next.

Mr. Glen Motz: Thank you, Mr. Chair.

If my colleague is right in her assertion that this will aid in the rehabilitation of prisoners, I would ask the officials to weigh in to determine whether this additional language would achieve that purpose.

Mr. Luc Bisson (Director, Strategic Policy, Correctional Service of Canada): In fact, to answer your question, the correctional plan for offenders would be updated under current practice with the concurrence of the entire case management team. That would include the parole officer or the primary worker dealing with that offender and also such other intervenors as health professionals, elders in the case of aboriginal offenders, and chaplains in other cases. It already is inclusive of other intervenors.

In reading the language, maybe a sub-question would be about the intent. Is it the intent that case management be involved, or is it really every single individual involved in the administration? At first look, that may involve dozens, or many, many people, which would essentially make it very hard to ensure.

● (1545)

The Chair: Mr. Motz, is that fine?

Mr. Glen Motz: Yes. Thank you.

The Chair: Is there any further debate on PV-2?

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

The Chair: On PV-3, go ahead, Ms. May.

Ms. Elizabeth May: Thank you, Mr. Chair.

We're still in the same clause, dealing with the same question.

The proposed section that I seek to amend now states:

> in consultation with the offender, in order to ensure that they receive the most effective programs at the appropriate time during their confinement in the unit and to prepare them for reintegration into the mainstream inmate population.

My amendment adds “as soon as possible”. This stems from the United Nations Committee Against Torture. It's called on Canada to “limit the use of solitary confinement [to] a measure of last resort for as short a time as possible”.

This will require that the updates of the prisoner's correctional plan be tied to this objective of release back into the general population as quickly as possible. I hope you'll find it acceptable.

Thank you, Mr. Chair.

The Chair: This is the ASAP amendment.

Go ahead, Ms. Dabrusin.

Ms. Julie Dabrusin: This is just to say thank you to Ms. May for bringing it. I think it's a helpful addition and I support it.

The Chair: Go ahead, Mr. Motz.

Mr. Glen Motz: There's a gentleman by the name of Glen Brown, a retired warden and deputy warden, and I've had a conversation with him about his experience.

Officials can correct me if I'm wrong or if his assessment is wrong, but he urges that sometimes the rapid reintegration of inmates, as this entails, is not in their best interests. The current practice of preparing them for transition, as the wording said, should not be rushed. That's from a conversation with him, as someone who is in the business and has been in the business for many years.

I certainly would throw that out there. If this is all about the best interests and the rehabilitation of an inmate, then that's something we need to consider.

The Chair: Is there further debate?

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

The Chair: On PV-4, go ahead, Ms. May.

Ms. Elizabeth May: Thank you very much, Mr. Chair.

Thank you to members for passing that last amendment. It's much appreciated.

Again, this is dealing with the whole question of making decisions and updating plans. This was a suggestion from Senator Pate. As we know, she has had an extraordinary career and a commitment to the Elizabeth Fry Society in advocating for women in incarceration.

The suggestion is to add the following to the bill:

> (2.2) The offender under subsection (2.1) whose correctional plan is to be updated shall be given an opportunity to make written representations to the institutional head before any decisions on program selection are made.

Again, this was to be in consultation with the offender, but other than being asked to sign that they've received the documentation, there is no meaningful involvement unless we add this amendment.

I would really appreciate consideration for Green Party amendment 4.

The Chair: Thank you, Ms. May.

Is there debate?

Go ahead, Mr. Paul-Hus.

[*Translation*]

Mr. Pierre Paul-Hus: Is this already common practice among inmates? Are they able to correspond with authorities when their programs are discussed?

● (1550)

Mr. Luc Bisson: This is already part of our practices and policies. We work with inmates to develop their plans, and we monitor their progress. That's already the case.

Mr. Pierre Paul-Hus: All right. Thank you.

[*English*]

The Chair: Is there any further debate?

(Amendment negatived)

(Clause 3 as amended agreed to)

(Clause 4 agreed to on division)

[*Translation*]

Mr. Pierre Paul-Hus: On division.

[*English*]

The Chair: I see you're training these folks well, Mr. Paul-Hus.

Mr. Pierre Paul-Hus: I'll put my lens on now.

The Chair: You can actually see your amendments.

Mr. Glen Motz: You will see when we get to amendment CPC-2 that I have to do it because he couldn't read it. It's his new glasses. He's getting used to them.

The Chair: I'm pleased to hear that the Conservatives can now see where they are going.

We're on clause 5 and amendment PV-5.

Go ahead, Ms. May.

Ms. Elizabeth May: Thank you, Mr. Chair.

This one would apply when a registered health professional believes that a prisoner's death was due to natural causes and the natural cause is a chronic illness.

The amendment I'm proposing would require that health care professional to consider lifestyle changes or habits that could have managed that illness, in, for example, an illness like diabetes, and the extent to which lifestyle changes were restricted as a result of being confined in the unit. Again this comes from a recommendation from Senator Pate.

The Chair: Is there any debate?

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

The Chair: We're on amendment PV-6.

Ms. Elizabeth May: Thank you. Mr. Chair, we're still in—

The Chair: Sorry for that. I have to ask whether clause 5 carries.

(Clause 5 agreed to on division)

(On clause 6)

The Chair: We are now on clause 6.

On amendment PV-6, go ahead, Ms. May.

Ms. Elizabeth May: Thank you.

Again, I think the committee was already guided by this notion that we changed with the first amendment that was carried after it was amended. This reintroduces language of least restrictive measures, also present in Bill C-56. It was formerly in the "principles" section of the Corrections and Conditional Release Act.

The amendment says that if a person is to be confined, the Correctional Service shall take all reasonable steps to ensure that the penitentiary in which they are confined is one that provides them with the least restrictive environment for that person.

That amendment achieves a goal that is quite similar to that of the first one that the committee just accepted.

The Chair: Okay.

Go ahead, Ms. Damoff.

Ms. Pam Damoff: I just want to thank my friend from Saanich—Gulf Islands. That's an excellent amendment, and we'll be happy to support it.

The Chair: Is there any further debate?

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

The Chair: On amendment PV-7, go ahead, Ms. May.

Ms. Elizabeth May: We've moved to a different page, but that's okay; you can keep up. It's just line 3 on page 3.

This requires that we give priority to section 28 accessibility considerations in placement transfer decisions, particularly in the case of marginalized groups, women and indigenous prisoners. This is again on advice from Senator Pate, but it's also drawn from some of the conclusions of the coroner's inquiry into the death of Ashley Smith. This is from paragraph 58 of the coroner's inquest, the jury recommendation that female prisoners be accommodated in the region most proximate to her family and social supports. This principle is a priority for young adults and/or female prisoners with mental health issues and/or self-injurious behaviour.

Again, Kim Pate's testimony to the committee referenced the Supreme Court decision earlier this year. Disregarding the possibility that risk assessment tools are systematically disadvantaging indigenous prisoners is failing to abide by the statutory duty to use accurate information and to account for systemic discrimination.

Again, if it's a woman or a indigenous person confined to penitentiary, the service shall give priority to taking into account the accessibility conditions.

Thank you. I hope people like this one too.

The Chair: Go ahead, Ms. Damoff.

Ms. Pam Damoff: I'm going to speak to this, but you also have another amendment that talks about medical treatment and access to families.

While I recognize that has been an issue, in this one in particular you only refer to women and indigenous persons. I don't believe we're prepared to support the amendment. However, I would be prepared to draft a recommendation that it go back with the bill to the House, recommending that the Correctional Service examine—and I'll have to think of some wording here, so bear with me—the placement of offenders and the issues that arise because of proximity to family.

It is an issue and it's something that I think they need to look at. I won't be supporting the amendment, but I would be prepared to attach something to the bill when it goes back, recommending that corrections review that.

● (1555)

Ms. Elizabeth May: I'm not familiar with that approach, Mr. Chair. If I may ask, how would that work, in effect, if we attach something to the bill? It's not part of the legislation, then.

Ms. Pam Damoff: We did it on Bill C-71 as a way of highlighting an issue. In that case in particular, it was on provincial issues, but this is for something that we feel strongly enough about to bring to corrections. There's no obligation for them to do anything—

Ms. Elizabeth May: Yes.

Ms. Pam Damoff: —so I'm not going to try to oversell, but it would be publicly available, and it would also be something that people could reference if they go back to the bill and what was reported on.

The Chair: The committee could attach a report.

Ms. Elizabeth May: Yes. I prefer the amendment.

Ms. Pam Damoff: I know you do.

The Chair: This is in the half-a-loaf category.

Is there any other debate? Seeing none, shall PV-7 pass?

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

The Chair: We're now on CPC-2 in the name of Mr. Paul-Hus.

Mr. Glen Motz: I'll speak on his behalf, Mr. Chair.

This is new language that's being proposed. As you can see, it says:

> (2) Despite subsection (1) and sections 29 and 30, an offender who has been convicted of the murder or manslaughter of a child shall not be confined

> (a) in a penitentiary or an area in a penitentiary that has been assigned a minimum security classification or where the offender could have contact with children; or
>
> (b) in a place where correctional services are provided under an agreement referred to in section 81.

Section 81 is the reference to healing lodges, as we know.

This is directed to the recent Terri-Lynne McClintic fiasco in order to not have a mistake like that made in the future.

The Chair: Okay. Before I open debate on this amendment, I'll note that my initial reaction to this was that it was beyond the scope of the bill. However, I can argue it both ways, frankly, as to whether it's beyond the scope of the bill.

You have some tangential relevance to sections further down in the bill, but I think it's actually better for the chair to rule that this is still within the scope of the bill and to open up debate here, rather than ruling it as being beyond the scope of the bill.

Is there any debate?

Go ahead, Ms. Sahota.

Ms. Ruby Sahota: I'm disappointed at your ruling at this point, but I would like to speak to it, because I think it's beyond the scope of the bill.

The bill doesn't deal with identifying any specific crimes and dealing with where they're placed. This is a bill on segregation issues. I don't see how bringing up this issue, which we know the Conservatives were hotly politicizing all along, at this time and in this place is appropriate. I'm sure they could bring it up at another time and in another place, but I don't see how it fits into this bill.

The Chair: Go ahead, Mr. Dubé.

Mr. Matthew Dubé: Thank you, Chair.

I agree with your ruling. I think there's enough in there about security classifications by the commissioner.

Excuse me. I hope my voice will make it through this meeting.

The Chair: I hope you and Mr. Motz are not sharing the same glasses.

Mr. Matthew Dubé: I hope not. We hope we're not sharing your glasses. I think that's the issue.

The other thing I wanted to add, Chair, is that beyond the question of whether it's within the scope of the legislation, we saw the result when the news came out on the situation having changed, and it's pretty clear that the corrections that were brought to the directives following the minister's review have obviously had the result that was hoped for.

I think some of the things that are put forward here are within those directives in language that I believe is more appropriate, so I will be opposing the amendment.

● (1600)

The Chair: Go ahead, Ms. Damoff.

Ms. Pam Damoff: With all due respect to you, Chair, I'm going to challenge your ruling. Sorry.

I'm wondering if the legislative—

The Chair: A challenge to the chair is a non-debatable motion, so it's up or down.

Shall the ruling of the chair be sustained?

[*Translation*]

Mr. Pierre Paul-Hus: Yes.

[*English*]

The Chair: Does that go for you, as well, Mr. Eglinski?

(Ruling of the chair overturned)

The Chair: The ruling of the chair is overturned; therefore, the motion is out of order.

I see that I only have friends to my left as opposed to friends to my right, so I'm looking forward to the next impeachment motion.

A voice: So moved.

The Chair: With that, CPC-2 is defeated.

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

(Clause 6 as amended agreed to on division)

The Chair: Now we're back to clause 7 and amendment LIB-2.1.

Monsieur Picard, I hope we got over our ill feelings.

Mr. Michel Picard: Yes, I'll try to do my best.

[*Translation*]

Based on the way the clause is written, the transfer decision would be made by a person in a senior position such that, if the decision were reviewed, it would be made by the same person since it was the most highly ranked person who made it. That would simply restore the order of the decisions. A transfer decision by a person in a senior position at the institution, but below that of the commissioner, could be properly reviewed by a supervisor.

[*English*]

The Chair: Is there debate?

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

The Chair: On PV-8, we have Ms. May.

Ms. Elizabeth May: Thank you, Mr. Chair.

This deals with a situation that I think everyone is painfully aware of, the transfer of prisoners. This is prisoner transfer we're talking about here in PV-8, at line 24 on page 3. We're talking about authorizing the transfer of a prisoner.

We know that in the case of Ashley Smith, the inquiry found that she had been transferred 17 times within the year that led up to her death. Transfers were primarily for administrative and capacity issues. They weren't part of any treatment plan.

The language of this amendment is taken directly from recommendations 59 to 62 of the coroner's inquest, to make sure that a transfer authorized under this section is subject to the following conditions:

> (a) in the case of an inmate with health issues, to ensure continuity of care, his or her medical file must also be transferred;

(b) in the case of a female inmate with mental issues or disorders or self-harming behaviour, the transfer should only occur when it is safe to do so for health reasons;

(c) in the case of a female inmate transferred to a medical institution or treatment facility, the transfer should only occur when it has been approved by a registered health care professional and once a written plan is in place to re-integrate the inmate into her penitentiary following treatment; and

(d) in the case of a female inmate transferred to a penitentiary located away from her home, the transfer may be accompanied by the following measures:

(i) the inmate is allowed longer visits with the family members or support persons of their choice;

(ii) the inmate's means of access to family or support persons is increased; and

(iii) the inmate's family or support persons are provided with appropriate means of access when they are unable to visit the inmate due to financial reasons.

Again, this amendment comes directly from the recommendations of the jury in the inquiry into the death of Ashley Smith. I hope that the committee will consider accepting these recommendations and this amendment.

● (1605)

The Chair: Go ahead, Ms. Damoff.

Ms. Pam Damoff: Thank you, Mr. Chair.

I spoke briefly to this situation before. We won't support the amendment. I'm in the process of trying to draft something to send back with the bill to ask the Correctional Service to look at this issue.

The Chair: Go ahead, Mr. Dubé.

Mr. Matthew Dubé: Thank you, Mr. Chair.

In the case of both amendments, we've heard about Liberals not supporting this idea and wanting to look at taking corrective measures and having it looked into. As Ms. May has stated much better than I could, the proposals mostly stem from two sources: first, from folks like Senator Pate, who have expertise that I certainly do not have, and so we look to them, and second, from the Ashley Smith inquest.

I think now is the time to put this into legislation and to cease studying it. This particular issue has been studied for decades now, and I think it's time to give it the power of law.

The Chair: Is there any further debate?

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

The Chair: Next we have CPC-2.1.

Mr. Glen Motz: This is new language being proposed on clause 7, adding after line 24 on page 3 the following:

(2) A person who is sentenced, transferred or committed to a penitentiary may only be transferred to a penitentiary or an area in a penitentiary that has been assigned a security classification that corresponds to the security classification assigned to the person.

The reason for that is to make sure that the Correctional Service of Canada has a very clear mandate in rules around how facilities and inmates are treated. CSC should not be transferring inmates to different areas of the institution or to another institution that does not meet that classification and they don't mesh. It works both ways. Not only will we keep maximum-security inmates out of minimum- or medium-security prisons, but also the other way around.

The Chair: Go ahead, Mr. Picard.

[*Translation*]

Mr. Michel Picard: I would like the official representatives to confirm that this is already common practice.

Mr. Luc Bisson: Yes, it's common practice to the extent that correctional services may have what are classified as multi-level security units or institutions.

If I'm correctly interpreting what's being proposed here, inmates who didn't have a medium- or maximum-security classification couldn't be placed in a medium- or maximum-security institution. That would limit correctional services' ability to manage emergencies. Units may be assigned multi-level security classifications in certain cases to facilitate the management of inmates with various security classifications, while guaranteeing the highest security level for the general inmate population.

Mr. Michel Picard: Thank you.

[*English*]

The Chair: Is there further debate?

Go ahead, Mr. Motz.

Mr. Glen Motz: I'd like to just query that further with the officials.

The proposed amendment is not talking about having an inmate in a facility that has different classifications inside of it; it's making sure that whatever area of that facility the inmate is in matches that particular inmate's classification. You could have medium-security prisoners in a medium-security area of a maximum-security prison.

I guess my question would be this: Do you have cells, individual cells, in a medium-security prison that are flipped to the classification change—that is, a cell classified as a maximum-security cell or a medium-security cell inside of a prison that is of a different classification? The purpose of this amendment is to ensure the safety of inmates—and the safety of the guards, obviously—without putting inmates in a position where there is someone who should not be in a general population with medium- or minimum-security individuals in a maximum-security prison.

Mr. Luc Bisson: Maybe I can give you an example. We have regional treatment centres that we would classify as multi-level security institutions. They therefore manage offenders with various classification levels. What would change are the safety protocols around the movement of the inmate and the personnel there to ensure the safety and security of that inmate and of the others. However, the actual environment itself is multi-level.

Therefore, it's not the cell or part of the institution that is classified based on the individual, but rather the entire unit or institution. That's where I see concern in terms of being able to manage with a very specific designation as it is laid out.

● (1610)

The Chair: Is there any further debate?

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

The Chair: LIB-2.2 has already been dealt with under LIB-1.1.

Therefore, shall clause 7 carry as amended?

(Clause 7 as amended agreed to on division)

(On clause 8)

The Chair: The first amendment is CPC-2.2.

Go ahead, Mr. Motz.

Mr. Glen Motz: Thank you.

This is similar to the other one. The new language, because there is no current one, is replacing line 31 on page 3 with the following:

> any area in a penitentiary by taking into account the physical limitations and staffing needs of the penitentiary as well as the services it offers.
>
> (2) The Commissioner must record the assignment of a change to a security classification in writing and notify the Minister of the proposed change at least 15 days before the change takes effect.

Bill C-83 seems to provide unlimited powers to the commissioner of corrections to reclassify institutions or parts of institutions. While this is perhaps a necessary use of authority in many circumstances, it should have checks and limits within it.

I think a very reasonable amendment is to put a limit on this. You can't [*Technical difficulty—Editor*] segregation unit unless it meets the needs of the type of classification. The government, through regulations, sets what these parameters are, and the commissioner has to operate within them.

That's the whole purpose behind this particular amendment.

The Chair: Is there any debate?

Go ahead, Ms. Dabrusin.

Ms. Julie Dabrusin: Perhaps the officials could help on this.

Because of the example that was given, when an area would be reclassified, would the Correctional Service not have to make sure that it satisfies the requirements for that level of security or for that reclassification?

Mr. Luc Bisson: I think I heard your question well.

Essentially, there are criteria. There are standards established for various levels of security. Therefore, it's not just a matter of changing the label or the identification of the unit or the institution. There are security measures in place for maximum institutions that would not necessarily exist in medium or minimum institutions or units.

If I understood your comment correctly, indeed there are standards in place that would govern that and would not allow us to simply repurpose or relabel without ensuring that those are in place.

Ms. Julie Dabrusin: I submit that this isn't a necessary change in terms of making sure that the classifications are done and are suitable. That's within what's there already. This doesn't add anything to what we're looking for as far as safety goes.

If there's a change in static security requirements, there would be a change in the staffing levels and everything that would need to change with that security level.

The Chair: Go ahead, Mr. Motz.

Mr. Glen Motz: I'm curious to hear from the officials as to whether this particular proposed amendment is in line with the current regulations.

● (1615)

Mr. Luc Bisson: To answer your question, essentially the amendment would be consistent up to the point where there is this timeline for notification. That does not exist in a regulation currently.

Mr. Glen Motz: Thank you.

The Chair: Is there any further debate?

(Amendment negatived)

The Chair: On CPC-2.3, again, it looks like it's Mr. Motz.

Mr. Glen Motz: Thank you, Chair.

Again, this is new language in clause 8, adding, after line 31 on page 3, the following:

> (2) If the Commissioner plans to assign a new security classification to a penitentiary or to any area in a penitentiary, he or she must undertake consultations with nearby communities, staff members and any other impacted stakeholder identified by the Service.
>
> (3) The Commissioner must record the assignment of a new security classification in writing, publish it on the departmental website at least 15 days before the change takes effect and notify the Minister of the change.

The whole idea behind this is that currently, the way Bill C-83 reads, it provides powers that are far too broad for the reclassification of facilities. As parliamentarians, we need to ensure that all authorities have the appropriate checks and balances in place. As we've seen recently with healing lodges and other prison transfers, there is a limited accountability of the service to local communities, to victims and the stakeholders. That is the motive behind this amendment: that public consultation is required when the commissioner wants to reclassify an institution. I believe it needs to be in law, not in regulations, so that it's set in stone.

The Chair: Is there further debate?

Ms. Julie Dabrusin: Again, Mr. Chair, there would be the appropriate staffing changes and security changes made when a security change is made. This isn't really a necessary piece. It doesn't really add to this. In fact, the necessary protections are put in place if there is a reclassification.

I would submit that this should not be supported.

The Chair: Is there further debate?

Go ahead.

Mr. Glen Motz: If I heard that statement correctly, I guess what we're saying is that communities don't need to be advised if we change the classification of an institution from medium to maximum.

What we're saying here is that the communities have a role to play in the institutions that are in their communities. If they're not aware, how is that good for the community? How is that consulting the community? It just seems to fly in the face of common sense.

The Chair: Go ahead, Mr. Paul-Hus.

[*Translation*]

Mr. Pierre Paul-Hus: It seems to me we're imagining that lowering a penitentiary's security classification from maximum to medium would have no consequences for the population of the surrounding area, but the opposite is true. Consider, for example, a penitentiary that was assigned a medium or minimum security classification when it was established. If you want to increase the security classification of one part of that penitentiary to maximum, you'll have to conduct a consultation. That definitely doesn't mean the same thing for the population.

Inmate types differ depending on whether a penitentiary has a minimum or maximum security classification. A minimum number of things must be in place. There is definitely no impact on the neighbouring population if an institution's security classification is reduced, but that's not true if it's increased.

[*English*]

The Chair: Is there further debate on CPC-2.3?

Mr. Glen Motz: I'd like a recorded vote.

The Chair: We will have a recorded vote.

(Amendment negatived: nays 5; yeas 4)

(Clauses 8 and 9 agreed to on division)

(On clause 10)

● (1620)

The Chair: We're at NDP-2.

Mr. Matthew Dubé: Thank you, Chair, as Mr. Motz and I continue our race to the bottom to see who will lose their voice first before the end of this meeting.

NDP-2 seeks to bring greater clarity to specify that any area that's being used for anything that in any way can be interpreted as segregation be deemed an SIU. This is to prevent the creation of similar areas that aren't required to follow the same type of review or accountability.

The example we have in mind is pod C at the Nova prison for women. We want to make sure that any time a prisoner is being in any way segregated, there are the appropriate accountability mechanisms, as lacking as they may be, provided by a law that is going into place. The amendment would add, after line 9 on page 4, a subsection that would read:

> (2) Any area of a penitentiary where an inmate is segregated from the mainstream inmate population and is required to spend less time outside the inmate's cell or engaging in activities than an inmate confined in the mainstream inmate population shall be designated as a structured intervention unit.

The Chair: Is there debate?

Go ahead, Ms. Damoff.

Ms. Pam Damoff: Chair, the bill already sets out what the conditions of confinement are of an SIU. We won't be supporting this amendment.

The Chair: Is there any other debate?

(Amendment negatived)

The Chair: We will go to NDP-3, with Mr. Dubé.

I have a note here which says that if the amendment is adopted, PV-22, LIB-4.3, LIB-5.1 and PV-25 cannot be moved.

Mr. Glen Motz: Let's make sure we get this one adopted.

The Chair: Yes, we would save a lot of....

On NDP-3, go ahead, Mr. Dubé.

Mr. Matthew Dubé: Thank you, Chair.

This amendment seeks to, first of all, prohibit SIUs in women's facilities, which is probably one of the more ambitious parts of the amendment.

Currently there are only 10 women in segregation in all of Canada, and when Dr. Zinger was here, he said that he firmly believes we could immediately eliminate segregation in women's prisons altogether. He's obviously not the only one. Many stakeholders have expressed similar views.

The other issue is that it prohibits their use for individuals suffering from a serious mobility impairment or who are in need of palliative care.

The last part prohibits use of SIUs if it has been recommended by a health professional that the person, for their safety, not remain in an SIU. This would give actual legal force to not just having it be a recommendation from a health care professional, but actually making sure the full protection of the law is there with regard to health care professionals.

Chair, I want to mention the mobility impairment and the palliative care piece in going back to some of the arguments that have been made on a variety of amendments that have been presented.

We talk a lot about what the service's policies are, and I think it's important for the record that we distinguish between policies and law. Currently the policy prevents those with serious mental illness or disorders, for example, from being put into segregation, but it's just policy. It's not actually in the law. I think we can all agree that if we want to have the proper human rights protections in these instances, this should be in the law.

Naturally, as I said at the outset, this is a pretty ambitious amendment that seeks to go with the recommendations of many stakeholders, including folks like Dr. Zinger, who, as the correctional investigative officer, can be deemed to be quite reasonable. Quite frankly, I think all of the witnesses are quite reasonable on this issue. Even in the status of women committee, we've seen witnesses make recommendations to move towards this, given the way that women are disproportionately negatively affected by the use of segregation.

I would also like a recorded vote, please.

● (1625)

The Chair: Is there debate?

I saw Ms. May's hand first.

Ms. Elizabeth May: Thank you, Mr. Chair.

As your earlier ruling noted, several of my subsequent amendments will be eliminated if this one is passed. I wanted to speak to that quickly and say that this is based on a lot of very strong evidence, as Matthew has already mentioned.

I think the Canadian Bar Association point is really important: The bill should be consistent with the United Nations' Mandela rules and should require health care providers to recommend that conditions of confinement be altered or that placement in a structured intervention unit be terminated if the prisoner's mental health is deteriorating due to isolation.

In terms of the medical interventions, the role of the registered health care practitioner in Mr. Dubé's amendment and in my amendment is one that comes out of multiple expert witness testimonies to the committee from the John Howard Society, Senator Pate, the East Coast Prison Justice Society, Dr. Zinger—as Matthew already mentioned—and the CCLA.

I ask that we consider what it means to allow the process of segregation for a prisoner. If we don't have a medical health care professional able to intervene at key points, we may end up having legislation that is not as good as intended. We might have more Ashley Smith cases. I think it's really important to ensure that there's a medical health practitioner included, as recommended in the NDP motion and in the ones you've mentioned that I've put forward.

The Chair: Go ahead, Ms. Damoff.

Ms. Pam Damoff: I'm wondering if officials could clarify something.

I thought health care professionals were involved in inmate care when they were in SIUs. When I visited the regional treatment facility, they told me at the time that it was the only place where the health care professionals and the parole officers worked on an equal footing. It was my understanding that this was how it would work in the SIUs as well.

Ms. Angela Connidis: Yes, that's correct. A health care professional is involved. Under Bill C-83, a health care professional could recommend the alteration of conditions or the termination of confinement, and the institutional head would have to take that into account. A health care professional visits daily, and health care advice has to be taken into account in any decision related to placement in an SIU.

Ms. Pam Damoff: Okay. Thank you.

The Chair: Now it's Mr. Dubé, and then Ms. May.

Mr. Matthew Dubé: Thank you, Chair.

I appreciate that answer, but I think that's just it. The issue is that it "could" be taken into account, but it's far from being binding.

I'll just read the key part of the amendment. Unfortunately, I'm feeling unable to read the whole thing. I want to save whatever voice I have left for later, but I do think this part is worth reading.

Subsection (2) after line 20 on page 6 would read as follows:

> Upon receipt of a recommendation under subsection (1), the institutional head shall take measures to have the inmate removed from the unit.

Here we're making it explicitly clear that should the health care professional make the recommendation, it's not a matter of taking it under advisement; they must. I know "must" isn't the word I used there, but it's obviously pretty explicit in empowering the recommendations of health care professionals in this instance.

If the government is serious about wanting those medical professionals to be empowered, this is much more in line with that, and certainly with what we've seen in a variety of arenas, whether the United Nations or the Ontario and B.C. courts.

The Chair: Ms. May is next.

Ms. Elizabeth May: Thank you, Mr. Chair.

My amendment, PV-22, is really quite explicit in saying that if the medical health care professional finds that the situation is deteriorating, it's not just that they have the option of saying something; they shall. They shall report. They shall say something.

Then if the institutional head receives the recommendation from a health care professional that the inmate who is confined should be removed from the unit, they shall act. If the institutional head receives a recommendation that the conditions of confinement should be altered, the institutional head shall take measures to alter them. If the institutional head does not follow a recommendation made by a health care professional, they will have to explain the reasons in writing to the registered health care professional and to the inmate.

These wordings are much stronger and much clearer, and they could have prevented Ashley Smith's death.

● (1630)

The Chair: Is there any further debate on NDP-3?

We will have a recorded vote.

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

The Chair: We are on PV-9.

Go ahead, Ms. May.

Ms. Elizabeth May: I didn't stop to explain to the committee this time around that PV is *Parti vert*, but you probably knew that. The government gave me that because when we first started having me come to committees, it was under Harper, and so "G" would have been good for "green", but they were using "G" for "government" then.

That will happen some day, Glen. I know you laugh, but still, that's why I'm *Parti vert*. The "GP" would have been taken as "government party".

[*Translation*]

I wanted to tell you that story by way of an explanation.

[*English*]

The Chair: The Green Party does aspire to government?

Ms. Elizabeth May: Of course.

[*Translation*]

That's our purpose, just as it is for all other parties.

Now let's talk about amendment PV-9.

[*English*]

This one is an attempt to respond to the word “appropriate”, which many witnesses, particularly Senator Kim Pate, found to be a very vague approach to drafting. As she noted, it does not provide any protections to individuals and will essentially leave it to the courts to set the standards.

My amendment—not to read it all out to you—replaces “appropriate” with “least restrictive” measures and adds a requirement to provide a living environment at the lowest security level required for public safety.

The Chair: Is there any debate?

Go ahead, Mr. Picard.

[*Translation*]

Mr. Michel Picard: The bill already makes more specific provision for living conditions in the structured intervention units. I think what's being proposed is more unclear than what's stated in the bill itself.

[*English*]

The Chair: Is there any further debate?

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

The Chair: We are on NDP-4.

Mr. Matthew Dubé: Thank you, Chair.

This is again in the same vein as what's been expressed when we talk about “least restrictive”. We're looking here for SIUs to be a measure of last resort, really making it clear that we don't want to see systemic and banal use of them, which has unfortunately been the case far too often over the last number of years.

The bill would be amended by replacing line 11 on page 4 with the following: “(a) provide, only as a measure of last resort, an appropriate living environment for an”, and then it would go on.

Thank you.

The Chair: Is there any debate?

Ms. Ruby Sahota: I believe this amendment is redundant. Proposed section 33 of the bill already establishes that the inmates' confinement into an SIU is “to end as soon as possible”, which implies that it's a measure of last resort.

The Chair: Is there further debate?

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

The Chair: We're on PV-10.

[*Translation*]

This is the Green Party's amendment.

[*English*]

Ms. Elizabeth May: This one is for purposes of deleting vague wording in order to provide more precise wording.

There was testimony from Josh Paterson as well as Senator Pate and others that correctional investigators observed that this was accepted as well by the trial court. There were a lot of other reasons that went beyond security that folks were winding up in administrative segregation, including punishment, which was supposed to be under an entirely different regime. I've replaced “or other reasons” with “for security reasons”.

The Chair: Go ahead, Ms. Dabrusin.

● (1635)

Ms. Julie Dabrusin: I feel quite strongly about this one, in the sense that I brought it up when BCCLA was here. There was a real question as to what this proposed section 32 means and how it works with proposed section 34, which follows later in the bill.

There was a misunderstanding. Proposed section 32 sets out the purpose, but proposed section 34 is very clear that a transfer into an SIU is to occur only if the commissioner is satisfied that there is no reasonable alternative, and then it has listed reasons.

The only possible way we could get rid of the “other reasons”, if we were reading it in the way that it seems to have been read by some, would be to transfer all of the wording from proposed section 34 in there to replicate it again, but it's not necessary, because proposed section 34 uses the word “only” and it has listed reasons. I don't think it is necessary, and in fact if we were going to start making these amendments, we would have to add a whole lot more wording up into proposed section 32 to make up for it.

The Chair: Mr. Dubé is next.

Mr. Matthew Dubé: Thank you, Mr. Chair.

I support this amendment and have a similar one—one where I put some water in my wine after that, in keeping with our tradition here at this committee.

On a more serious note, I do remember Ms. Dabrusin's line of questioning. I believe that when we use the words “no reasonable alternative”, we still run into the issue that has been raised, which is that if there is a lack of resources, the commissioner could make the determination in the event that an inmate meets the criteria outlined in proposed paragraphs 34(a) and 34(b). For example, if there are no psychiatric services—which speaks to the correctional investigator's report—it could be deemed that because of a lack of resources, there is no reasonable alternative than to put an inmate there.

Notwithstanding that language, I think the same problem exists. For that reason, I'm supportive of both Ms. May's amendment PV-10 and also my amendments further on that are in that same vein.

The Chair: Go ahead, Ms. Dabrusin.

Ms. Julie Dabrusin: I don't want to too heavily belabour the point, but it goes on. I wasn't going to read out the whole section, because we'd be here for a while; it's a long one.

Proposed section 34 doesn't say only “no reasonable alternative”. It goes on to say, “and the Commissioner believes on reasonable grounds that”, and then it has enumerated grounds.

It's actually pretty clear in its wording, and none of this says “no available psychiatric services” as part of it. It's listed in proposed section 34. We need to understand that proposed section 32 sets out the general purpose of what they're doing, but the transfer is clear, is mandated and is listed in proposed section 34.

The Chair: Okay.

Go ahead, Mr. Dubé.

Mr. Matthew Dubé: There are so many issues with that comment, with all due respect. Let's look at proposed paragraph 34(b), which states:

> (b) allowing the inmate to be in the mainstream inmate population would jeopardize the inmate's safety;

Who's jeopardizing the inmate's safety? It could be because the person has mental issues and finds himself or herself drawn into violent altercations such that he or she does need psychiatric services.

Proposed paragraph 34(a) talks about someone who has acted or intends to act in a manner that jeopardizes safety, and so on. Again, there's no protection that says that in the event that they don't have resources to properly treat an inmate who may meet any and all of these criteria, quite frankly, and who actually requires proper help, an inmate will not be put into an SIU, which is essentially solitary confinement.

There are all kinds of points there that are of concern, and this in no way alleviates that concern. If it did, I'm sure the witnesses would have said as much.

The Chair: Is there any further debate?

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

The Chair: That means that NDP-5 is still alive, so we're on NDP-5.

[*Translation*]

Mr. Matthew Dubé: Thank you, Mr. Chair.

Amendment NDP-5 is similar to the amendment Ms. May just proposed, except that I'm adding key elements that were raised in the questions I put to witnesses and in the exchange we just had. We want the bill to state clearly "for security reasons other than the lack of staff members or cells in the penitentiary."

At the time—it was during the last Parliament, if I'm not mistaken—this committee had tabled a report addressing the overpopulation of certain penitentiaries, which had led to violent incidents and could result in inmates being transferred to segregation cells. The shortage of officers is a resource problem that was raised many times. We want it to be expressly stated that inmates must not be confined in segregation as a result of a lack of staff in the penitentiaries.

● (1640)

[*English*]

The Chair: Go ahead, Ms. Dabrusin.

Ms. Julie Dabrusin: I'll just take all of the reasons that I put out for the last amendment and apply them here, just to save us time. I think proposed section 34 covers our ground.

The Chair: Is there any further debate?

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

The Chair: NDP-6 is identical to PV-10 and can't be moved. I was kind of enjoying that back-and-forth for a while.

We are now on PV-11.

Go ahead, Ms. May.

Ms. Elizabeth May: Thank you, Mr. Chair.

I should mention at some point while I have the floor that I have to be in House for a bit of private member's business, the introduction of second reading of Bill S-203.

I know my amendments don't need me here, because they're deemed to have been moved. I'd appreciate it if the Liberal members of the committee would argue my amendments for me in my absence and convince themselves that they're really good while they do it. I'll try to keep my absence to a minimum.

In PV-11, what we're looking at right now is the existing amendment. The existing language talks about opportunity. I'm trying to ensure with this amendment that we respond to the witnesses, many of whom pointed out that an opportunity that can't be used, an opportunity that doesn't provide for meaningful human contact, isn't a real opportunity.

I've brought in this language of “meaningful human contact” and “a reasonable opportunity”, instead of just “opportunity”.

The Chair: Is there any debate?

Go ahead, Monsieur Picard.

[*Translation*]

Mr. Michel Picard: I like the idea of a reasonable approach. However, since the word "*meaningful*" isn't defined in any general way, I'm afraid the effect might be the contrary. In other words, a reasonable approach could lead an institution to determine that the desired level of reasonableness has been reached after a single step is taken. In that case, no additional effort would be made respecting that exchange.

I propose that we not support this approach in order to preclude any limits on procedures. However, we will address this issue later, perhaps in a little more detail.

[*English*]

The Chair: Go ahead, Mr. Motz.

Mr. Glen Motz: For fear of weighing in on this topic and getting the abuse that I did the last time I brought up “meaningful human contact”, I—

Mr. Matthew Dubé: We don't want your “contact” with that approach.

Mr. Glen Motz: True. Thank you.

In a rare show of support, I have to agree with Mr. Picard. We don't know what “meaningful human contact” means, so to change it from “meaningful” to “a reasonable” would be...what? There's really no definition of either one.

I don't know if we're substantially changing anything, Ms. May. I don't know.

Ms. Elizabeth May: If I may, Mr. Chair, it's for the structure of the bill, of course, that I'm putting in the amendment for “meaningful human contact” in my eleventh amendment.

My twelfth amendment provides the definition, and the definition comes from wording.... It's quite interesting that one of the only countries where we could find a definition of “meaningful human contact” is Ireland. We've drawn the amendment from that. It was recommended very strongly by the Elizabeth Fry Society, the John Howard Society, the Canadian Civil Liberties Association, the East Coast Prison Justice Society and so on.

The definition of “meaningful human contact”, for instance, suggests that you're close enough together that you can have a conversation, that you're allowed to have a normal direct physical contact that is not mediated by such things as bars, restraints, security glass or screens. It's sustained and intentional.

That's the longer definition. I don't need to read it in now. If it were a concern for accepting the language that we don't have a definition, we will have a definition if you're prepared to go along with these amendments.

Thank you.

The Chair: Well, if anybody can define “meaningful human contact”, it would have to be the Irish.

● (1645)

Ms. Elizabeth May: Or MPs from Scarborough, maybe.

The Chair: Well, we could work that out. I could think about that.

Ms. Elizabeth May: It looks like I have some support. Thank you.

The Chair: All those in favour of PV-11?

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

The Chair: In all of its meaningful human contact, PV-11 is defeated.

Okay, we have PV-12.

Ms. Elizabeth May: I think that's one for Hansard, that the Parliament of Canada has defeated “meaningful human contact”.

The Chair: It's already in Hansard.

Ms. Elizabeth May: Okay.

Moving on to the definition of “meaningful human contact”, I think I've already spoken to it. In the interests of time, I'll remind you that this is language that comes from Irish rule 27 of the Prison Rules and from the testimony of numerous witnesses.

The Chair: Is there debate?

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

The Chair: With NDP-7, we have another kick at the can on “meaningful human contact”.

Go ahead, Mr. Dubé.

Mr. Matthew Dubé: Thank you, Chair.

I appreciate the amendments that Ms. May brought forward. I think that having that definition was very clear. It's unfortunate that it was defeated. I'm happy to have voted in favour of it.

That said, I know that the next amendment, if I'm not mistaken, from Ms. Dabrusin, is very similar. That's something that I wholeheartedly agree with. It adds a record-keeping requirement, which I would support, so I will withdraw mine and support LIB-3.

The Chair: Okay. Let's keep this Christmas spirit going.

We'll go to Ms. Dabrusin on LIB-3.

Ms. Julie Dabrusin: Thank you, Mr. Chair.

What really stood out for me when I was reading the cases from Ontario and B.C. was all the stories of people only having contact through the meal hatch. This was an important factor for the judge in both cases, and certainly in the B.C. case. I saw that the Ontario legislation never received royal assent, but it did go through three readings and had a section that dealt with the fact that contact couldn't be through a meal hatch, except if there were security reasons or other valid reasons. In that case, however, you would have to provide a reason.

It seems inherently reasonable to me that we presume that you do not have contact just through a meal hatch, but that if for some reason that wasn't possible, you would have to provide reasons so that there's an explanation people could verify.

The Chair: Is there debate?

Go ahead, Mr. Motz.

Mr. Glen Motz: Julie, I understand the logic behind this; it makes sense. I'm trying to limit the amount of record-keeping—and the officials can certainly weigh in on this—because there are a lot of interactions that happen in a penitentiary. You're walking by, and they ask a question or they need a lighter. It's whatever it might be that happens through that. Every time you do that, do you have to make a record of that? It seems to me it flies in the face of what you're trying to say. What you're trying to say is that the meal hatch is not your meaningful human contact.

If that's what you're trying to say, then maybe we need to change the language and not be restrictive on correctional services so that every time they have contact that way, even though it may not be part of that meaningful human contact and may be for some other minor purpose, they don't have to keep a record of it. It would be very cumbersome to do it that way.

What you're asking for makes sense, as long as “I need my smoke lit” doesn't mean they have to write it out, or whatever it is.

Yes, I shouldn't smoke, and that's a problem.

Ms. Julie Dabrusin: I would like to clarify that this amendment I'm moving only applies to proposed paragraph 32(b). It isn't that every interaction cannot be through the meal hatch, but that the—

Mr. Glen Motz: Did you say “33”?

Ms. Julie Dabrusin: It's 32(b).

Mr. Glen Motz: It's proposed paragraph 32(b).

● (1650)

Ms. Julie Dabrusin: I believe so. Am I right?

I'm at page 4, line 18.

The Chair: Okay, are we clear?

Go ahead, Mr. Paul-Hus.

[*Translation*]

Mr. Pierre Paul-Hus: Thank you.

A second subsection would be added to section 32. I'd just like to ensure that we are very cautious. Even if we change the terms, a structured intervention unit is still a place where inmates are subjected to a form of segregation. From what I understand, this would be different, but the fact remains that it would be a sector where the most dangerous inmates are subjected to segregation, although some individuals might ask to be sent there as well. There are conditions, but I wonder whether we should define them more clearly. We can't simply say that human contact must automatically be permitted in the structured intervention units. Some individuals must be deprived of that, and that's why they're confined in segregation.

Are the terms used to define the conditions clear enough? Can our friends at the end of the table confirm for me that the idea behind establishing a structured intervention unit is for it to serve as a place of segregation, in various forms as cases require? If we want to afford these people human contact other than that provided through the meal hatch, I understand the idea. However, despite what's being proposed here, I believe some inmates can't be put in contact with others, even if they're in chains.

Is it clear that the conditions prevent that, that they prevent us from being required under the act to afford certain individuals human contact? A prisoner could claim he's entitled to human contact under the new act. The worst of them might invoke the act. Wouldn't that be a problem? Do you understand what I mean?

[*English*]

Ms. Angela Connidis: Yes. Thank you. I do understand.

I think it's important to note that this amendment proposes that "every reasonable effort" will be made. It's not a requirement. The purpose of a structured intervention unit, as its name says, is to have interventions to address the root cause of the safety risk that put that person there. Not every person going there is a huge safety risk. Some are there because they feel safer. Some are there because there are investigations under way.

Because of the intent of a structured intervention unit, I think it's very reasonable to think that every reasonable effort would be made to ensure that those interventions were without barriers. The intent is strong enough that you would want to take note of those situations in which they were not able to do it.

[*Translation*]

Mr. Pierre Paul-Hus: Can wardens still use their discretionary authority to prevent inmates from invoking the act, from saying they have a right and so on?

Ms. Angela Connidis: Yes.

Mr. Pierre Paul-Hus: Security assessments are done, and wardens retain control of the situation, don't they?

[*English*]

Ms. Angela Connidis: Yes.

[*Translation*]

Mr. Pierre Paul-Hus: Thank you.

[*English*]

The Chair: Is everybody clear?

All those in favour of LIB-3, please signify.

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

The Chair: We are now on to PV-13.

Go ahead, Ms. May.

Ms. Elizabeth May: Thank you, Mr. Chair.

This is based on a lot of evidence, particularly from Dr. Zinger. It restores certain procedural rights for the inmate. It really will work better in a situation where the offender has been designated by an independent or outside reviewer.

In order to ensure procedural rights, I'm replacing lines 19 and 20 on page 4 with something much longer. I could read these out, but I think I'll just summarize them as procedural rights for the inmate.

● (1655)

The Chair: Is there debate?

Go ahead, Mr. Spengemann.

Mr. Sven Spengemann (Mississauga—Lakeshore, Lib.): Thank you, Mr. Chair.

This basically sets out an internal review scheme in some detail, requiring hearings at essentially every decision point relating to maintaining or not maintaining an inmate in SIU. To that effect, the bill already includes multiple oversight mechanisms, including independent internal decision-making throughout the placement. In my submission, it's not something that's required; it's already there.

In addition, the minister, when he appeared at the committee on November 27, expressed support for creating an independent external review mechanism for individuals in SIU who do not take part in programming.

Therefore there are protections, in my submission. I understand the aspiration of this set of hearings, but these changes are not required. It's overly onerous in light of the requirements that are already there.

The Chair: Is there further debate on PV-13?

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

The Chair: We are on NDP-8.

[*Translation*]

Mr. Matthew Dubé: Thank you, Mr. Chair.

The purpose of this amendment is to specify that this tool must be used only as a last resort. It states that this measure, the confinement of inmates in this unit, should be applied only "if there is no reasonable alternative... and is to end as soon as possible."

[*English*]

The Chair: Thank you.

Go ahead, Ms. Damoff.

Ms. Pam Damoff: Thank you, Mr. Chair.

I'm wondering if the officials could comment, because I think this is somewhat redundant. The bill already refers to decision-makers at CSC needing to be satisfied that there are no reasonable alternatives. I'm wondering if you think this is necessary, or if it's already covered in the bill.

Ms. Angela Connidis: I would say it's already covered in the bill.

Ms. Pam Damoff: Thank you.

The Chair: Is there further debate?

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

The Chair: We are now on NDP-9.

Mr. Matthew Dubé: Thank you, Mr. Chair.

In this amendment we're trying to be ambitious on two fronts: applying the Mandela rules relating to the number of aggregate days in a 365-day period, and going back to Justice Arbour's recommendation for judicial review.

I didn't have time to finish debating the minister on that point, but I don't believe it's something that requires royal recommendation or I imagine I would have had a ruling from the chair on this front. I will ask for a recorded vote.

The amendment would read that Bill C-83, in clause 10, be amended by replacing line 20 on page 4 with the following:

> unit is to end as soon as possible, and may never be, subject to subsection (2), for more than 15 aggregate days in a 365-day period.
>
> (2) The Federal Court may, on request by the institution head, authorize the confinement of an inmate in a structured intervention unit for up to an additional 15 aggregate days in a 365-day period, as long as the aggregate days of confinement of the inmate in such a unit, irrespective of the penitentiary, do not exceed 60 in the 365-day period.

The Chair: Go ahead, Ms. Damoff.

Ms. Pam Damoff: Briefly, I'm going to repeat what my colleague said earlier about what the minister said when he appeared before committee. I recognize it's a leap of faith to accept the oversight that would be coming at report stage, because we haven't seen it yet, but I am making that leap of faith and I am confident we can add independent oversight into it.

I appreciate what the member is trying to do here, but I won't be supporting it.

The Chair: Go ahead, Mr. Dubé.

Mr. Matthew Dubé: Thank you, Mr. Chair.

I just want to say that Justice Arbour's recommendation dates back to when I was in elementary school. I'm not saying that to be glib. I'm saying that to demonstrate how long-standing this issue has been.

I think it's pretty clear from the minister's comments and his inability to provide me with an adequate response that he has already prejudged what he believes this will look like.

Both Bill C-56 and Bill C-83 have had nothing in terms of proper independent review with any kind of teeth. Moreover, I think the very fact that the government is appealing the B.C. decision has just left a bunch of bread crumbs that do not allow me, unfortunately, and with all due respect, to make the same leap of faith. I believe, from what I've heard from witnesses, what I've read and what I've heard Justice Arbour say many times over the years, that this is the way to go.

At the end of the day, I go back to what Justice Arbour articulated as the reason here: The minute you start going beyond a certain number of days without this type of review, you're actually influencing sentencing. You're changing the punishment that has been brought out by a court of law on an individual.

I understand that circumstances can change within a prison, but unfortunately, history has borne out that this has been abused and has gone against the way our system is supposed to work. I believe this is the only way we can properly correct that abuse. Having heard witness testimony, and through my own discussions with stakeholders, that's what I believe.

Unfortunately, on this file, with the dithering we've seen from the minister, both with his actions in appealing the decision through the Department of Justice and in his own testimony, I just do not have that same faith.

● (1700)

The Chair: Is there further debate?

A voice: I'd like a recorded vote.

The Chair: We'll have a recorded vote.

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

The Chair: We move to PV-14.

Ms. Elizabeth May: Thank you, Mr. Chair.

In this amendment, which is somewhat similar to the one that was defeated, we're recognizing that the legislation is putting in the four-hours rule, the Mandela rule, but because of the broadness of the exceptions, it could very well be that you actually end up not getting that amount of time. You could actually have 22 hours a day in confinement under this legislation, and that would end up qualifying as solitary confinement under Mandela rules and would therefore not be acceptable.

We know that when you're dealing with prisoners who are dealing with mental health issues, any amount of confinement can be much more devastating than for inmates who don't have mental health issues. It can be psychologically harmful, as the Prisoners' Legal Services brief pointed out, “for prisoners with mental disabilities for any amount of time, and after 15 days for anyone else.”

My amendment sets out ways of ensuring that if you've been confined for 15 consecutive days, you're not allowed to be returned to confinement without an in-between period of five days, and that if you've been “confined in a structured intervention unit for more than 60 aggregate days within a 365-day period”, that will also trigger that you've had well above what would be acceptable.

They'd have to watch the aggregate in 365 days, watch the 15 consecutive days, and then also look at other, less restrictive programs to ensure that something is working that's more appropriate for the inmate.

The amendment comes from the same witnesses that I've drawn most of my amendments from, the ones who have the most experience with the prison system and are worried that this bill doesn't meet its intention of ending solitary confinement. These time limit caps would go a long way toward ensuring this legislation really did end solitary confinement.

The Chair: Is there further debate?

Mr. Sven Spengemann: Mr. Chair, I appreciate the level of attention that the amendment places on the needs of the inmate with respect to the number of days. My point would be similar to the one I made under PV-13, which is that internally there is already a set of oversight mechanisms in place—independent internal oversight—and externally, Minister Goodale made a statement on November 27 expressing support for creating external oversight. Ultimately, this level of attention is the right level, but the protections are already in place for the inmates through the two systems I've described.

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

The Chair: On LIB-3.1, we'll go to Monsieur Picard.

● (1705)

Mr. Michel Picard: It's consequential to what we did before in the level of the decision-making process.

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

The Chair: We'll turn to PV-15.

Ms. Elizabeth May: I was almost deciding I had to go to private members' business, but since I have a chance, this is to emphasize the use of SIUs as a last resort rather than a front-line response. It requires written reasons for including alternative options and how they've been explored, and requires that the inmate be provided with a copy of the transfer order.

Senator Pate said there are no requirements, for example, in this bill that the commissioner state what other measures were considered and the reasons they were not considered reasonable. This would help ensure that the segregation units are actually considered only as a last resort, not a front-line response.

I'll leave you with that, and I hope that's enough to persuade you.

Thank you very much.

The Chair: Thank you, Ms. May.

Those in favour—sorry; is there debate?

Ms. Julie Dabrusin: We can just do that.

Sure, let's—

The Chair: Okay. You want to debate or you don't want to debate?

Ms. Julie Dabrusin: Thanks. That's it.

The Chair: Does anybody else want to debate?

Those in favour of amendment PV-15, please indicate.

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

The Chair: On amendment LIB-3.2, we have Mr. Picard.

Mr. Michel Picard: This is another version.

[*Translation*]

The idea here is simply to clarify the passage: d'agir d'une manière qui mettrait en danger la sécurité

I don't know whether I should do go back over the point that's changed. The correction concerns only the French version.

[*English*]

The Chair: Is there any debate? No.

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

The Chair: On amendment PV-16, Ms. May is not here. I don't know whether anyone wants to.... It's deemed moved, but this one, because amendment LIB-3.1 passed, is therefore moot.

How do we mark "moot?" Is it withdrawn?

It's inadmissible. Okay.

Moving on, we have amendment LIB-4 and Ms. Dabrusin.

Ms. Julie Dabrusin: Following up on what Ms. May said in respect of her previous amendment that she talked about, I agree that it's very important for procedural fairness that there be a record kept of the transfer and the reasons for transfer, as well as any alternatives considered in making that decision. It's essential for the person to know why they have been transferred and for this information to be provided within one working day after the transfer so that they have the reasons for the decision.

It's a matter of procedural fairness. It's been raised by other witnesses. I hope everyone will support this amendment.

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

The Chair: Amendment PV-17 is deemed moved. Does anyone wish to speak to it?

Mr. Matthew Dubé: I would speak in support. I don't want to presuppose Ms. May's intentions, but if you read the amendment, you see that she is obviously seeking

the same rights and conditions of confinement as other inmates,

and I think that is something that is appropriate when it comes to protecting the rights of those in the SIUs.

The Chair: Is there any further debate?

Seeing none, those in favour of amendment PV-17, please indicate.

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

The Chair: On amendment LIB-4.1, we have Monsieur Picard.

● (1710)

[*Translation*]

Mr. Michel Picard: The excesses that can be committed over the four hours that inmates may spend outside their cells have been debated at length. We respect inmates by affording them this opportunity from 7 a.m. to 10 p.m. In so doing, we prevent individuals from going out at 2 a.m. This allows for a reasonable and proper schedule.

[*English*]

The Chair: Is there debate?

Go ahead, Mr. Dubé.

Mr. Matthew Dubé: I want to add an amendment. I don't know how this would be added in, but I think we are missing the "reasonableness" here. I do have an amendment in this same vein later on, that the opportunities.... I appreciate the intention of adding the times to be helpful, but I think some of the issues that were raised were about more than just the time of day, so I seek some guidance here, perhaps.

I don't know if the proper way to amend it would be to say "a reasonable opportunity" in each case or to add a paragraph (c) and say that the opportunities in paragraphs (a) and (b) be reasonable. I don't know what we can do to add in that word.

The Chair: I'm sorry, but where would you be putting in "reasonable?" Would it be in a separate paragraph?

Mr. Matthew Dubé: I'm seeking guidance on that, on the proper legal wording.

The Chair: Is there any instruction...?

Mr. Matthew Dubé: I don't know if we add paragraph (c) and say that "the opportunities in paragraphs (a) and (b) be reasonable". If that's a possibility, that's probably the easiest one if that's doable.

The Chair: What about saying under paragraph (a) "a reasonable opportunity to spend a minimum of four hours..."?

Mr. Matthew Dubé: And then do the same thing in paragraph (b)?

The Chair: It would be "a reasonable opportunity to interact...".

Mr. Matthew Dubé: I'm okay with that as well.

The Chair: Do you want to go with that?

Mr. Matthew Dubé: Yes.

The Chair: Okay. That is a subamendment.

Ms. Pam Damoff: Could I speak to that?

The Chair: Yes. Are you debating the subamendment?

Ms. Pam Damoff: Yes.

The Chair: Go ahead, Ms. Damoff.

Ms. Pam Damoff: I actually am a little concerned that adding "reasonable" in there might have a detrimental effect. I'm just looking for clarity. I don't disagree with the member at all, but if we add the word "reasonable", does it give people the opportunity to say "No; well, we made every reasonable effort and we couldn't do it", whereas if we specify just "opportunity", is that more powerful than adding the word "reasonable" in there?

Ms. Angela Connidis: Yes. Putting "reasonable opportunity" actually qualifies the kind of opportunity, and it could be more narrowly applied than just leaving "opportunity" to have as broad a definition as possible.

The Chair: Mr. Dubé, what do you think?

Mr. Matthew Dubé: Well, that's just it. We want it to be more narrow. Right now, having a broad definition is where we are open to the opportunities being insufficient to meet the intentions of the bill and the kind of time that's being offered to these individuals.

The Chair: Do you see "reasonable$ as a restriction, or do you see "reasonable" as an expansion?

Mr. Matthew Dubé: I see it as a restriction that's necessary.

The Chair: Are you still keen on your amendment?

Mr. Matthew Dubé: Yes, I am.

The Chair: I'm not sure we're talking about the same thing here.

Ms. Pam Damoff: I actually think we're on the same page. I'm concerned that adding the word "reasonable" would allow someone to say that they made every reasonable effort and it wasn't possible. That's my concern with adding that in, whereas right now, without that in there, they have to be given an opportunity.

I'm just concerned that it opens it up to actually make it worse for the prisoners and not better.

Mr. Matthew Dubé: My interpretation is that the "reasonableness" qualifier is attached to the opportunity and not the giving of the opportunity. I don't necessarily share the interpretation there.

The Chair: Go ahead, Mr. Eglinski.

Mr. Jim Eglinski (Yellowhead, CPC): I have some concerns with the amendment. I like the "reasonable" and I have a reason for that, which I will explain.

However, I have some concerns about the "every day between the hours of 7 a.m. and 10 p.m."

We have a lot of smaller medium-security and minimum-security institutions in which we may have a problem with an inmate. Let's just take the case of the Grande Cache Institution in my area. There may be some problems that force you to move all your inmates into one area. It could be because of an electrical failure or a fire or a gas leak.

Now, you can't mix the two because it might be very violent. "Reasonable" gives an opportunity for the institution to make a reasonable effort, and I think it's very sensible, because there are circumstances we're not going to think about that may arise. By not having "reasonable" in there and restricting them to those times... maybe they can't do it, and it's impossible. Now you're making a law saying they have to do it even though they can't.

● (1715)

The Chair: Next is Mr. Spengemann, and then Mr. Picard.

Mr. Sven Spengemann: I just wanted to see if this would add some clarification to the exchange between Ms. Damoff and Mr. Dubé.

Part of the confusion was around the fact that the "reasonableness" requirement isn't part of sentence 1. If it was "the service shall take reasonable steps to provide an inmate with an opportunity," one could question whether or not they would actually carry it through.

Mr. Dubé is concerned about the possibility that an inmate might be sent outside in a snowstorm at minus 25 degrees and told, "Here's your opportunity to spend a couple of hours outside your cell."

I don't know if that's the point of contention, but I have a sense it might be.

The Chair: I shouldn't weigh in on debate here, but it seems as though we're talking about two separate things. If the word "reasonable" was after "the service shall, if reasonable, every day, send out," etc., then "reasonable" would be a problem.

Anyway, I shouldn't weigh in on the debate.

Go ahead, Mr. Picard.

[*Translation*]

Mr. Michel Picard: I'd like to raise two points. The first concerns reasonableness and reflects what several witnesses have said. They said they're afraid that correctional officers, out of a lack of trust or experience, will abuse their power and adopt the attitude that granting available hours isn't reasonable in the circumstances. A set schedule leads an institution to make the necessary effort to do what must be done within a suitable timeframe.

The second point concerns what Mr. Eglinski addressed. I don't think we're talking about the same thing. We're talking about treating inmates in an integrated intervention unit in a respectful manner. If a problem arises, such as a natural disaster, a power outage or something like that, common sense dictates that the institution won't take into account the established schedule or the time in the decision it makes.

[*English*]

The Chair: Mr. Paul-Hus is next, and then Ms. Damoff.

[*Translation*]

Mr. Pierre Paul-Hus: Thank you, Mr. Chair.

Mr. Picard, that's where the problem lies. Common sense isn't the same for everyone; we can agree on that.

We're speaking from an operational point of view, and I'd like to know the officials' opinions. There could be problems in this area. People say the idea is to show common sense, but can an inmate, in real life, file a grievance to say that this doesn't work? How does it work from an operational standpoint?

Mr. Luc Bisson: The bill already provides for the hours during which inmates may spend time outside their cells, between 7 a.m. and 10 p.m. That can work.

The bill already provides for exceptions in the case of "force majeure" and events beyond our control. That would then be set down in writing. It's already provided for in the bill.

Mr. Pierre Paul-Hus: Does Mr. Dubé's amendment nevertheless make sense?

Mr. Luc Bisson: I'm going to repeat what's already been said on this subject. The addition of the word "reasonable" provides a factor that must be assessed in deciding whether to grant the opportunity to leave the cell. I think the intention stated in the bill is clear enough.

[*English*]

The Chair: Go ahead, Ms. Damoff.

Ms. Pam Damoff: I just wanted someone to clarify for me exactly where the word "reasonable" is going.

The Chair: I believe it's under proposed paragraph 36(1)(a) "a reasonable opportunity to spend", and 36(1)(b) "a reasonable opportunity to interact".

Is that correct?

Mr. Matthew Dubé: Yes, that's correct.

Ms. Pam Damoff: Okay.

The Chair: Go ahead, Mr. Motz.

Mr. Glen Motz: I just want to get clarification from the officials.

If I heard you correctly, you're suggesting that the language currently in the bill provides for a lot more flexibility. It's still allowing the inmate to receive the time that the bill sets out for being outside their cell and for activities, but prescribing a time may not be necessary, given the flexibility that already exists in the current language. Is that what I heard you suggest?

● (1720)

Mr. Luc Bisson: What I was answering was the question around whether "reasonable" would be required to factor in exceptions, and my comment was that exceptions are already factored in in the bill.

Mr. Glen Motz: I'm referring specifically to time, not to "reasonable". I'm referring to the time.

Mr. Luc Bisson: The time does add more clarity in terms of when these opportunities need to be offered, so it is consistent with the intent.

The Chair: Is there further debate?

Go ahead, Mr. Eglinski.

Mr. Jim Eglinski: Where in the act does it say the exceptions?

Ms. Angela Connidis: That's in proposed subsection 37(1) of Bill C-83.

Mr. Jim Eglinski: Thank you.

Ms. Angela Connidis: It's on page 5.

Mr. Jim Eglinski: I'm sorry. I don't interpret it the same way you do. It says there are exceptions, proposed paragraphs 36(1)(a) and 36 (1)(b).

Ms. Angela Connidis: Then proposed paragraph 37(1)(c) on the next page suggests "in the prescribed circumstances", and that could include a situation as was described before.

Mr. Jim Eglinski: Okay, thank you.

The Chair: Is there any further debate?

The vote will first of all be on the subamendment. Is everybody clear here as to where "reasonable" will be inserted two times?

Some hon. members: Agreed.

The Chair: Those in favour of the subamendment, please indicate.

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

The Chair: We will go to the vote on the main amendment.

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

The Chair: LIB-4.1 passes; therefore, PV-18 cannot be moved.

Mr. Matthew Dubé: I forget if it's only when you rule it inadmissible.... If PV-18 can't be moved, we can't speak to it. Is that right?

The Chair: That's right.

We go on to PV-19. It's deemed moved. Does anybody want to do their representation of Ms. May? That's almost an impossibility.

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

The Chair: We go on to NDP-10. Go ahead, Mr. Dubé.

Mr. Matthew Dubé: Here we are again with the reasonableness, Chair. This amendment reads that Bill C-83, in clause 10, be amended by adding after line 21 on page 5 the following:

(1.1) The opportunity referred to in paragraph (l)(a) or (b)

(a) shall be reasonable;

(b) shall, to the extent possible, take into consideration the offender' s choice of activities; and

(c) shall not be a form of punishment.

(Amendment negatived)

The Chair: We have a late amendment by Mr. Motz, and that is CPC-2.31.

Does everybody have that? We're getting it now. These are literally late amendments, which of course was unintentional on the part of Mr. Motz.

● (1725)

Mr. Glen Motz: Yes.

Perhaps I could speak to this, Mr. Chair. There is no language currently, so I move that we consider adding after line 15 on page 6 the following language:

37.11 A staff member may recommend to a registered health care professional—

The Chair: Excuse me. Hang on. We're adding to line 21 on page 5.

Mr. Glen Motz: You went that way. Okay, let me go ahead. I'll move backwards then.

Ms. Pam Damoff: Which section is it?

The Chair: We are on page 39.1, CPC-2.31. We are adding after line 21on page 5, and Mr. Motz is moving it.

There are two amendments.

Mr. Glen Motz: There are two. There is one that you just mentioned and there's one that I just started.

The Chair: Which is the proper order?

Mr. Glen Motz: Five is first.

The Chair: Five what?

Mr. Glen Motz: It's in sequence.

Ms. Pam Damoff: We don't have it.

Mr. Glen Motz: They're both there. The other was the next one I want to move.

There are two of them. They're separate.

The Chair: I know, but the first one up should be CPC-2.31.

Mr. Glen Motz: You tell me which one you want and I'll move it, Mr. Chair.

Ms. Pam Damoff: Mr. Chair, should we suspend for a few minutes?

The Chair: Not just yet. I'm intending to do that.

Actually, when I think about it, I was going to suspend at 5:30 for 15 minutes.

Mr. Glen Motz: Why?

The Chair: Because we're.... Yes, Ms. Sahota.

Ms. Ruby Sahota: My amendment is coming up in a couple of amendments from now and I'm going to have to leave after that, unfortunately. I'd love to have the opportunity to be here.

The Chair: So you want to keep on going.

Ms. Ruby Sahota: Yes.

The Chair: Okay. It's 5:30. I've given notice to pretty well everyone that we need to sit in order to be able to complete this bill. I hope a lot of you are prepared to sit.

Mr. Glen Motz: We have another day, though, do we not?

The Chair: No, this is it.

Mr. Glen Motz: We have this day and another day.

The Chair: The sequence is that we would report this bill on Monday.

Mr. Glen Motz: We have two days.

The Chair: We'd report this bill on Monday and the debate would start on Wednesday.

I'm in the hands of the committee. Do you want to just keep on plowing through?

Ms. Ruby Sahota: We're not quite sure what to do with Mr. Motz's amendments because we've received them so late, so we might need to break for a little bit.

The Chair: Well, that's the thing. You see—

Ms. Ruby Sahota: I was wondering if I could—

Mr. Matthew Dubé: I have a point of order, Mr. Chair.

The Chair: Go ahead.

Mr. Matthew Dubé: The member has a right to present his amendments. He could read them out, for all we care. He doesn't even need to have them in writing. It's obviously a courtesy.

We set an amendment deadline. We got amendments from Liberals this morning, as well, with little to no notice. At some point, if he just wants to move his amendments....

I understand the sense from the member. I have to leave at 5:30, as I have other commitments. Someone is going to replace me. I don't get to move my amendments. That's just the reality of government ramming through legislation. If Mr. Motz wants to read his amendment for the record, we can just take it from there.

The Chair: I don't think that's the issue, though. The issue is whether we want to suspend while people look at this new stuff and then come back and plow on with it, or whether we want to just move forward. I think we're actually making fairly good progress.

Mr. Glen Motz: Is this push that we need to have it done by Monday from the minister?

The Chair: This push has been in existence since this bill was introduced, because of the apparent drive of the court cases. This is not new.

● (1730)

[*Translation*]

Mr. Pierre Paul-Hus: The government has asked that the deadline be pushed back.

[*English*]

The Chair: What's that?

[*Translation*]

Mr. Pierre Paul-Hus: The government has asked that the deadline be pushed back.

[*English*]

Mr. Glen Motz: The committee decides when to report back. The minister doesn't decide that, Mr. Chair.

The Chair: No. The committee decides how quickly it will do that, but the chair has the prerogative of extending hours when bills are before the committee.

I sent a note to everybody earlier in the week saying that there would be a reasonable anticipation that we might go beyond 5:30. We are at 5:30, so the simple question is whether you want to suspend for a few minutes while you absorb these new amendments or to keep on moving forward.

Mr. Glen Motz: Let's keep on moving forward.

The Chair: Okay. That's Mr. Motz's view.

Ms. Dabrusin is next, and then Ms. Damoff.

Ms. Julie Dabrusin: I would like to suspend. I'm enough of a law geek that I'd like to actually see how it fits in and try to figure out what it is. I would ask for a brief suspension.

Ms. Pam Damoff: I agree with Ms. Dabrusin.

The Chair: I take the guidance of my colleagues. We will suspend for 10 minutes and reconvene. First up will be Mr. Motz, and it will be what I have as CPC-2.31, which is adding text after line 21 on page 5.

With that, we are suspended for 10 minutes.

● (1730)

(Pause)

● (1740)

The Chair: Ladies and gentlemen, let's come back to order.

In the interest of peace, order and good government and the desire to have peace, order and good government, I apologize for confusing you. The clerks had assigned a number, CPC-2.31, to reference number 10222178, and that confused Mr. Motz.

I sincerely regret confusing Mr. Motz, although it does seem to be a fairly easy task.

Mr. Motz, you're on.

Mr. Glen Motz: I have a point of order, Mr. Chair.

I would move this new language after line 21 on page 5. We're suggesting, or moving, that the following be added:

> (1.1) The institutional head may, after consultation with qualified persons, develop alternative means to fulfill the obligation referred to in subsection (1) if those means mitigate the impact of confinement in a structured intervention unit on the mental health of inmates while improving the safety of persons or the security of the penitentiary.

We have written in absolute rules and attempted to define a meaningful relationship for human contact under the law, which is challenging without consideration of its being a prison. Bill C-83, though, doesn't leave much room for considering alternative treatments in the future, which is concerning. I believe that if a technology comes along and we universally accept that meaningful human contact can be achieved, thus meeting the terms of the act while being implemented through other means, the act should be ready for that.

Therefore, I would move that the minister and correctional service staff have the ability to implement new technologies or systems to meet the requirements of the act.

● (1745)

The Chair: Is there any debate?

(Amendment negatived)

Mr. Glen Motz: I'm ready for—

The Chair: We have Mr. Dubé on NDP-11.

Mr. Glen Motz: I have another one. I have two.

The Chair: Yes, you do, but you're not on until after two more amendments.

Mr. Glen Motz: You just let me know when you're ready for me, Mr. Chair, and I'll be here waiting for you.

The Chair: I will. Don't take any time off, Mr. Motz. We're ready for you.

Mr. Glen Motz: All right.

The Chair: Welcome to the committee, Mr. Blaikie.

I'm assuming you wish to move NDP-11.

Mr. Daniel Blaikie (Elmwood—Transcona, NDP): I do indeed, and I'm happy to motivate if you'd like me to do that.

The Chair: I'm sorry?

Mr. Daniel Blaikie: I'm happy to motivate it if you'd like me to do that.

The Chair: Motivate it?

Mr. Daniel Blaikie: Yes.

The Chair: Well, I'm always interested in motivation, but I hope your motivation is brief.

Mr. Daniel Blaikie: Indeed.

This amendment essentially clarifies that time outside a cell proposed as an SIU would be a minimum, and that the service would have to actively increase time outside the cell wherever possible, as well as document that these opportunities outside of the minimum time are offered.

The Chair: Is there any debate on NDP-11?

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

The Chair: Again, in light of peace, order and good government and the personal safety of your chair, I am going to ask at 6:30 whether we should instruct the clerk to order food for the committee.

Mr. Michel Picard: That's tempting.

Ms. Pam Damoff: Yes.

The Chair: Okay. At 6:30 we'll decide—

Mr. Jim Eglinski: Let's get this done.

Mr. Glen Motz: Why are we waiting for 6:30?

The Chair: We can order for 6:30 or at 6:30.

Mr. Glen Motz: Let's order for 6:30

The Chair: I'd rather order at 6:30 or a quarter to seven.

Mr. Raj Saini (Kitchener Centre, Lib.): What is the food? Why do we have to wait until 6:30?

Ms. Pam Damoff: Let's keep moving.

The Chair: You're here and you're complaining already, Mr. Saini.

Mr. Raj Saini: It's about logistics. I want to provide some order and good government to this committee.

The Chair: Okay. We have LIB-4.2.

Go ahead, Ms. Sahota.

Mr. Sven Spengemann: Mr. Chair, Ms. Sahota had to leave, but I'll move it in her place.

Members have the amendment in front of them. The effect of this amendment is to essentially provide a clear definition of the other reasons or "prescribed circumstances" when opportunities for time outside of the cell or for interventions or programming may not be offered to inmates in a structured intervention unit.

The Chair: Is there any debate?

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

The Chair: LIB-4.2 is adopted. Now we have NDP-12.

Go ahead, Mr. Blaikie.

Mr. Daniel Blaikie: Thank you very much.

The purpose of this amendment is to indicate that prisoners should not be denied the minimum time outside of the cell due to lack of staffing. It is to ensure that staffing is available to make sure that prisoners are able to get the minimum required time.

The Chair: I apologize, Mr. Blaikie. I didn't read the clerk's notes to me, which say that if Lib-4.2 is adopted, NDP-12 cannot be moved.

I apologize for that. That was a 30-second waste of time.

We have NDP-13.

Go ahead, Mr. Blaikie.

● (1750)

Mr. Daniel Blaikie: All right. Presumably this one is not now out of order due to previous amendments.

This one would add record-keeping requirements for the opportunities offered to a prisoner and for the reasons provided by the prisoner for refusal.

The Chair: Is there any debate?

Ms. Pam Damoff: No. We like this one.

The Chair: All those in favour of NDP-13, please indicate.

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

The Chair: We have PV-20, deemed moved by Ms. May. Is there debate on PV-20?

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

The Chair: We also have PV-21, again deemed moved. Is there any debate?

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

The Chair: We are now on to CPC-2.32, also known as reference number 10221253, standing in the name of Mr. Motz.

Mr. Glen Motz: Thank you, Mr. Chair.

I move that Bill C-83, in clause 10, be amended by adding after line 15 on page 6 the following:

> 37.11 A staff member may recommend to a registered health care professional employed or engaged by the Service that the professional assess the mental health of an inmate, if the inmate
>
> (a) refuses to interact with others for a prescribed period;
>
> (b) exhibits a tendency to self-harm;
>
> (c) is showing signs of an adverse drug reaction; or
>
> (d) is showing signs of emotional distress or exhibiting behaviour that suggests that the inmate is in urgent need of mental health care.

This came about through discussions with the correctional officers and through debate here at committee. Correctional officers are not medical staff, but they seem to be relied upon to provide medical assistance on numerous occasions. The service needs a mechanism to refer individuals who need help to those who can help.

It should be clear in law that this is a power and ability to refer this issue to someone equipped and trained to deal with it. It should be clear that correctional officers who are not medical staff are not going to be relied upon to deal with these issues that are beyond their expertise.

The Chair: Is there any debate?

Go ahead, Ms. Damoff.

Ms. Pam Damoff: I want to commend Mr. Motz on his amendment and on working with witnesses to come up with it.

I want to ask the lawyers at the end of the table if they have any suggestions to improve upon the wording.

Ms. Juline Fresco (Counsel, Legal Services, Department of Justice): Thank you.

Could we just have one minute to look at it?

Ms. Pam Damoff: Sure.

Ms. Juline Fresco: I just have one suggestion. In the first line, it could be “a staff member or a person engaged by the service”. That's just to specify that there are those who are not employed, but rather engaged by the federal service.

Ms. Pam Damoff: It could be an elder who had come in and might be engaged by the service.

Ms. Juline Fresco: That's right.

Ms. Pam Damoff: Mr. Chair, I would like to move a subamendment to the member's motion, to add the words, “or a person engaged by the service” after “a staff member”. The rest of it would remain the same.

The Chair Is there any debate on the subamendment?

Seeing none, I will ask those in favour of the subamendment to so indicate.

(Subamendment agreed to)

The Chair: Is there any debate on the amendment as amended?

(Amendment as amended agreed to)

Mr. Jim Eglinski: Mr. Motz, you have one.

Some hon. members: Oh, oh!

The Chair: My goodness. Let the record show....

Ms. Pam Damoff: It's a good amendment.

Mr. Glen Motz: I figure they're all that way.

Ms. Pam Damoff: I know you do, but that one was a particularly good one.

● (1755)

The Chair: Okay. It might be closer to Christmas than we think it is.

PV-22 is deemed moved.

Is there any debate?

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

The Chair: PV-23 is also deemed moved.

Is there debate?

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

The Chair: Next is LIB-4.3, moved by Monsieur Picard.

Mr. Michel Picard: It's consequential to the amendment made in clause 7.

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

The Chair: We are now on to PV-24, but it is inadmissible. PV-25 cannot be moved if LIB-5.1 is adopted.

Hang on.

Neither PV-24 nor PV-25 can be moved at this point, because we adopted LIB-4.3.

We are now on to LIB-5.

LIB-5 is Ms. Dabrusin's. Mr. Spengemann is moving it for her.

Mr. Sven Spengemann: Mr. Chair, I will move it for her, and I believe there's a subamendment afterwards.

The members have the amendment on front of them. The effect of the amendment is to add two subsections after proposed subsection 37.3(1), as subsections 37.3(1.1) and 37.3(1.2). The clarification being made is, “Before making the determination, the institutional head shall visit the inmate.”

The amendment would also add a new subsection 37.3(5), which states: “No later than 24 hours after the visit, the institutional head shall provide the inmate, in writing, with the reasons for the decision.”

The Chair: Go ahead, Ms. Damoff.

Ms. Pam Damoff: I have a subamendment.

The Chair: Do you wish to move the subamendment now?

Ms. Pam Damoff: I do, please.

The Chair: Okay.

Ms. Pam Damoff: I would add that Ms. Dabrusin is quite sad that she's not here to be doing this herself, because she feels quite passionate about it.

The Chair: That point is not a subamendment.

Ms. Pam Damoff: I know.

The subamendment is to change the words “24 hours” to “one working day”.

The Chair: It's “one working day”. Okay.

Is there any debate on the subamendment?

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

The Chair: Now we're moving to the amendment as amended.

Is there any debate on the amendment as amended?

[*Translation*]

Mr. Pierre Paul-Hus: The amended text would therefore read "one working day" instead of "24 hours". Is that correct?

[*English*]

Mr. Michel Picard: It's a working day.

[*Translation*]

Mr. Pierre Paul-Hus: Penitentiary employees work 7 days a week. Is there a difference for people who work 24 hours a day, 7 days a week?

● (1800)

[*English*]

Ms. Angela Connidis: The difference is usually a calendar day or a workday, and a workday is Monday to Friday.

[*Translation*]

Mr. Pierre Paul-Hus: But isn't it different in prison?

[*English*]

Ms. Angela Connidis: If there's a holiday, that wouldn't be a working day. It's to ensure sufficient time to do that in regular working hours.

Mr. Glen Motz: If we're removing the 24-hour time span, if something comes to the attention of the institutional head and it happens at one o'clock in the afternoon on a Tuesday, he has until the end of the day on the following day to deal with it. That's one working day.

Is that how you would interpret adding “one working day”, as opposed to “24 hours”?

I just want to be clear, because it's reasonable.

The Chair: That's a legitimate point of clarification.

Mr. Glen Motz: If that's how you understand it, then I think that's reasonable.

If you support mine, Pam, then I'll support your amendment.

Ms. Pam Damoff: I think we voted on my amendment.

Mr. Glen Motz: It's all good.

The Chair: This is getting too friendly.

Is there any other debate on the amendment as amended?

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

The Chair: It's unanimous. This really must be Christmas.

That deals with LIB-5.

I'm assuming, Mr. Spengemann, you're moving LIB-5.1?

Mr. Sven Spengemann: Yes, sir, I am.

Again, the effect of LIB-5.1 is consequential to more appropriately place this clause as a result of the new health care review scheme and changes to the institutional head's review.

The Chair: Is there any debate?

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

The Chair: It's unanimous.

LIB-5.1 passes, therefore PV-26 cannot be moved.

We're moving to LIB-5.2, in the name of Ms. Dabrusin.

Go ahead, Mr. Spengemann.

Mr. Sven Spengemann: I'll happily move this one as well, Mr. Chair. Again, members have the text in front of them.

This amendment creates an additional safeguard for inmates by requiring an additional review at a more senior level, if the institutional head does not accept a health care professional's recommendations.

The Chair: Is there any debate?

Ms. Blaney, welcome to the committee.

Ms. Rachel Blaney (North Island—Powell River, NDP): Thank you so much, and I appreciate all your patience with me.

One of the concerns we have is this is going to end up with a patchwork of review mechanisms. If the minister is really serious about establishing something else with a royal recommendation, reviews made through this process are unlikely to be considered independent, as defined in the B.C. court decision. I just want to make sure that.... That's one of the concerns we have.

The Chair: Go ahead, Mr. Motz.

Mr. Glen Motz: From the officials, is there senior medical staff in each institution that fits this amendment?

Ms. Angela Connidis: Yes.

Mr. Sven Spengemann: Mr. Chair, in reply to Ms. Blaney, the conversation we had earlier captured the fact that on November 27 the minister committed to the creation of an external review mechanism, which would address in part the concern you're raising.

The Chair: Is there any further debate on LIB-5.2?

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

The Chair: PV-27 is deemed moved. Is there any debate?

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

The Chair: Now we have LIB-5.3, in the name of Monsieur Picard.

Mr. Michel Picard: This amendment is consequential to changes made in clause 10.

The Chair: Okay. Is there any debate?

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

● (1805)

Mr. Jim Eglinski: Could I have that read, please? I don't have it on my list here.

The Chair: It reads that Bill C-83, in clause 10, be amended by replacing lines 31 to 38 on page 7 with the following:

> nation under paragraph 37.3(1)(b) that an inmate should remain in a structured intervention unit, the Commissioner shall, in accordance with the regulations made under paragraph 96(g), determine whether the inmate should remain in the unit. The Commissioner shall also make such a determination in the prescribed circumstances and every 30 days after the Commissioner's last determination under this section that the inmate should remain in the unit.

Now I did interrupt a vote to do that, and probably I shouldn't have, but nevertheless that's what we voted on. I believe we've taken the vote in favour.

Ms. Pam Damoff: We have.

The Chair: There we are.

LIB-5.3 is adopted, so now we're on to PV-28, which is deemed moved.

Is there any debate?

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

The Chair: We have LIB-5.4, in the name of Ms. Dabrusin.

Mr. Sven Spengemann: Mr. Chair, this is consequential as well.

The Chair: Is there any debate?

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

The Chair: PV-29 is deemed moved. Is there any debate?

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

The Chair: Shall clause 10 as amended carry?

(Clause 10 as amended agreed to on division)

(Clauses 11-14 inclusive agreed to on division)

(On clause 15)

The Chair: On clause 15, we start with NDP-14.

Go ahead, Ms. Blaney.

Ms. Rachel Blaney: Thank you all for your patience. I am new to this committee in doing this work. We want to make sure that we replace lines 6 to 10 on page 11 with the following:

> lndigenous community means an organization, a community, a band, a tribal council

Sorry; am I in the wrong place?

The Chair: That's the wrong amendment.

Ms. Rachel Blaney: Where am I?

He showed me the right one. Thank you.

The Chair: That's all right.

Ms. Rachel Blaney: Thank you again for your patience. It reads that Bill C-83, in Clause 15, be amended by adding after line 17 on page 9 the following:

> 48.2 No routine strip search of an inmate may be conducted if a body scan search is available.

We just know that this is much more effective, less invasive, and we think that if it's available, that it should be always the option.

The Chair: Is there any debate?

Go ahead, Ms. Damoff.

Ms. Pam Damoff: Thank you, Chair.

I actually like the amendment, but I have concerns about someone who has a health condition, for example, and can't go into a body scan. I'm wondering if the officials could comment, and also if there was wording that would cover the situation if the offender is not able to go into a body scan or if they choose not to.

We're talking about NDP-14, right?

Ms. Angela Connidis: Yes.

I think we'd need to spend a bit more time to think of accurate wording to reflect your concern. There are other issues to think about as well, in terms of the definition of "available" and what that means.

I hesitate to put wording on the floor right now.

The Chair: Next is Mr. Motz, and then Mr. Eglinski.

Mr. Glen Motz: Is a routine strip search now part of a normal Correctional Service of Canada practice?

Mr. Luc Bisson: Essentially, strip searches are currently available under the act. My understanding is that under Bill C-83, they would continue to be available.

To reiterate, the concern is about what this would mean if there are medical conditions, or if the body scanner is at the front entrance and we're moving an inmate from one area to another where a body scanner isn't present. What would this mean in terms of how we would operationalize this?

There are concerns from that perspective.

● (1810)

The Chair: Go ahead, Mr. Eglinski.

Mr. Jim Eglinski: Maybe the officials can answer this for me.

I'm not trying to be crude here, but will the X-ray machine or the equipment we have in our institutions be able to show cavities of a person walking through on the screen, and what's hidden in the private parts of their body?

Mr. Luc Bisson: This would be further prescribed as is laid out in the bill. There are a number of technologies available.

We're looking at something similar to what is used in airports. It would essentially identify a problematic area and suggest a secondary review at the threat risk assessment, but not necessarily show a detailed view of the human body.

I hope that answers your question.

Mr. Jim Eglinski: No, it doesn't.

The scenario that I'm seeing is that something does show. You're saying here, by bringing this section into play, "No routine strip search of an inmate may be conducted if a body scan search is available."

What do you do if you see something, then? You're saying you can't do it. You're contradicting—

Ms. Pam Damoff: Jim, it's not us.

The Chair: It's an NDP amendment.

Mr. Jim Eglinski: Do you understand what I'm saying?

The Chair: Mr. Paul-Hus is going to provide greater clarity here.

[*Translation*]

Mr. Pierre Paul-Hus: I don't think the amendment works at all. The intention was to provide that the body scan search replaces the strip search. However, if the scanner finds something, a search has to be done. So that doesn't work.

Thank you.

[*English*]

The Chair: Okay.

Ms. Blaney, do you want to have the final word?

Ms. Rachel Blaney: Well, with all my massive expertise, I think it sounds like....

I don't have an amendment to offer. It's on the floor, and I think we should just go to a vote.

The Chair: It's as is.

Okay, I'll call the vote on NDP-14.

(Amendment negatived)

(Clause 15 agreed to on division [*See Minutes of Proceeding*])

(Clauses 16 to 22 inclusive agreed to on division)

(Clause 23)

Chair: On clause 23, the first amendment is CPC-2.4.

It stands in the name of Mr. Motz.

Mr. Glen Motz: You have it in front of you. I won't go through it and read it all.

We heard from the Native Women's Association of Canada. They provided the suggested revised language to the act. I see no need to put 100% of the power into the councils or chiefs. I think the ability of the Correctional Service to work with whomever to help rehabilitation and reintegration should be clear.

This is very similar to NDP-15. I would ask the officials to tell us which makes the more sense.

The Chair: Do you mean which makes more sense among the amendments, or...?

Mr. Glen Motz: Does the language in our CPC-2.4 work better, or does it work better in NDP-15?

The Chair: I think they can only deal with one amendment at a time.

Mr. Glen Motz: Okay, then, let's just work with ours. Pass it and we're good to go.

The Chair: The amendment is moved and the debate is on.

Go ahead, Ms. Damoff.

Ms. Pam Damoff: Thank you, Chair.

I think we all have attempted to put a definition in place that will further define "indigenous community". I'm wondering if the officials could comment on the more lengthy definition put forward by the Conservative Party.

● (1815)

Mr. Glen Motz: Pam, this is the Native Women's Association of Canada's language.

Ms. Pam Damoff: I know it is.

Mr. Glen Motz: This is what they suggested. We said it works for us, and we threw it in.

Ms. Rachel Blaney: If we're having—

The Chair: Hang on.

Mr. Glen Motz: Sorry. We're having a sidebar over here.

The Chair: Yes. These two are just talking. That's not debate. If the chair doesn't recognize it, it doesn't exist.

Go ahead.

Ms. Angela Connidis: When you talk about a lengthy definition, are you referring to "indigenous community"?

Ms. Pam Damoff: Yes. On the definition of "indigenous community", Mr. Motz is correct that it was put forward by the Native Women's Association of Canada. We have put forward a definition that's much shorter. I know you can't speak to that, because we're not there yet, but I'm just wondering if you can comment on any issues that might arrive from being as prescriptive as this definition is.

Ms. Angela Connidis: I think the prescriptiveness of it means that some indigenous leadership groups may not fall within this definition. It would limit which groups could be part of an indigenous community. Recognizing that Bill C-83 actually refers to indigenous "organization" rather than indigenous "community", that definition wouldn't apply to what we have: indigenous organization.

The Chair: Is there any other debate?

Ms. Rachel Blaney: I would like to respond to the question that was asked earlier about the two amendments, the Conservative and the NDP.

I want to clarify that for the one we put forward, we actually had extensive discussions with the native association for Canada and also the aboriginal legal society. There was a great amount of discussion. The amendment that we proposed, which will be up next, was seen as a bit more fulsome.

Mr. Glen Motz: Chair, I'll withdraw CPC-2.4.

The Chair: CPC-2.4 is withdrawn. Thank you.

NDP-15 is up.

Ms. Rachel Blaney: That's me. Let's see if I get it right this time.

I move to amend Bill C-83 in clause 23 by replacing lines 6 to 10 on page 11 with the following:

> *lndigenous community* means an organization, a community, a band, a tribal council, a nation or any other group with a predominantly Indigenous leadership.

I further move to amend it by adding after line 14 on page 11 the following:

> *predominantly lndigenous leadership* in relation to a group, means a group—the majority of whose board of directors are First Nation or non-status First Nation, whether residing on reserve land or not, Métis or Inuit—that advocates for culturally appropriate and community-based alternatives to confinement for Indigenous inmates.

As I hope everyone in this room appreciates deeply, this is important terminology to have moving forward.

Thank you.

The Chair: Is there any other debate?

Ms. Pamoff...or Ms. Damoff.

Ms. Pam Damoff: It's not the first time that's happened.

Chair, I'm going to ask if we could suspend for a couple of minutes. I'd like to confer with my colleagues before we move forward on this.

The Chair: I'm happy to suspend. Is that the will of the committee?

Some hon. members: Agreed.

The Chair: Now, before I do that, please note that a vote on NDP-15 applies to consequential NDP-18 and NDP-19. If adopted, PV-30, PV-33 and PV-36 cannot be moved. This is just so that we all know what we're talking about.

Mr. Glen Motz: That should motivate you guys over there if we all—

The Chair: Okay, before I suspend.... It's now 6:20. By the time we return it will be 6:25. Shall I instruct the clerk to order food—yes, no, or maybe?

● (1820)

Mr. Glen Motz: Can I ask a question first? What is the extension —

The Chair: It's 15 or 20 minutes.

Mr. Glen Motz: That's what I was going to ask. If we're going to be done in half an hour, there is no sense ordering supper.

The Chair: Will it be more than that?

Sorry?

Mr. Glen Motz: I said if it's half an hour until supper gets here, then why order supper?

The Chair: Okay, half an hour is too late, so we're not ordering anything. You're going to have to survive.

We will suspend for five minutes.

● (1820)

(Pause)

● (1825)

The Chair: We are back in session.

Amendment NDP-15 is on the table.

Go ahead, Ms. Damoff.

Ms. Pam Damoff: Thank you, Chair, and thank you for your indulgence.

We have a definition that's been put forward by the NDP—and Mr. Motz put one forward that was similar—which came through a number of organizations. I really would like to get clarity on this wording of "Indigenous community".

I know that when we were drafting the bill.... I've had a number of discussions with the department as well to come up with wording that will allow organizations to be able to enter into agreements with the government while also respecting that we want these to be indigenous organizations. We don't want someone to hang up a shingle, throw their name on it and be able to run a healing lodge, for example. It needs to truly be an indigenous organization, and it's a challenge.

Because there are ramifications with regard to other bills and to other things the government is doing that we may or may not be aware of, what are the implications of changing the wording that we have in the bill now to "indigenous community"?

● (1830)

Ms. Juline Fresco: Thank you. I'm going to talk a bit about what was done in Bill C-83 with respect to the definitions.

Subsection 81(1) of the act is amended by replacing the term "aboriginal community" with "Indigenous governing body" and "or any Indigenous organization". The reason is that when a contract is entered into with an indigenous community, it can't be with the "community"; that's not an entity you can actually enter into an agreement with contractually. In fact, it's the "indigenous governing body" and an "indigenous organization", so that is the change that we made in the act.

Ms. Pam Damoff: If we were to change it to "indigenous community", it would actually not allow the government to enter into contracts even though it's been defined underneath?

Ms. Juline Fresco: It would not allow the specificity that we believe Bill C-83 clarifies, which is that when the CSC is entering into an agreement with a community, what they're actually entering into is an agreement with the indigenous organization or indigenous governing body. It wouldn't give us the clarity that we believe the bill has at this point.

Ms. Pam Damoff: The "governing body" would encompass the band, tribal council and nation. Is that correct?

Ms. Juline Fresco: That's right.

Ms. Pam Damoff: The "organization", then, would encompass the other groups: obviously "organization", which is already here, and "community" would also probably fall under "organization"—would it? That one I would have trouble with.

Ms. Juline Fresco: Yes, the idea is that we're just clarifying who is actually entering into the agreement. An agreement or a contract must be linked to the appropriate authority. The "community" is not who enters into the agreement for the community, on behalf of the community; it's the indigenous organization or indigenous governing body.

Ms. Pam Damoff: Okay. In your opinion, would the wording we have now, "governing body" or "organization", encompass the intent of what has been put forward here in the amendment? You're adding new wording that isn't anywhere else, right? We don't have "indigenous community" anywhere else.

Ms. Juline Fresco: We do have "indigenous community" in other sections, so that doesn't change. We're not removing "indigenous community" from other sections. Specifically, proposed section 84 states:

> If an inmate expresses an interest in being released into an Indigenous community,

That doesn't change. We have changed the word "aboriginal" to "indigenous", but that will still remain, and that does not necessarily encompass what is proposed here. It is for my policy colleagues to speak to the policy, but from a strictly legal standpoint, you still have "community", so I'd have to turn to my colleagues as to whether that would reflect the policy.

Ms. Angela Connidis: Well, when you think of the provision that someone would be released into an "indigenous community" and we look at the definition being proposed here, you would then be saying that someone would be released into a tribal council, for instance. It would create some awkwardness in other parts of the act to use this definition.

Ms. Pam Damoff: Okay.

In the second part of this amendment, it says, "predominantly Indigenous leadership" and then that is defined. When we get to the amendment I put forward, we've left it at just "predominantly Indigenous leadership". Can you comment on any negative consequences of providing such an explicit definition?

Ms. Juline Fresco: Currently in the CCRA right now, "aboriginal community" is defined, and that includes an organization or other group with "predominantly aboriginal leadership". There is no qualification on what "predominantly aboriginal leadership" is. It's unqualified beyond the words, and if we were to adopt that, it would take on a different legal interpretation. You would have to meet the strict factors that are set out here.

Of course, it's a policy determination whether you wish to do so, but it will change the legal meaning of an indigenous—

Ms. Pam Damoff: It would mean that someone couldn't.... Unless they had an official board of directors, it would also limit it that way, right?

Ms. Juline Fresco: That's correct. In my legal opinion, it's more restrictive than what currently exists now.

● (1835)

Ms. Pam Damoff: That's great. Thank you.

The Chair: Go ahead, Ms. Blaney.

Ms. Rachel Blaney: I have a couple of the questions. It seems to me that the minister is the individual who picks and chooses the groups. You talked about this definition sort of meaning a bigger deal than I think, because if the minister gets to pick, then why is it a problem to have the word "community"? The minister still gets to decide who they're going to create partnerships or working relationships with in this way. I'm just wondering if you could clarify that.

Ms. Juline Fresco: I'm just coming at it from a strictly legal standpoint, which is that this provides clarity in the act that the entity to whom those arrangements are being entered into on behalf of the community is the indigenous organization or governing body.

Ms. Rachel Blaney: The other question that I have, and one of the things that the former member just said, is that you want to make sure that it's not just somebody who puts up a sign that says, "I'm an indigenous organization". By making it stricter, does that increase accountability?

Ms. Juline Fresco: I would have to turn to my policy colleagues for that.

Ms. Angela Connidis: In the definition of "indigenous governing body", we do refer to the fact that an indigenous group, community or people holds rights recognized and affirmed by section 35 of the Constitution Act. It's not just wide open for someone to put forward as you're suggesting.

The Chair: Is there any other debate on NDP-15?

Ms. Rachel Blaney: I have one more question, if I may, Chair.

The Chair: Okay.

Ms. Rachel Blaney: Section 35 doesn't include all indigenous communities. I just want to clarify that as well, because this sort of broadens the definition a little bit. Moving forward and looking at the direction that we're trying to move forward in this country, I don't want to leave people out who could do that important work. Section 35 doesn't encompass that, so how do we remedy that?

Ms. Angela Connidis: The intention definitely is that it's not meant to be narrow. We don't have our constitutional experts with us right now.

The Chair: Go ahead, Ms. Damoff.

Ms. Pam Damoff: My understanding is that the wording that's been put into the bill now expands greatly the number of groups or organizations that could come forward to create a healing lodge. For example, we heard about one that's proposed for Toronto, certainly some place where one would be needed, and that organization, provided it's an indigenous organization, and if the amendment I put forward passes and the majority of the leadership are indigenous, then they would be able to come forward and enter into an agreement with the government.

That wouldn't be able to happen at the present time. This will allow it to expand the number of organizations by adding in that we have the organization or governing body. We're putting it in place that we have more opportunity for organizations to contract with the government, because you're not contracting with communities. That's what I'm hearing.

Ms. Juline Fresco: My understanding is that what you would be doing is, if we're talking about the proposed amendment that's coming up, it would state that the definition of an indigenous organization is one with "predominantly indigenous leadership". That would be consistent with what is currently in the act. It certainly would not be restricting what's currently in the act, because the definition of "aboriginal community" includes indigenous organizations with "predominantly indigenous leadership". Given that's the proposed amendment, it would be consistent with that and certainly not limit it in any way.

Ms. Pam Damoff: Thank you. You've clarified that for me.

The Chair: Is there any further debate?

Take note that the vote on NDP-15 is consequential to NDP-18 and NDP-19.

Ms. Rachel Blaney: I just want to make sure that this is a recorded vote.

● (1840)

The Chair: It's a recorded vote.

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

The Chair: On PV-30, I see Ms. May has returned to us.

Ms. Elizabeth May: Thank you, Mr. Chair.

I apologize. I had both Bill S-203 and the late show. Now I'm back.

This amendment is very similar to the one that Rachel just put forward. It deals with the question of instances of an indigenous governing body, so that we are able to ensure that people who are in what might be considered urban indigenous groups.... Other things that might not be covered under the act we think will be all right, with the exception that I propose changing the word "aboriginal" to "indigenous".

This was a particular suggestion of the Native Women's Association of Canada. We want to ensure that we are recognizing the indigenous status of a particularly vulnerable group that is disproportionately represented in our correctional system.

Thank you, Mr. Chair.

The Chair: Is there any debate?

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

The Chair: Next is LIB-5.5, from Ms. Damoff.

Ms. Pam Damoff: Thank you, Chair.

I think I said most of it when I was asking my questions. I think it's very important to recognize that the intent of adding the wording "predominantly indigenous leadership" is to recognize the concerns that we heard at committee and that we heard from stakeholders, and to incorporate that into language that will also be enforceable within the act and usable by the government when they're contracting with outside organizations.

I think everyone in this room is on the same page in terms of where we want to get to. I think we just have a different idea of how we need to get there. Based on what was said by department officials and the lawyers, which I'm not, I believe this will serve the intent of the things that we heard at committee. With that, I hope everyone will support it.

I'd like a recorded vote on this one too, Chair.

The Chair: Before we go to the recorded vote, is there any debate?

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

The Chair: It's unanimous.

Next is NDP-16, from Ms. Blaney.

Ms. Rachel Blaney: Thank you again.

This amendment is that Bill C-83, in clause 23, be amended by replacing lines 15 and 16 on page 11 with the following:

> 79.1 In recognition of the systemic discrimination Indigenous offenders face in the correctional system and the Service's obligation to advance equality in correctional outcomes for Indigenous offenders, the Service shall, when assessing an Indigenous offender' s needs in order to make a decision under this Act affecting the offender, take the following in-

Again, in my opinion, this something that we just need to do. I hope we have support.

● (1845)

The Chair: Is there debate?

(Amendment negatived)

The Chair: On amendment PV-31—

Ms. Elizabeth May: Thank you, Mr. Chair.

This is again looking at the question of how Gladue principles inform actions, but there's nothing in the current legislation that actually puts those principles into practice. This would ensure that the Criminal Code Gladue provision will be incorporated into BillC-83. It's a very simple amendment. It's one that is supported by the Native Women's Association of Canada, by Aboriginal Legal Services, and by Lois Frank, who gave evidence before this committee as the Gladue report writer from the Alberta department of justice.

Thank you.

The Chair: Is there debate?

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

The Chair: On amendment NDP-17, we have Ms. Blaney.

Ms. Rachel Blaney: Thank you, Chair.

This is a simple amendment to add the impact of gender to the above list of considerations for indigenous offenders.

Thank you.

The Chair: Is there debate?

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

The Chair: We're on amendment PV-32.

Ms. Elizabeth May: Thank you, Mr. Chair.

This is meant to ensure that the National Aboriginal Advisory Committee as well as regional committees work to develop the other factors required to fulfill the principle found in paragraph 4(g) of the CCRA . This paragraph ensures that the Correctional Service also is responsive to the needs of marginalized groups, particularly women, aboriginal groups, or people dealing with mental health issues.

The Chair: Is there debate?

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

The Chair: We're on amendment LIB-5.6, in the name of Ms. Damoff.

Ms. Pam Damoff: Thank you, Chair.

This amendment is drafted to deal with the exact concerns we heard about regarding the misuse of Gladue reports.

I was quite happy to see in the bill when it was introduced that indigenous history and Gladue reports would be taken into account, but we've heard during our study at status of women, and I've heard when speaking with individuals, that those reports are sometimes not provided to institutes because of how they are used, and also that they are used to assess risk and not the needs of the inmate.

This amendment specifies that the legislation says it must be taken into consideration. This amendment will ensure that any decisions made based on that will not be used to assess risk posed by an indigenous inmate.

The Chair: Is there debate?

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

The Chair: Shall clause 23 as amended carry?

Mr. Glen Motz: On division.

The Chair: Clause 23 passes on division.

(Clause 23 as amended agreed to on division [*See Minutes of Proceedings*])

(On clause 24)

The Chair: We're now on to clause 24, and amendment NDP-18 has been dealt with.

We're now on to amendment PV-33, with Ms. May.

Ms. Elizabeth May: Thank you, Mr. Chair.

This is the same point that was being made in my previous amendment, PV-30. It deals with the definitions of "indigenous community" and "indigenous organization" as opposed to "aboriginal community".

The Chair: Is there debate?

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

The Chair: Shall clause 24 carry?

(Clause 24 agreed to on division)

(On clause 25)

● (1850)

The Chair: We are now on PV-34.

Go ahead, Ms. May.

Ms. Elizabeth May: This is to establish an advisory committee. It's a proposal from Senator Kim Pate that the minister shall establish a national indigenous advisory committee. The minister establishes it instead of the Correctional Service of Canada.

The Chair: Is there any debate?

Ms. Pam Damoff: I appreciate the intent behind it. I think that it's important that there is arm's length in creating these advisory committees. When you're asking for the minister to do, it you're bringing in a political aspect. I don't think that's a good idea.

The Chair: Is there any further debate?

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

The Chair: NDP-19 has already been dealt with.

We are now on to LIB-6.

Ms. Pam Damoff: This addresses concerns that we heard about elders and spiritual leaders being.... It's that the Correctional Service of Canada needs to seek advice when it's making decisions. In particular, it was the NWAC that recommended that we integrate spiritual leaders into the health care, but this is also important in a variety of places in corrections.

This will address that. When appropriate, or if CSC determines that it's appropriate, it will seek advice from an indigenous spiritual leader or elder.

The Chair: Is there any debate?

Ms. Elizabeth May: I just want to note that I think that if this passes—and I hope it will pass—my amendment.... I don't know if the clerk has pointed this out, but I would interpret my amendment PV-35 as being substantially the same. I would hope that this does pass. I think that it is something that came up in testimony, and it will be very useful.

The Chair: Does that mean that if it passes, you would withdraw PV-35?

Ms. Elizabeth May: I'm not allowed to withdraw my amendments because I'm not a member of this committee. I'm only here because you passed the dreadful motion that I continue to hate. However, I have no role here to remove my own amendments. They are deemed moved. However, I wouldn't mind if you passed Pam's amendment, which is really good. Then you don't have to talk about mine and hear me complain yet again about the fact that the smallest party in the House is continually punished by the largest party in the House.

Thank you very much.

The Chair: No, I wouldn't want to hear that again. You're right.

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

The Chair: PV-35 is on the floor, notwithstanding the comments that the mover made. May I assume that there is no debate?

Ms. Elizabeth May: If the clerk hasn't removed it, it's because the insertion of “their own elder” is in here as a possibility. That's the distinguishing feature between the amendment that you just passed and PV-35. I think they're both really great.

The Chair: I wouldn't presume to comment on the clerk.

Is there any debate?

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

The Chair: We are now on to PV-36.

Ms. Elizabeth May: This has the same rationale, Mr. Chair, as previous motions to deal with the difference between indigenous and aboriginal, so it has the same rationale as my two previous amendments on that point.

The Chair: Is there any debate? No.

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

The Chair: Shall clause 25 as amended carry?

(Clause 25 as amended agreed to on division)

(On clause 26)

The Chair: Now we have PV-37.

Ms. Elizabeth May: This is an amendment to ensure that the non-registered health care professionals to whom a registered health care professional has delegated tasks must be under ongoing supervision. This is based on research from the Library of Parliament that was entered before the committee: that non-registered, unregistered, unlicensed health care providers who deliver services require more supervision than they are currently receiving.

● (1855)

The Chair: Is there any debate?

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

The Chair: We have NDP-20 and Ms. Blaney.

Ms. Rachel Blaney: Thank you again.

This one is again making sure that services provided are done in a cultural and spiritual way and provided by indigenous spiritual leaders or elders.

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

The Chair: We have PV-38.

Go ahead, Ms. May.

Ms. Elizabeth May: Thank you, Mr. Chair.

In the same vein as my previous amendment, this amendment provides a definition for supervision so that when we're talking about the supervision of a non-registered health care professional, we're able to ensure that supervision meets a standard of direction, support, guidance, evaluation and follow-up.

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

The Chair: Shall clause 26 as amended carry?

Mr. Glen Motz: On division.

The Chair: Sorry. I apologize; it was unamended.

(Clause 26 agreed to on division)

The Chair: I don't think that makes any difference to the vote. It made the right answer.

(On clause 27)

The Chair: We are on NDP-21.

Go ahead, Ms. Blaney.

Ms. Rachel Blaney: Thank you.

This adds that spiritual leaders and others must be made available as an option as health care professionals at the prisoner's request and that meaningful consultation must be done with communities to ensure that they are culturally appropriate to the prisoner.

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

(Clause 27 agreed to on division)

(On clause 28)

The Chair: On clause 28, we are now on PV-39.

Go ahead, Ms. May.

Ms. Elizabeth May: Thank you, Mr. Chair.

This is based on evidence, again, from Senator Pate, who found that in this section the word “support” does not constitute an enforceable standard and is vague as a word. What I've offered is to provide the word “respect” as opposed to “support”, and hope that this word is less vague.

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

The Chair: We have NDP-22, from Ms. Blaney.

Ms. Rachel Blaney: Thank you.

This adds that the service shall support the autonomy of elders and spiritual leaders.

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

[*Translation*]

The Chair: We are now on amendment PV-40, from the Green Party.

[*English*]

Ms. Elizabeth May: Thank you, Mr. Chair.

This is to clarify that the overall assessment and determination of an inmate's health status and care planning, interventions, and evaluation of care are the responsibilities of registered health care professionals and cannot be delegated to a non-registered person under their supervision.

This was specifically the Canadian Bar Association's concern that clinical decisions should only be taken by health care professionals under the Mandela rules.

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

The Chair: Shall clause 28 carry?

● (1900)

Mr. Glen Motz: On division.

(Clause 28 agreed to on division)

(Clause 29 agreed to on division)

(On clause 30)

The Chair: We are now on clause 30.

We are at CPC-2.5 in the name of Mr. Motz.

Mr. Glen Motz: Yes, Chair, we're proposing to add:

89.1 The Service shall, subject to security requirements, provide access to

I'm sure as MPs your offices as well as mine heard from Joanne Kehayas, who recommended that health care should be based on need, not on the designation of the facility by the commissioner.

She recommended that access be based on what is deemed necessary by a health care professional and with safety taken into account, and I believe that this would improve the bill by providing access to health care to those who need it based on medical advice, while still ensuring that safety is taken into account as well.

The language provided here is from our drafters at the House, who worked long and hard to get this done. Obviously some bills are more important than this one, because we were late getting this looked after.

I welcome the comments of our justice and corrections staff on this particular language before we vote.

The Chair: Do the officials wish to comment on Mr. Motz's amendment?

Ms. Angela Connidis: Are we debating whether it's a justice question? You directed it to justice.

Mr. Glen Motz: It's for justice or corrections, yes.

Mr. Luc Bisson: Maybe we could have a clarification here. We're talking about patient advocacy services, and as I understood your presentation, you were referring to health services. Those would be two distinct issues.

We are seeking to provide patient advocacy services where the commissioner designates those services that would be available. Safety and security are paramount features of the act and the bill; therefore, it would not need to be repeated.

Therefore, in our view, the amendment is not required.

Mr. Glen Motz: It says here “health care matters” in proposed paragraph 89.1(a).

Ms. Angela Connidis: Yes, that's all under the patient advocate services.

The section Monsieur Bisson was referring to, section 3.1, says that “The protection of society is the paramount consideration for the Service in the corrections process.

Mr. Glen Motz: Okay, thank you.

The Chair: Is there further debate on CPC-2.5?

(Amendment negatived)

The Chair: We are on PV-41.

Ms. Elizabeth May: Thanks.

This one is also one of the recommendations from the Ashley Smith coroner's inquest, which is to say that sometimes you need not just family members but support persons. I'm using the language "support persons" to augment what might be considered family to help inmates who need contact. It's clear it would have made a big difference in the Ashley Smith case.

● (1905)

The Chair: Is there any debate?

Ms. Pam Damoff: I have a subamendment to Ms. May's amendment and it would be replacing the word "support persons" with "or an individual as identified by the inmate as a support person".

Ms. Elizabeth May: That's super.

The Chair: Okay. We have a super-duper subamendment. Let's just read back the....

Can you just do that one again, Pam?

Ms. Pam Damoff: Sure. It would replace "support persons" with "or an individual as identified by the inmate as a support person".

The Chair: Do we have that?

Okay.

Is there any debate on the subamendment?

Ms. Pam Damoff: I will read it from the beginning. It would say:

> To enable inmates and their families, or an individual as identified by the inmate as a support person

The Chair: Okay, we'll just read it back into the record so that everybody knows what we're going to debate first.

Do you just want to read it again?

The Clerk of the Committee (Mr. Olivier Champagne): Okay. It reads:

> (b) to enable inmates and their families, or an individual as identified by the inmate as a support person, to understand

The Chair: Okay.

Is there any debate on the subamendment?

(Subamendment agreed to)

The Chair: Now the debate moves to the amendment as amended.

Is there any debate on the amendment as amended?

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

The Chair: Shall clause 30 as amended pass?

Mr. Glen Motz: On division.

(Clause 30 as amended agreed to on division)

(On clause 31)

The Chair: Okay. We're now onto clause 31.

That is LIB-6.1. It's standing in the name of Ms. Dabrusin, which I assume is Mr. Spengemann.

Mr. Spengemann, are you on for Ms. Dabrusin on LIB-6.1?

Ms. Julie Dabrusin: I'm here.

The Chair: I'm sorry. I apologize.

Ms. Julie Dabrusin: Why don't I just get along with it, then?

LIB-6.1 is an amendment that is really a consequential amendment to more explicitly and clearly reflect the regulation-making authority related to the structured intervention units and to update it with the health review committee. It aligns with the way the policy is supposed to work.

I'll leave it out there.

The Chair: Is there any debate?

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

The Chair: We're on LIB-6.2, this standing in the name of Monsieur Picard.

[*Translation*]

Mr. Michel Picard: This concerns terminology in the French version, clarifying the nature of searches.

[*English*]

The Chair: Is there any debate?

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

The Chair: We have CPC-3, standing in the name of Mr. Paul-Hus.

[*Translation*]

Mr. Pierre Paul-Hus: I turn the floor over to Mr. Eglinski.

[*English*]

Mr. Jim Eglinski: Chair, I just move that we make an amendment that Bill C-83 in clause 31 be amended by adding after line 27 on page 14 the following:

> (2.1) Paragraph 96(v) of the Act is replaced by the following:
>
> (v) for the organization, training-including training related to mental health and to safety-discipline, efficiency, administration and good management of the Service;

This came to light when Stanley Stapleton was here, the national president of the Union of Safety and Justice Employees, who suggested that additional training was needed within the institution, especially with the new sorts of guidelines coming into place under section 83. We would like to add that the training become part of section 83.

● (1910)

The Chair: Is there any debate?

Ms. Pam Damoff: I think there's general agreement that additional training should be provided. There was $448 million to go into corrections in the last statement, but I don't think adding it into the legislation is the right way to get it done.

Mr. Jim Eglinski: The act does not say the training needs to be done or that additional training needs to be done. That's what we're concerned with, because there are concerns within the organization.

Mr. Sven Spengemann: These are the kinds of levels of detail that are best captured in regulations.

The Chair: Is there any other debate?

(Amendment negatived)

The Chair: We're on PV-42.

Go ahead, Ms. May.

Ms. Elizabeth May: PV-42 has the same rationale as my earlier amendment, PV-7, to ensure that the factors determining security classifications and subclassifications include that we consider the proximity to families when inmates are being moved, and that we consider their specific needs when an inmate has a mental illness or disorder, or a history of self-harming behaviour.

The Chair: Is there any debate?

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

The Chair: We're on CPC-4.

Go ahead, Mr. Motz.

Mr. Glen Motz: Thank you, Chair.

As indicated here, we've recently seen the movement of inmates from medium-security to minimum-security facilities. Reclassifying facilities to get people moved to other facilities is not a good public safety policy. The inmate moving to a minimum-security facility should be a minimum-security-rated inmate, as we indicated before.

The Chair: Is there any debate?

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

The Chair: Shall clause 31 as amended carry?

(Clause 31 as amended agreed to on division)

(Clauses 32 to 38 agreed to on division)

The Chair: We are at LIB-6.3.

Ms. Julie Dabrusin: Mr. Chair, you have potentially missed an amendment, PV-43.

The Chair: I've struck that out, because—

Ms. Elizabeth May: It was included in error. It really isn't admissible. I apologize.

Mr. Sven Spengemann: It was so good.

Ms. Elizabeth May: Well, if the clerk says it's admissible, I think it's good too.

The Chair: No, we struck it off as inadmissible.

Ms. Elizabeth May: Well, if you think it's admissible, you're the government.

The Chair: I don't wish to be challenged twice in one meeting. That was a ruling I did not direct my mind to. It was simply provided by the clerk.

● (1915)

Ms. Julie Dabrusin: Could we have some clarification as to why it's not admissible?

The Clerk: The advice I gave was that the bill did not address parole, so it was beyond the scope of the bill, in my opinion.

Ms. Julie Dabrusin: I'm going to challenge that decision. I feel like I'm on a....

The Chair: This is a really bad idea.

Some hon. members: Oh, oh!

The Chair: Before we challenge the decision...go ahead.

The Clerk: Ultimately, the chair has the authority to provide that ruling, so it is just advice I have given Ms. May's staff. That's why she decided not to present it.

The Chair: Maybe it would be better if the chair read it first. Then we can decide whether it's admissible or it's not. Let me see what I'm apparently ruling on.

The issue here is parole boards and the fact that parole boards are not part of the bill itself, hence beyond the scope of the bill.

Before you try to challenge the chair, I just wanted to give you some rationale for why the clerk's advice has been that this is beyond the scope of the bill and therefore inadmissible. Having said that, the chair would be open to a challenge.

The officials are apparently waving their hands, jumping up and down and saying they want to say something.

Again, before we let Ms. Dabrusin make her challenge, let's see what the officials have to say.

Ms. Angela Connidis: With all respect, I would say that there are two things to consider when you are making your decision.

One is that the major tenet of this provision is about “least restrictive measures”. You've just passed two amendments dealing with least restrictive measures, and you would want to have consistency throughout the act.

As well, one of the provisions in Bill C-83 dealt with audio recordings before the parole board, so in fact we have opened up provisions relating to the parole board.

The Chair: I don't want to belabour this point. I'm perfectly willing to put it back on for discussion so that I don't get creamed twice in one day, because there does seem to be a will in the committee. Let's go back to square one and have Ms. May introduce PV-43.

Where does that leave me? It's a bit backwards. That's why I did what I did: it was included by mistake, which Ms. May confirmed. However, this is an opportunity to rectify mistakes, and we're rectifying a mistake in a mistake.

With that, Ms. May, do you wish to go ahead?

Ms. Elizabeth May: I don't want to belabour it because it appears to have good support, but I would say that the “least restrictive” language was included in Bill C-56. It was previously absent in Bill C-83. You now have put in “least restrictive measures” in a couple places. This does ensure consistency. Also, it is congruent with advice from many of the witnesses. I won't take time at this late hour to remind you of all the witnesses who think this is a good amendment.

Thank you.

The Chair: Thank you. Is there further debate?

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

The Chair: Okay. There we are.

I think that technically I could still carry on with having.... They've already passed right through to clause 38, so we don't need to do that again.

(On clause 39)

● (1920)

The Chair: Therefore, we are now onto clause 39 and LIB-6.3, standing in the name of Monsieur Picard.

Mr. Michel Picard: This is consequential to previous changes and is the referral of the paragraph. That's it.

The Chair: Is there debate?

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

The Chair: Shall clause 39 as amended carry?

(Clause 39 as amended agreed to on division)

(Clause 40 agreed to on division)

The Chair: Now there are some amendments to create a new clause 40.1. The first amendment is CPC-5.

Go ahead, Mr. Motz.

Mr. Glen Motz: Thank you, Mr. Chair.

From what we heard from witnesses, we all know that this bill is deeply flawed and poorly conceived. I think that despite having a lot of time to develop it, it was rushed at the last minute, which is why no one was consulted and why no one supports it.

Beyond that, given the minister's commitment is to get back to us on how this will work, how the money promised will be used—where it will go—and more suggestions that we blindly approve this bill, at the very minimum I believe it is beholden on us to put in a requirement that the minister, who said to trust him and that he'll let us know how the money's going to be used, does actually get back to us and tell us how that money is actually going to be used.

Specifically, this amendment requires the minister to provide the specifics on his SIUs—the physical requirements for the structures, which he told us would be different from segregations—the cost of meeting those requirements, and the schedule to implement those regulations. That's the gist of the amendment.

Michel, you would probably want the same thing if our minister were that blasé in his position. I would expect you to be.

Mr. Michel Picard: I'm flattered that you think that of me.

Mr. Glen Motz: I would. I would. I think you'd be awesome at it.

The Chair: Is there any debate?

Mr. Jim Eglinski: Is it unanimous?

The Chair: I don't think I called that vote, or I must have missed it.

Mr. Jim Eglinski: You didn't? I'm just trying to help you out. You're tired.

The Chair: It's amazing how members are so helpful to the chair.

Mr. Jim Eglinski: It's Christmas time.

The Chair: All right.

All those in favour, please so indicate.

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

The Chair: The next one up is actually—

Mr. Jim Eglinski: Actually, I'm going to challenge you on that. There were only three hands up there.

The Chair: I don't know. I think I saw twitches.

Some hon. members: Oh, oh!

Mr. Jim Eglinski: Oh, okay.

The Chair: The next one we've numbered CPC-5.1, which is reference number 10222406. Again, it stands in the name of Mr. Motz.

Do you wish to move that?

Mr. Glen Motz: Yes.

I move that Bill C-83 be amended by adding after line 30 on page 16 the following new clause:

> Report to Parliament
>
> 40.1 Six months after the day on which this section comes into force, the Minister of Public Safety and Emergency Preparedness must assess each penitentiary to determine the changes that are required for the penitentiary to meet the physical requirements established under this Act.
>
> (2) The Minister of Public Safety and Emergency Preparedness must cause a report of the assessments to be laid before each of House of Parliament on any of the first 30 days on which that House is sitting after the day on which the report is completed.

I guess it's pretty self-explanatory.

The Chair: Okay.

Is there any debate?

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

● (1925)

The Chair: Next is CPC-6.

Go ahead, Mr. Motz.

Mr. Glen Motz: I won't read it. This is that the commissioner is required to conduct a review of the SIUs implemented in this act in three years, and provide that report to the minister and to the correctional investigator. The minister will cause that report to be tabled in the House of Commons no later than 30 sitting days after its receipt. It's specific to the review of the SIUs.

The Chair: Is there any debate? No.

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

The Chair: Now we have LIB-7, standing in the name of Ms. Damoff.

Ms. Pam Damoff: I think it's pretty self-explanatory. There will be a review after five years.

Mr. Glen Motz: I think we had [*Inaudible—Editor*] in mind.

Ms. Pam Damoff: Sorry, Chair, we're engaging in banter here.

The Chair: Banter is not debate, Mr. Motz.

Mr. Glen Motz: I'm sorry. I do apologize. It's my blood sugar.

The Chair: The longer this banter goes on, the less the blood sugar will be replenished.

Ms. Pam Damoff: I have nothing more to say.

The Chair: Is there any debate on this amendment?

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

The Chair: Shall clause 41 as amended carry?

(Clause 41 as amended agreed to [*See Minutes of Proceedings*])

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: Go ahead, Ms. Damoff.

Ms. Pam Damoff: I would like to add something to the bill when it gets reported. I don't know the best time to have that done.

The Chair: Good question. What is the answer to that?

During the course of the discussion, there were a couple things....

[*Translation*]

Mr. Pierre Paul-Hus: Mr. Chair, I'd like to move that we attach a note to the report stating that we wish to make known the following points.

After the study of Bill C-83, the committee wishes to highlight the opposition members' disapproval of this flawed bill and report the following to the House.

They report that the committee's role is to review legislation, using all the information needed to make informed decisions but that the minister has withheld information deemed by members of the government, opposition and witnesses to be essential in determining the effectiveness of the legislation—namely the cost and implementation of the bill.

Furthermore, members of the committee have decided to provide blind faith in the minister despite the role of the committee to hold the minister to account.

We want the House to be made aware that this legislation was deemed by witnesses and members as incomplete without any costing or implementation and should not proceed without a detailed plan and explanation from the minister.

[*English*]

The Chair: I think that should have been moved after we completed the consideration of Bill C-83. I was just partway through, and Ms. Damoff was asking a question about an additional report to the House beyond the bill.

The bill has to be reported independently. If you wish to add a report of commentary, you can do a committee report of some kind. You may wish to pursue that. I don't know.

I am about to finish here.

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: I want to first of all thank the officials for being here. This was a four-hour session, and we appreciate your patience and your diligence and your knowledge. It's been very helpful to the deliberations of the committee.

Some hon. members: Hear, hear!

The Chair: I want to make a commentary on the pressure that we're putting on drafters.

This has been a bill that's under a certain external pressure, shall we say, and the drafters will be literally working all weekend to have it in shape for Monday.

I'm wondering whether there is any appetite—you don't have to answer this question immediately—for the clerk—or the chair, for that matter—to write to the Speaker and hint that possibly more assistance should be given to the people who support us so well.

This is not an isolated event. Legislative clerks are under enormous pressure to produce product. As you saw over the course of the four hours, if the legislative clerk is not right on top of things, it gets very confused very quickly.

Can I see an indication as to whether that's appropriate?

Some hon. members: Agreed.

The Chair: Go ahead, Ms. Damoff.

● (1930)

Ms. Pam Damoff: I don't know if—

Mr. Glen Motz: We haven't dealt with this yet.

Ms. Pam Damoff: I would like the committee to support....

Chair, I only have this in English, and we just made photocopies of it. Can we distribute it or not? Should I just read it?

The Chair: You'd better read it.

Mr. Glen Motz: Was it something different from what was presented over here? Is it a new issue?

Ms. Pam Damoff: It's what I brought up before. It's not on what Mr. Paul-Hus—

The Chair: We should deal with Mr. Paul-Hus first.

Do you wish to have further commentary on what you presented?

[*Translation*]

Mr. Pierre Paul-Hus: Can my colleague reread it so we're certain we're acting in accordance with procedure?

[*English*]

Mr. Glen Motz: We'd like to add to the report. After the study of Bill C-83, the committee wishes to highlight the opposition members' disapproval of this flawed bill and report the following to the House:

- That the Committee's role is to review legislation, using all the information needed to make informed decisions

- That the Minister has withheld information deemed by Members of the Government, Opposition, and witnesses to be essential in determining the effectiveness of the legislation—namely the cost and implementation of the Bill

- That Members of the Committee have decided to provide blind faith in the Minister despite the role of the Committee to hold the Minister to account

- That the House be made aware that this legislation was deemed by witnesses and Members as incomplete without any costing or implementation and should not proceed without detailed plan and explanation from the Minister.

The Chair: Is this a motion?

Mr. Glen Motz: Just add it to the report. I guess it's a motion if it's to be added to the report.

The Chair: It's an amendment to the report in the event that there is a report to send.

It is in order because it is in the subject matter of what we were considering, so you don't need the 48-hour notice.

That said, do members wish to debate?

We'll therefore go to a vote. Is there a wish to include the text from Mr. Motz and Mr. Paul-Hus in the report by the committee?

(Motion negatived)

The Chair: Now we're on to Ms. Damoff. Before we move to your motion, can we let the witnesses go?

Thank you very much again.

Go ahead, Ms. Damoff.

Ms. Pam Damoff: Thank you, Chair.

I will read this.

Pursuant to Standing Order 108(2), your committee has considered Bill C-83, An Act to amend the Corrections and Conditional Release Act and another Act and wishes to make the following recommendations to the government:

First, given the testimony that the committee heard from the correctional investigator and other stakeholders, and the fact that there are only 10 women currently housed in administrative segregation units across the country, the committee strongly encourages the Correctional Service of Canada to consider alternatives to segregation in women's institutions such as the pilot program proposed in 2016 by the Canadian Association of Elizabeth Fry Societies;

Second, that the Correctional Service of Canada examine the placement and/or transfer of an inmate to a facility far away from their home or community and the impact of the transfer on the inmate's contact with family and an individual identified by the inmate as a support person.

● (1935)

The Chair: The motion is in order. It is relevant to the subject matter before the committee.

Is there debate on the motion?

(Motion agreed to)

The Chair: With that, we'll instruct the clerk to prepare this in proper form for presentation on the floor of the House. Is that your wish?

Ms. Pam Damoff: Yes.

The Chair: We will have the text of that ready for next meeting. Is that fair?

Is there anything else?

Thank you very much. With that, the meeting is adjourned.