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Chair

Mr. Bryan May

Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities

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• (1850)

[English]

The Chair (Mr. Bryan May (Cambridge, Lib.)): Good evening, everybody.

Pursuant to the order of reference of Monday, January 29, 2018, the committee is resuming its consideration of Bill C-65, an act to amend the Canada Labour Code in regard to harassment and violence, the Parliamentary Employment and Staff Relations Act, and the Budget Implementation Act, 2017, No. 1.

Today the committee will hear from witnesses on the subject of the work environment and the resources available to the employees of the Parliament of Canada.

We're very pleased to be joined by a great panel of witnesses here this evening. From the Canadian Association of Professional Employees, we have Greg Phillips, president, and Colleen Bauman, a partner in Goldblatt Partners LLP; from the United Food and Commercial Workers Canada Local 232, Nasha Brownridge, president, and Nina Amrov, chief steward; and from the Union of Safety and Justice Employees, Bethany Sutton, interim director, policy, projects, and media, and Nancy Peckford, senior policy adviser.

Welcome to you all, and thank you.

Each organization will have seven minutes for opening statements.

We're going to start off with the Canadian Association of Professional Employees. Greg Phillips and Colleen Bauman, the next seven minutes are yours.

Mr. Greg Phillips (President, Canadian Association of Professional Employees): Honourable members of Parliament, we would like to thank the members of this committee for inviting us to appear so that we might voice our opinion with respect to Bill C-65.

My name is Greg Phillips. I'm the president of the Canadian Association of Professional Employees, CAPE. CAPE represents some 14,000 public service employees. The vast majority of our members are economists and social science workers who advise the government on public policy. We also represent the translators and interpreters who work every day to preserve and promote Canada's linguistic duality. Last but not least, we also have the great honour of

representing the 90 analysts and research assistants employed by the Library of Parliament.

Accompanying me today is Colleen Bauman, a partner at Goldblatt Partners LLP's Ottawa office. She has a great deal of experience dealing with harassment issues and concerns in many different workplace settings, including the federal public service. I am also accompanied by Claude Vézina, CAPE's executive director, who manages the employees responsible for helping members who are experiencing workplace harassment issues.

As you are no doubt aware, the problem of harassment and violence in Canadian workplaces, including the federal public service, is an ever-present problem. Harassment not only harms the individual victims, but it also has a negative impact on workplace morale and productivity. CAPE is very pleased that the government is taking steps with Bill C-65 to help prevent and address this problem. In particular, CAPE is relieved to see that the legislation extends protection to parliamentary employees, including CAPE's members at the Library of Parliament.

CAPE has been fighting for many years for parliamentary employees to have the same protections as other federal employees. Historically, employees of Parliament did not even have the protection of the Canadian Human Rights Act. In 2005, CAPE intervened in support of them in *Canada v. Vaid*, a case in which the Supreme Court of Canada recognized that the Canadian Human Rights Act applies to all employees of the federal government, including those working for Parliament. While it is a positive development to see that Bill C-65 extends the protections of the Canada Labour Code to parliamentary employees, it is unfortunate that it has taken until 2018 for this to happen.

While CAPE fully supports the introduction of comprehensive legislation to address the problem of harassment in both parliamentary and other federal workplaces, we are concerned that as drafted, Bill C-65 does not go far enough and leaves too many important details to be determined by regulations. Today I'd like to speak briefly about three areas of concern that CAPE has with Bill C-65: the failure of the legislation to include a definition of harassment, the failure of the legislation to guarantee that employees will have access to independent and impartial investigations for harassment complaints, and the failure of the legislation to provide for redress for victims of harassment.

The government has stated that Bill C-65 is part of its commitment to eliminating harassment and violence in federal workplaces, yet surprisingly, the bill fails to define the very thing it seeks to eliminate, leaving it instead to be determined at a later date by regulation. CAPE submits that the definition of "harassment" is too important a matter to leave to regulation. Employees and their representatives need to know now whether the legislation will take a narrow and restrictive approach to harassment, excluding some victims from accessing its protection, or if it will be defined broadly and include all forms of personal harassment, such as conduct and/or behaviours that create an intimidating, demeaning, or hostile work environment.

CAPE submits that the legislation should be amended now to add a broad and purposive definition of "harassment" that will offer the widest-possible protection to employees. In CAPE's view, a definition similar to the one that is currently found in the Treasury Board's "Policy on Harassment Prevention and Resolution", which includes both personal and grounds-based harassment, would be a good starting point.

Our second area of concern with Bill C-65 is that the legislation fails to guarantee that employees will have access to independent and impartial investigations for harassment complaints. Having an independent and impartial investigator is the hallmark of a procedurally fair investigation. An independent investigation ensures that all parties—complainants, respondents, and witnesses—feel that they can speak freely and participate fully in the investigation without fear of retaliation or negative consequences. Indeed, one of the most common concerns we've heard from our members about the current process is that the investigation of their complaint was neither fair nor impartial.

•(1855)

Bill C-65 provides that these employees can complain about their workplace harassment, and where the employee and employer fail to resolve the complaint between themselves, that complaint can be referred directly to the minister for investigation, bypassing the workplace health and safety committee. However, it fails to guarantee that the harassment investigation will be independent and impartial. CAPE submits that the bill should be amended to add this type of requirement.

The final area of concern that I want to speak about today is the failure of Bill C-65 to provide for redress for victims of harassment. It is commonly said that there will be no right without remedy. In other words, a right is meaningless if you have no remedy for its violation.

Meaningful remedies ensure the victims are put back in the place they would have been but for the violation of their rights. Currently, if a complaint under the Canadian Human Rights Act involving harassment on protected grounds is founded, the victim may be awarded remedies including making available to the victim the rights, opportunities, or privileges that were denied, compensating the victim for any lost wages, compensating the victim for any pain and suffering that the victim would have experienced, or compensating the victim for discriminatory treatment that was willful or reckless.

In contrast, at present, the harassment investigations under the Treasury Board policy may end with a finding of harassment but without any corresponding remedy for the victim. An anti-harassment regime that provides no power to award remedies, or one that caps them at \$20,000 for pain and suffering like the current CHRA provisions, will discourage victims from coming forward. CAPE submits that the anti-harassment regime under Bill C-65 should provide for real remedies and redress for victims of harassment.

In conclusion, CAPE sees Bill C-65 as a very positive step towards addressing the problem of harassment in federal workplaces. CAPE is hopeful that the reluctance that many employees currently feel in reporting workplace harassment and violence will be addressed and alleviated to at least some extent by the legislation you are currently working on. However, we ask that you consider improving its effectiveness by including a definition of harassment, a guarantee of independent and impartial investigation, and provision for redress for victims. All three of these additions will encourage more victims to come forward and make legislation more effective at eradicating harassment and providing meaningful remedies to its victims.

Thank you.

•(1900)

The Chair: Thank you very much.

Now, from the United Food and Commercial Workers Union Canada, Local 232, Nasha Brownridge, president, and Nina Amrov, chief steward.

The next seven minutes are all yours.

Ms. Nasha Brownridge (President, United Food and Commercial Workers Union Canada - Local 232): Thank you very much.

Good evening. I would like to begin by thanking members of this committee for inviting UFCW - Local 232 to testify on a very important piece of legislation, and to all of your respective political parties for providing the unanimous consent that fast-tracked this bill to committee.

It's quite disconcerting that the House of Commons employees or political employees are not covered by the Canada Labour Code, leaving workers with little job security and fewer rights than other employees in Canada. We are happy to see that this bill will, for the first time in history, extend health and safety provisions to these workers, but note that the bill is still limited in this regard.

I often joke about wearing many hats. Here, I am president of UFCW - Local 232, representing approximately 250 NDP staff working for the House of Commons. I am also a young female political staffer who has volunteered and worked in MPs' offices, as well as working in multiple departments in the public service. I am also a friend, a daughter, a colleague, and a partner. In wearing these multiple hats I have come to know all too well the pervasive culture of harassment here on Parliament Hill, and have witnessed and experienced harassment. In my different capacities I have been confided in, I have consoled, and I have advised. I have also confided in and sought advice from others.

I am grateful that our staff have a union that has historically emphasized the importance of anti-harassment provisions, and that has trained individuals, processes, and procedures specifically addressing the issue.

These hats I referred to also place me in a unique position to testify before you today, as does the very existence of our union. We recognize particular challenges that are ahead of us with this legislation, notably the concept of parliamentary privilege that protects you, the members of Parliament, but this will not stop us from trying our very best to ensure that staff interests, rights, and safety are not sidelined, and we hope you will join us in this effort.

First, we cannot stress enough the importance of including a broad, comprehensive, but flexible definition of what harassment is and is not. A definition can prove an effective tool for not only identifying instances of harassment, but also as a preventive measure. Our collective agreement includes a definition that has been developed between our union and management teams over the years. This definition has served our local well in helping our staff and management recognize harassment and in validating individuals' experiences.

We believe it is difficult, if not impossible, to govern what is not defined in law, and recommend against leaving this aspect to regulations as we fear this will be detrimental to the effectiveness of this legislation in the long term. We also have significant concerns with allowing a largely partisan board to make decisions on this bill as it relates to parliamentary staff at the regulation stage.

Second, our recommendation for this committee would be to consider mandatory management and anti-harassment training for employers, notably members of Parliament. In every election, talented individuals from across Canada are elected from diverse backgrounds, and often our newly elected officials have little to no management experience. They are suddenly thrust into this role of managing staff in a fast-paced and very complex environment.

As a union local, we can say that many situations we handle relate directly to this situation. In some cases newly minted managers need to be taught and learn effective management skills. This is a simple solution to a large problem, and goes beyond the House of Commons' efforts to implement sexual harassment training for MPs, which, while a great step forward, leaves us with some concerns, or at least many questions. Training our employers on proper healthy communication with staff is absolutely critical to preventing all forms of harassment, and this training cannot be elective. This has been tried and has not worked on the scale that we all know is needed.

Next, our union local shares the concerns of many other unions regarding the exclusion of health and safety committees from this process. This is misguided and could negatively impact an individual's willingness to come forward and report harassment or violence. This bill must be amended to ensure that unions are able to continue their work in preventing and addressing harassment, as well as supporting survivors in the aftermath.

We would also like to seek clarity on how this bill will affect the union's ability to investigate and take action on allegations of harassment within their existing processes and frameworks. On this

note we believe that any effective anti-harassment legislation must first ensure that employees have the ability and right to form and be represented by a union, with no barriers. This unfortunately is not currently the case for political staff.

Another critical point to be made is that, as it is written, the bill does not fully address remedies and repercussions. We are particularly concerned with the potential remedies and repercussions when an MP is involved in the harassing behaviour. This is the issue I raised earlier surrounding where parliamentary privilege becomes all too apparent. How do we protect employees who have been harassed in a parliamentary workplace? Privilege not only keeps MPs from being terminated or disciplined in the traditional sense, but also allows them full autonomy over the hiring, discipline, and management of their employees.

• (1905)

What then happens to an employee who has been harassed and could be required to continue working for or with their harasser in order to maintain their livelihood? For that matter, what happens while they are going through this process?

This leads to our final comments. First, we are calling for additional paid leave for employees who are addressing incidents of harassment through the proposed process. It is unimaginable that an employee, particularly where a colleague or an employer is responsible for the alleged harassment, would not have access to additional paid leave beyond the current paid vacation and sick days provided by the House of Commons.

Finally, in her comments, the minister spoke to the issues of privacy, confidentiality, and the fear that exists for individuals coming forward concerning their experiences with harassment. Staff often fear reprisal if they come forward. They fear for their livelihood, their career, and their reputation. Political staff can also fear for the reputation of their party and their employer. Women in particular also fear for their physical safety.

Despite the requirement for a competent third party under the legislation as it exists, there is an overwhelming likelihood that, at one point in the process including the mediation stage described by the minister, an employer will become aware of the allegations and identity of the individual.

This becomes problematic as, to our knowledge, this bill does not contain provisions protecting staff against unfair termination. For members of our bargaining unit, we have a clear and defined process by which staff can be terminated through a series of oral and written warnings as well as a grievance and arbitration process. However, this is not the case in other political offices. Therefore, I ask, what stops a member of Parliament or an employer from terminating an employee who has used this process or come forward with a complaint?

This committee needs to seriously consider the possibility that employees will continue to fear for their livelihood and their jobs even if this bill is passed. While this legislation provides a procedure for dealing with harassment, it does not necessarily provide concrete protections for employees working outside of a unionized environment.

It is not necessarily the process itself that will make employees report their experiences. It is knowing that they are safe, that they will be heard, and that they will not and cannot be penalized for coming forward.

Once again, we would like to thank members of this committee for welcoming us here today and allowing us the opportunity to provide insight and recommendations on this critical piece of legislation. We look forward to your questions.

Thank you.

The Chair: Thank you very much.

Finally, from the Union of Safety and Justice Employees, we have Bethany Sutton, interim director, policy, projects and media; and Nancy Peckford, senior policy advisor, for seven minutes, please.

Ms. Bethany Sutton (Interim Director, Policy, Projects and Media, Union of Safety and Justice Employees): Thank you very much.

I represent the Union of Safety and Justice Employees. We represent 16,000 members across this country, who work in 17 different departments.

In listening to the earlier proceedings of this committee, we heard the committee ask our colleagues in Correctional Service Canada and the RCMP—and the majority of our members work for Correctional Service Canada and the RCMP—how departments or agencies have failed in dealing with harassment. I think the committee was trying to understand that in terms of the legislation you're looking at. We would like to bring forward a couple of examples of that, in hopes that we can better the legislation.

First of all, the union's experience is that often agencies and departments are left unchecked in their internal processes meant to deal with harassment. So often we get very good reports, sometimes from external cases, sometimes internally, with excellent recommendations in them that would actually make a huge difference in regard to dealing with harassment, and often those are just not followed.

We have two examples from CSC and the RCMP. In one case, with the CSC, egregious sexual harassment and violence were identified. In one case, with the RCMP, there was an absolutely egregious misunderstanding of what harassment was. That happened

in a particular division. In both cases excellent reports were written. In one case, it was an external report, and in the other case there was a groundbreaking collaboration between the union and management. Excellent recommendations were written, and had those recommendations been followed, significant change could have happened in both the workplaces mentioned.

Unfortunately, in the case of CSC, many of the recommendations were just not followed at all. In the case of the RCMP, the report was taken, excerpts were created, and what was left in the excerpts had nothing to do with any of the problems identified or any of the recommendations made in terms of harassment. In fact, every example of the problem of harassment was taken out of the report, and it is that report that was shared with employees.

As you can imagine, taking into account those situations, we really welcome the idea of having an external department, such as a ministry of labour, that would be able to help identify a competent person. But we would underline—and it was really clear in these examples—the necessity for that competent person to have the required expertise in harassment, and many, many competent people do not have that required expertise. In both those cases we mentioned, it was often the union that brought forward significantly more expertise in terms of harassment. When we're looking at who identifies that competent person—someone who hopefully has the required expertise—we highly recommend that the committee consider having the expertise of a union at that table to be able to identify a person who can make the required recommendations and changes.

We believe, as our colleagues do, that it's absolutely crucial to have a definition of "harassment" within the legislation.

We very much believe—and I alluded to that at the beginning—in the importance of ensuring that there is accountability, and that once this report is created, there is significant accountability as to how those recommendations are actually implemented.

Lastly, a recommendation created for both departments, which was not followed but which is crucial, was that a high-level person who understands harassment should be identified in every division in the RCMP. In the case of a challenge involving harassment, those individuals could be brought together as an ad hoc group. Very similarly with CSC, the recommendation was that there be a high-level person in terms of organizational change.

Thank you very much for your time.

• (1910)

Ms. Nancy Peckford (Senior Policy Advisor, Union of Safety and Justice Employees): Thank you, Bethany.

I, in fact, wear two hats today. One is as an occasional policy adviser with the Union of Safety and Justice Employees, and the other is as the executive director of Equal Voice, where I will provide some comments. I concur with many of the statements that Bethany and our colleagues have made. The parliamentary environment is not dissimilar to what we in fact see on Parliament Hill. I think we welcome Bill C-65 as a very strong first step, but I think in order for you to all get it right, we do need to look at some significant amendments to the bill.

In short, when Equal Voice looked at legislation and workplace policies across the country, we came up with nine criteria that I think are applicable both to the parliamentary working environment and to many of the federally regulated agencies and departments on whose behalf this legislation is being drafted. Very quickly, we have 10 points that we want you to consider. Many of them have already been addressed. Really, at its heart, politics has to be taken out of this process at every stage of the game. We know on Parliament Hill and in federally regulated agencies like the RCMP, politics often is the primary consideration, not explicitly, but implicitly in terms of how employers deal with what is often egregious behaviour.

Clearly, in our minds, a definition of "sexual harassment" is prudent in moving forward. We need to recognize that harassment can take place outside the workplace, crucial for both federally regulated agencies and, obviously, on Parliament Hill, given the extent of activity that takes place outside this working environment, or a constituency office. We need mandatory training by qualified experts. I think that's really clear. I think mandatory is key.

We have to ensure that the competent persons who are identified are in fact truly independent as many others have said, and that they have the qualifications necessary, otherwise this bill will not serve anybody in the long run. We too are very concerned about confidentiality involved in the cases of Correctional Service Canada, RCMP, and Parliament Hill. We know that confidentiality is a really tough one and that lots of people aren't coming forward because they are not trusting of that process. We have to make sure that the results of the investigation are clearly communicated and there is some stipulation for recourse. We know that the House of Commons policy that many parties have worked really hard to improve is vastly underutilized because people are not confident that their employment or their identity will be protected.

•(1915)

Finally, there are just three more points. Clearly, we want time limits stipulated in the bill so investigations don't go on for months, if not years, which we're seeing across the board. Employment and counselling services, I think, are fundamental especially on Parliament Hill where we know that the environment can be really toxic in certain instances; and even with the outcome of an investigation, we do need to ensure that people actually get the kind of support they need.

What we understand about harassment is that, really, we're forfeiting, in fact, in some cases, the pipeline of the future in terms of women coming to the Hill really wanting to make meaningful contributions to public service, using an opportunity to work in an MP's office as a way to do that and better understand political processes. If they have a highly negative experience, we've lost them. We've lost a potential MP, we've lost a potential elected person, and I would say on the USJE side of the House, we often see that. Often highly qualified women who leave Correctional Service Canada, say, "No, I can't do this. On I must go." That would be true of the RCMP as well.

I'll leave it there.

The Chair: Thank you very much.

First up for questions is MP Blaney.

Hon. Steven Blaney (Bellechasse—Les Etchemins—Lévis, CPC): Thank you, Mr. Chair.

Thank you for your concise, constructive, and pragmatic recommendations that sometimes were redundant.

We certainly all agree that this bill is important, but we feel that it should have more teeth, and you've given us some direction tonight. If you feel that you have recommendations or amendments to share with us, the members of the committee.... We have to move quite quickly. As you know, we are on a fast track and have until next week to table our amendments. You've mentioned, for example, the definition. This is certainly something we're interested in.

I learned through this process that the labour department investigator doesn't do the specifics of an investigation, so it means that the independent investigator is always hired by the employer where there's a link, and we feel the employer could feel some impartiality in that. My question for you, since you are mostly a representative of workers, is, how do you see the role of the union when an employee is moving forward?

My first question to you, Mr. Phillips, is this. You set the context in the workplace health and safety committee, I believe. Could you explain to me how you see that we could amend the bill to get...? Or Madame Bauman....

Ms. Colleen Bauman (Partner, Goldblatt Partners LLP, Canadian Association of Professional Employees): In terms of how this is actually going to play out, there's a lot that could change depending on what is specified in the regulations. We know currently how the model works with respect to workplace violence complaints. These have been interpreted to include harassment in the workplace, and from our members' experience, that has caused some degree of concern, for example, in identifying the competent person. Right now there has to be an agreement in that respect.

I personally know of cases where because they haven't been able to come to an agreement the investigation has been delayed for over a year, which is an issue with respect to delay. Also, there's no guarantee when you have that model that a person is truly independent or has the skills necessary to do a proper investigation. A model where the labour department had a pool of trained, independent investigators who could be called in by the departments would be a possibility in terms of ensuring some element of independence and impartiality. That is definitely an area that we hear is of concern to members. They don't feel like the process that they were provided with was fair.

•(1920)

Hon. Steven Blaney: Again, where do you see the role of the union in the process?

Ms. Colleen Bauman: When you're dealing with unionized employees, I think the union should be involved at every step in terms of allowing them to assist the victim, if they so wish, in terms of being present at investigative meetings and that sort of thing. If you are going to use a model in which you have a competent person and the employer and the employee have a say, then I think the union should also be allowed to provide assistance to members in that regard.

Hon. Steven Blaney: Does anyone want to add something?

Ms. Nancy Peckford: In the context of the parliamentary environment, because we don't have staff unionized across the board, we have to ensure that the provisions available to non-unionized staff are as rigorous as those provided by a union, because you have extreme variation on the Hill. It's important that the legislation recognize the different degrees of representation that are available, because of the very diverse situations on the Hill.

Hon. Steven Blaney: Mr. Phillips, you mentioned redress. Let's say this independent investigator comes up with recommendations. How do we make sure they are enforced and implemented? How do you see that we could beef up the bill to do so? Maybe Ms. Bauman can answer.

Mr. Greg Phillips: Yes, usually I leave it to Ms. Bauman.

Ms. Colleen Bauman: I think there are two aspects there. One is ensuring that recommendations or changes or protections that need to be put in place for an employee actually happen. However, when we're talking about redress, we're also talking about compensation. I can't tell you as a lawyer the stories I have heard from individuals whose lives have been ruined by the harassment they have experienced. If it's determined that something is founded but that all you're going to get out of this process is that maybe we're going to change your reporting relationship in terms of who you have to report up to, this does nothing to remedy the harm the individual has experienced. When you look at someone who files a discrimination complaint on the grounds of harassment under the Canadian Human Rights Act, there are measures that provide for remedies there. I think you may want to look at a model that would allow victims to access remedies in certain circumstances.

Mr. Greg Phillips: I would add that the colleagues of an employee who receives a minimal resolution are less likely to come forward with their own cases of harassment. When someone sees a very minor penalty being implemented against the employer in a harassment complaint, nobody is going to want to file a harassment complaint and the harasser is going to continue doing what they're doing, because the punishment didn't fit the complaint. That workplace then becomes a toxic environment where nobody wants to work, and if they're working on something fundamental to the government, the most qualified employees aren't going to want to go there. The problem isn't just for the victim; it's also for the colleagues of the victim who see the perpetration of an injustice.

The Chair: Thank you.

Ms. Bethany Sutton: Is it possible for me to make a comment?

The Chair: Maybe we'll come back. I'm sorry, but I have to move on. That's my role as referee.

MP Dabrusin.

Ms. Julie Dabrusin (Toronto—Danforth, Lib.): Thank you.

Ms. Sutton, you had something to add really quickly.

Ms. Bethany Sutton: Yes. I think the purpose of our intervention was really to highlight how, if the ministry doesn't ensure recommendations are implemented, we will be stuck with the same problem we have in the CSC and the RCMP already, which is that we get excellent external reports at times and those recommendations are not followed. Also, I believe the union should be involved in all aspects of this process.

Ms. Julie Dabrusin: Thank you.

I wanted to follow up a bit on the discussion we're having about remedies.

Ms. Bauman, you were talking about the Human Rights Commission as one place to go. Do you think this legislation deals with the two avenues clearly enough as to whether you would proceed by going through the human rights code or the labour program in the legislation set out in Bill C-65?

•(1925)

Ms. Colleen Bauman: I think in all jurisdictions across Canada you're going to see a multiplicity of fora where you can bring concerns of harassment. I'm not necessarily concerned that someone might be able to bring a complaint under both the Canada Labour Code and the Canadian Human Rights Act. There are processes in place. Typically the commission will put something in abeyance pending the resolution or require you to take other first steps.

I think those avenues should remain open for individuals to make choices with a model they want to use to pursue this, but I would be concerned that this legislation provide at a minimum a base level of protection for everyone equally. I know that right now the legislation is structured so that the minister can decide that one of the other processes is adequate and they don't have to investigate: for example, if you have a grievance process or if you access your remedies under the Canadian Human Rights Act.

I would just want to make sure, though, that an investigation under the Treasury Board policy, in which you're not necessarily going to have an independent and impartial investigator, isn't the replacement for your rights under the act and isn't the basis on which they can say that you've had your right to an investigation.

Ms. Julie Dabrusin: All right. Have you had a chance to look at the statute as to whether that's clear enough? It sounds to me from what you're saying that it's not.

Ms. Colleen Bauman: It feels a bit like we're shadowboxing here, because there is a lot that is left to regulation and can be determined by regulation, so we don't really know fully. We know how the current model works with respect to workplace violence complaints, and we know how existing policies work, but I think there's a lot that could be changed with respect to how the regulations set this out. I understand that some of the details need to be left to regulation, but I would like to see a better outline set out in the legislation for what the basic elements of this process are going to look like.

Ms. Julie Dabrusin: Thank you. That answers what I was trying to get at and get more information about. I appreciate that.

All of you raised the question of a competent person and how you make sure the competent person is truly competent, has the expertise, and is independent. On a prior panel, someone raised the idea of the Human Rights Commission keeping together a pool of resources and said that this would be one way for people to access it. I expect that it would be more likely to happen in regulation than in legislation, but I'm putting it out there. Do you have ideas as to how we can ensure that people have proper access to a competent person?

Ms. Nancy Peckford: First of all, leading out, I think they have to be profoundly detached from the vested interest of the employer to protect the reputation of the workplace. I think that's what we've seen on Parliament Hill and off. It's great to have the legislation addressing the appointment of a competent person through the ministry of labour, but I'm not sure, given our understanding of the bill, that it does divorce small-p or big-P politics from the process, as much as I think that is the intention.

I do think that really separating the investigative process from the actual the workplace is key. I think we've certainly seen that on Parliament Hill. If we speak to the Edmonton Institution, which, quite frankly, for the purposes of this committee, is in crisis.... Edmonton Institution has been in crisis and we have seen egregious examples of sexual harassment and misconduct that in fact were just ignored for years. I think that even right now Correctional Services Canada is in the defensive position of trying to protect the reputation of the department, of really wanting to be proactive but not really exercising a lot of independence, as much as they are striving for independence.

Ms. Julie Dabrusin: I appreciate that. We're at the point now where we're looking at the legislation, and we have to figure out where we might put in amendments if we choose to make them. How can we build this out to build in the protections you're looking for?

Ms. Brownridge.

•(1930)

Ms. Nasha Brownridge: It is difficult to come to a solution. I can understand why we're now at this point as the committee has heard a lot of testimony from multiple organizations, unions, other employers as well.

As it stands, if my understanding is correct with the bill, the competent persons will be selected from the labour department. Am I accurate? That's sort of what they're looking at from the minister's testimony.

Ms. Julie Dabrusin: I believe people have to mutually agree to it.

Ms. Nasha Brownridge: Mutually agree between...

We're testifying from a unique position here on Parliament Hill where it's our understanding it will be a third party within each office, or someone will be selected in order to deal with allegations where the employer is concerned. The competent third parties become, from my understanding, less relevant in our workplace.

What's going to be important is who in each office is handling...I guess it's the third party individual. If those individuals are coming from any type of department, I can see our members, as well as other political staff, having concerns because our jobs are inherently partisan. The idea of having a department, which is run by a minister who also belongs to a political party, even if it's not necessarily the case where the minister has any involvement, the perception may be there. That could really discourage individuals from wanting to come forward if these individuals have any perception whatsoever that there is political involvement. They may not feel that they're being treated as fairly—

The Chair: Sorry, I have to cut you off.

Ms. Trudel.

[Translation]

Ms. Karine Trudel (Jonquière, NDP): Thank you, Mr. Chair.

Thank you very much for all of your statements. They greatly enrich the work of the committee.

My first questions are for Ms. Brownridge and Ms. Amrov.

In your presentation you mentioned the inclusion of a definition which could be an effective prevention tool. In fact, this has helped you in the past; your definition helped to validate the harassment experience of those who had been subject to it. This is very interesting. I would like you to speak to us more about the definition.

Ms. Nina Amrov (Chief Steward, United Food and Commercial Workers Union Canada - Local 232): Thank you very much for the question.

We have often heard from the media, or even the rumour mill, that those accused of harassment did not know that they were harassing anyone. They did not realize that they were creating an uncomfortable climate for the people around them.

Our concern is to find a definition that can be used for prevention. For instance, if information about harassment is provided in an effective and concise way, no one will be able to say that they did not know that their behaviour wasn't appropriate or constituted harassment as such. Once you have settled on a definition, there will no longer be any plausible deniability.

Our collective agreement includes a clear and concise definition. In fact, some of our members come to us and tell us that they experienced such a thing, but did not realize that it was harassment. On the basis of our definition we can say to these people that that was indeed harassment, or on the contrary, that it was not. Afterwards, we deal with the situation duly and properly.

A properly worded definition means that we can validate the person's experience and determine whether she or he experienced harassment or not. We think it would be very important that that definition be set out right now—and not only via regulations—and that it be properly included in a bill adopted by Parliament. In that way, you will obtain both the consent of parliamentarians and the consent of the public with regard to the definition of harassment.

Our definition, for instance, was established thanks to the co-operation between management and the union.

•(1935)

Ms. Karine Trudel: Could you submit that definition to the committee?

[English]

The Chair: She can submit it as a brief.

Ms. Nina Amrov: Sure. I'd be happy to table article 14 from the collective agreement.

The Chair: You have two minutes and 20 seconds.

[Translation]

Ms. Karine Trudel: Yes.

You also mentioned concerns with regard to the training provided by the House of Commons. Some members have already come to speak to us about it. I'd like to hear more about what you have to say to this.

Ms. Nina Amrov: We think this training is a good idea and a commendable initiative on the part of the House Human Resources Services, to convey this important information to members.

We are concerned, however, that the training only seems to discuss sexual harassment and does not touch on any other type of harassment, such as psychological harassment. We would also like to know whether the training mentions intersectionality. As we know very well, women are much more likely to be victims of harassment and assault in the workplace, particularly visible minority or indigenous women. We want to ensure that that reality is reflected in the training and that it is formulated in a holistic way.

Moreover, earlier today, we heard that the training would last three hours. I wonder whether that is long enough to provide information that is so very important for safety and well-being in the workplace.

[English]

The Chair: We'll now go over to MP Damoff. Thank you.

Ms. Pam Damoff (Oakville North—Burlington, Lib.): Thanks to all of you for being here and thank you for the valuable testimony that you've provided.

I've asked other witnesses about the importance of independence. I had the privilege of visiting the maximum security Edmonton Institution in January and meeting with some of the USGE employees, as well as the corrections officers and management. I think I've mentioned in committee that, when I read the report that was done on that institute, I had nightmares that night. To think that it went on for 10 years is just mind-boggling and that people would continue to come to work and have to face those—As Nancy said, the word egregious doesn't even go far enough.

I read the report and there were some very good recommendations in there. Going forward, there's a report and there are recommendations. I know there was a sense that there also needs to be some independence in the implementation of those recommendations. Would I be right on that? Also, there needs to be some necessity for reporting back, not necessarily through CSC, but maybe through the ministry of labour. A report has been completed, we've made recommendations, and hopefully an independent...will help to implement those and report back.

I wonder if you could comment on that and if you see this as being something useful in terms of the follow up. That would go to your mention of redress, remedy, and when there is some kind of report.

Ms. Bethany Sutton: We think that is absolutely crucial because, as you say, a number of the recommendations were excellent in regard to the need for an organizational change at the Edmonton Institution. There is something very rotten in that institution, as we know. Pam, you've read that report. It's years and years of significant and egregious—as Nancy says—sexual harassment and violence.

One of the significant recommendations was to have an external organizational change consultant come in, who did not report to the warden, but reported to the deputy commissioner. It's absolutely key. CSC has absolutely ignored that recommendation. They brought in a

lower-level person, who was friends with the warden and did not have the expertise, in terms of organizational change. We have hundreds of members working every day in the environment that remains. When you have a culture that is that deep, in regard to bullying, violence, and sexual harassment, you can't change it just by having—Luckily, the right decision was made, in terms of firing a number of individuals who were part of that, but when you've created that culture, year in, year out, what happens is that the lower-level bullies just begin to take over. That's why that organizational change consultant was so crucial and that's why it is such a significant concern that the recommendation has not implemented.

We absolutely agree with you. It is why we are very hopeful that this legislation will incorporate a component of accountability, but not to the department itself, because we've seen too often that the department is unable to do that.

• (1940)

Ms. Pam Damoff: It's hard to believe that could happen in Canada. It's certainly an example of where, even on a smaller scale, I think having that accountability built into the legislation is really important.

In terms of having a competent person, one thing that's been mentioned is having a pool of independent investigators. I don't know whether some of this can be done in legislation or in regulation, but I completely agree that it needs to be independent for everybody's well-being, not just the employee but also the employer, to ensure that there's no perception that what's happening is being influenced because an employer had a say in it.

Ms. Colleen Bauman: In terms of what has to be in regulation and what can be in the act, the words "independent" and "impartial" are not used anywhere in the bill. As for "competent person", a whole body of case law has tried to interpret what a competent person is. I think it has been a very problematic area, in some regards. Just putting in a provision that provides for independent and impartial investigations then provides teeth for unions and their members to use if they don't get an independent and impartial investigation.

I would encourage you to think about at least finding ways to reflect that language in the bill in order to try to guarantee some element of independence.

Ms. Pam Damoff: In the minute I have left, Ms. Brownridge, you talked about volunteering in an MP's office. I'm surprised at that, quite frankly. I never have volunteers in my office, because I think everyone deserves to be paid a fair wage. How prevalent is it that there are volunteers, and what are the expectations of them in an MP's office? I know it's not just in the NDP.

Ms. Nasha Brownridge: No, of course not.

Ms. Pam Damoff: It's just that you had mentioned it.

Ms. Nasha Brownridge: Yes.

One really important thing to note is that in terms of our bargaining unit, our collective agreement, all the articles regarding anti-harassment and the majority of our collective agreement, applies to interns, volunteers and otherwise.

Ms. Pam Damoff: How do you define “volunteer”, though? I guess that's....

Ms. Nasha Brownridge: We do have a definition specifically in the agreement. We actually stipulate that they cannot work.... Nothing they do is mandatory. They come in as they please. They cannot be disciplined if they only do three hours, for instance.

In my volunteer experience, I was coming in as part of a class from the University of Ottawa. I was only doing three hours a week. It was on my own schedule. I was not doing work that would replace the work of a bargaining unit member, so I wasn't replacing the parliamentary staff in their tasks.

Ms. Pam Damoff: I am aware of situations where an MP has had staff come in and then chosen not to pay them. That's just wrong on so many levels. Sometimes people will use the term “volunteer” for those situations when in fact what you're really doing is asking people to work for free.

Ms. Nasha Brownridge: That's absolutely not what I'm referring to in my experience, and in the experience in our offices that we are aware of. We do not allow for unpaid work, particularly where it concerns the activities of.... We actually have job descriptions that describe what each person does, their title and what they do. No volunteer can come in and get paid for that.

Ms. Pam Damoff: I've gone over my time.

Thank you.

The Chair: MP Fortier, please.

[Translation]

Mrs. Mona Fortier (Ottawa—Vanier, Lib.): Thank you, Mr. Chair.

Thank you very much for your statements. I am going to speak to you in French.

I'm very pleased that we have been speaking about definitions a lot since we began hearing testimony. I can tell you that we have discussed this at length. This is a notion you have also raised today.

One of my concerns is the need for a certain flexibility that would allow us to broaden or amend the definitions of sexual harassment and sexual assault. I was wondering if you had any suggestions on how the law could, without going into all of the details, include principles that would guarantee a certain flexibility in the regulations. Do you have any ideas on this? Would you be comfortable sharing the definition?

Let's begin with Mr. Phillips or Ms. Bauman, and then we will hear from the others.

•(1945)

[English]

Ms. Colleen Bauman: I think with respect to the definition of harassment, it isn't something that allows for a lot of flexibility. It's going to be interpreted legally, it's going to determine the scope of individuals' rights, and it is vital. In the Ontario legislation they have

adopted a definition of “harassment”. I understand the challenges of amending the legislation down the road if you did want to change it, but that's why I would encourage you to take a broad and purposive definition, one that covers both personal harassment and grounds-based harassment. For example, we referenced the Treasury Board policy definition. It provides for not only a series of events—typically harassment takes place over a series of events—but also a single serious incident to also constitute harassment. It also provides for workplace to be defined broadly, so including events related to work, locations related to work, and that sort of thing.

Those are the elements I think you want to think about, but I would encourage that it actually be in the legislation.

[Translation]

Mrs. Mona Fortier: Thank you.

Ms. Brownridge or Ms. Amrov, I would like to hear your thoughts.

[English]

Ms. Nasha Brownridge: We do believe that the full definition should be included in the bill itself. There are a few reasons for this, which echo some of the concerns that have already been reiterated. First, we currently have a government that has shown some willingness and desire to improve the culture of harassment here. The catch is that politics are fickle. We don't know who will be in government five, 10, or 15 years from now. I have concerns, and our union has concerns, about whether or not anything left up to regulation can be changed without public accountability through the House of Commons. While we currently seem to have agreement amongst this committee to actually move forward in a positive way, if we were ever to hit a situation in which a government was not that open and not that willing, they could water down the definition as it stands. We don't want to allow for that without them having to go through the House and having that accountability.

[Translation]

Mrs. Mona Fortier: Ms. Peckford or Ms. Sutton, I would also like to hear your comments.

[English]

Ms. Nancy Peckford: Yes, I would concur. I think it's crucial. We look at sexual harassment policies—not legislation, but policies—across the country pertaining to legislative environments. There are very clear definitions of what sexual harassment is and what it is not. I think they are very instructive, especially in environments where, in fact, there are some difficulties sometimes for individual women. I think ensuring there's a gender-based analysis plus of this bill will underscore some of those dynamics around young women not being confident that what their experience is—a singular incident or systemic harassment—is in fact grounds for coming forward and activating whatever the mechanism is.

We stand behind the definition. We think, though, that it would be instructive to do a five-year review, to ensure that five years from now we can revisit the legislation, look at some of the challenges and the successes, and improve upon it. Because it's groundbreaking, having that five-year review in place would be very, very helpful.

[Translation]

Mrs. Mona Fortier: I was writing a note about the five-year review as you spoke; that is interesting.

In addition, we spoke briefly about prevention. The intention is to change the culture and ensure that there is a basis to prevent incidents, that is to say before they occur.

Aside from what you already mentioned in your presentation, are there points you would like to share with us which could help us strengthen the bill we are studying?

•(1950)

[English]

Ms. Nancy Peckford: I think training and mechanisms to ensure independence are so key. People will just not come forward under precarious employment conditions unless they understand there truly is independence and that their employment and commitment to public service are not at risk. From our perspective, we don't have all the solutions, but we know that's fundamental to the success of the bill.

[Translation]

Ms. Nina Amrov: I would like to begin by saying that we are here because we are passionate about our jobs, as are many people who work in this area, whatever their party. That said, that passion should be compatible with a safe workplace where we feel comfortable and where we can interact with our colleagues in complete safety.

I consider that the training must absolutely be mandatory. According to what we understand, it is up to the whips to ensure that the members of their party have taken the training. We would like to know what sanctions there will be if a member were to refuse to take the training.

Moreover, we would like to go back to the importance of having a definition, because that is a prevention tool.

[English]

The Chair: Thank you very much.

Now we go over to MP Falk, please, for six minutes.

Mrs. Rosemarie Falk (Battlefords—Lloydminster, CPC): Thank you for being here. I appreciate hearing what you all have to say, and I believe it's very valuable. The first question I want to ask is regarding the time limits. You guys have suggested that there be a time frame. Do you have a number that would be acceptable?

Ms. Nancy Peckford: I would think, at this point, between six months and a year is the maximum period of time for someone to come forward and see the results of an investigation, and some stipulation of brevity....

Mrs. Rosemarie Falk: Okay, and that's with the whole process start to finish, right?

I'll go back to mandatory training. Is training for employee and employer what you're suggesting? I know that you suggested management training. Can you elaborate a little bit on that?

Ms. Nasha Brownridge: Absolutely. In my statement earlier, I was talking specifically about the mandatory management and anti-harassment training. The reason we address management training specifically is that a lot of incidents of harassment can come from, essentially, unhealthy communication amongst staff and their employers where there is generally not an understanding of how to appropriately communicate, which then cycles and becomes a worsening situation over time.

We are, however, in favour of mandatory training for staff as well, or training for staff in general, because, obviously, there are also incidents of harassment between employees, not just the members of Parliament who we were referring to. That was just a note that we wanted to make very clearly in the initial testimony, but we were limited on time.

Mrs. Rosemarie Falk: Perfect, because that's something, too. I just recently came in on a by-election, so I have just gone through this whole process, and everything is new.

Ms. Nasha Brownridge: Congratulations.

Mrs. Rosemarie Falk: Thank you.

I know the House of Commons offers orientation. In discussing all of this, I'm quite surprised that I haven't received any of that type of orientation regarding harassment or anything like that. Is that where you would want to see it, in an orientation?

Ms. Nasha Brownridge: We had discussed this quite at length, and something we'd like to see is for it to be included in the orientation for new members coming in. We particularly thought a window of within 60 days of being elected, because MPs are automatically hiring staff, or nearly automatically. Often it's one of the first things they do, and in order to manage those staff, they should have that training at that moment when they are being oriented into the role.

Ms. Colleen Bauman: I'll just add something with respect to training in the broader federal public service, because I think it's an issue also in that context. CAPÉ itself has noted that, when there is a new manager who goes into a workplace, sometimes you see an increase in harassment complaints in certain sections, and largely that is often a product of someone not having the proper training with respect to what constitutes harassment and what constitutes bullying and abuse of authority. If you put in more training on a better understanding of harassment when managers are going into those roles, I think that, even beyond the context of Parliament in the broader public service, you're going to see that would also make a big impact on preventing harassment.

•(1955)

Mrs. Rosemarie Falk: I guess, too, one thing that I'm a little cautious about is that I'm nervous about bringing forward training and people becoming normalized to the discussion and not doing anything about it. Do you know what I mean? Like, "Oh it's just another thing I have to do". I'm just apprehensive of that. Do any of you have any opinions on that, bringing it forward and having the conversation? What I'm fearful of is that we have this conversation, and then it's, "Oh yeah, whatever" because it's becoming normalized.

Ms. Nasha Brownridge: I can see where the concern comes from, but right now, again, we're speaking from a very specific context. When members of Parliament come in, when staff come in, they are provided with very little information on this, so I would rather it be normalized than not addressed at all. Of course, I think things like five-year reviews, even on just this training, are extremely important to ensure that isn't happening, but I think having them in the first place is more important. Then, if we start facing a scenario where people aren't taking it seriously, and they're just doing it as another thing they have to do when they get elected, we would have to do a review and ensure that isn't happening.

Ms. Nancy Peckford: I think continuous feedback from parliamentary staff in an anonymized way is super important, and I think we're missing that. We actually don't understand until the complaints come forward, or there are some egregious examples when somebody has left the Hill and decides to say something five years later. I think if there was a way to institute a continuous feedback loop, that would be very helpful. Is the training working? Are you actually feeling an impact in the MP's office in terms of either your direct supervisor or the MP in question?

EV, Equal Voice, has been continuously asked to comment on the House of Commons policy. In many cases, all our insight is anecdotal. I think it is incumbent upon the House of Commons to do much more rigorous data collection from both a staff perspective and the MP perspective. At this point, I don't think you have any data with which to work. It would be super helpful—in addition, of course, to the five-year review—to make sure that you get crucial information that is fully anonymized that can inform continuous improvements to the House of Commons policy and your future amendments to legislation.

The Chair: Thank you.

MP Ruimy, please.

Mr. Dan Ruimy (Pitt Meadows—Maple Ridge, Lib.): Thank you very much for being here today.

Certainly, we've been hearing the same themes over and over again, and it can get a little "where do we go, how do we do this, and do we do definitions in legislation or in regulations?" I can kind of see both sides of that.

We're jumping ahead to the five-year review, and you just mentioned that. How do we track? What are we tracking? What is the data that we're tracking? Earlier today we had two other witnesses who said that in 2015-16 there were 11 inquiries and that in 2016-17 there were 19. That could suggest an increase, or that could just suggest that people feel a little bit more comfortable. How do we track that on a better case, and what would we be tracking in that manner?

Ms. Nancy Peckford: A good example might be the public service employee annual survey, which is not perfect, but it is a way of better assessing the day-to-day experience of employees across the public service. I don't see a reason why you wouldn't want to do that with parliamentary staff. Yes, there's more transition in and out, but it would seem to me that, annually, you could conduct a survey of parliamentary staff that assures their anonymity and isn't partisan-driven at all, but gathers some insight. It's not perfect. I would also suggest that you talk in a more systematic way to your MP colleagues across party lines about how they perceive harassment. Is their own understanding of harassment evolving to align with the legislation as it will be adopted? I think those are two starting points.

Mr. Dan Ruimy: They said that those were inquiries, so I asked for an explanation of that. They come to a successful conclusion of some sorts. It's different when somebody goes back and says, "Well, 70% of people said that they'd been harassed." I don't find that useful because I don't know what that means. How do we break this out further so that, whatever we do moving forward, come five years we have actionable data? Do we break it up into smaller pieces: somebody picked up the phone and said, "I was bullied"? Of course, maintaining confidentiality.... Are there already things in place that you are tracking overall, aside from everybody saying, "Well, you know, 70% said that they had been harassed"?

•(2000)

Ms. Nasha Brownridge: I think, oddly enough, that actually does come back to definition in one way. The definition should be defining the different forms of harassment because there are very distinct categories. Now there may be a category that is more difficult to define or situations that may not fall under a very specific category: psychological harassment, sexual harassment, bullying in the workplace, bullying outside the workplace, for example. I do think those are important identifiers that should be tracked. Now how they're reported to maintain confidentiality will have to be a very careful consideration. I also do want to reiterate what was said by Nancy: continuously getting feedback from staff, I think, is going to be extremely important. Staff on the Hill, particularly, often feel left out of every process. That speaks to a larger culture as well, and I think including them in that process through surveys or other mechanisms is going to be critical to earning their trust.

Mr. Dan Ruimy: You mentioned bullying as an example. We're coming back to definitions. How would you define "bullying"?

We've heard different stories of what bullying can be. When we've gone through our training here, if somebody wants a day off because they want to go wherever, and it's traditionally not a time to take a day off, and we say, no, you can't because we need you to be here, some might interpret that as being a bully because you're not giving them what they want.

This is where the problem comes with definitions. Once you've set it in legislation, you're stuck with it.

Ms. Nasha Brownridge: I have a hard time believing that someone would want to go through this process to complain about an employer who just didn't give them a day off. I know you're just giving an example. I just want to respectfully reiterate that I don't see someone making this complaint. This complaints process, no matter how amazing it turns out to be at the end of this committee, is still going to be onerous for someone who has faced a situation. I don't see someone going that far, because their boss didn't give them a day off.

We will be submitting our definition, not necessarily to be used for legislative purposes but as a reasonable example and a baseline. And we do exclude normal social conduct between people and employers. We have processes for how to approve and not approve time off, where the union comes in helpful, but we do include that so that normal social situations are not included within harassment.

Mr. Dan Ruimy: You quickly spoke about MPs who are new, and never managed people, and I can certainly understand that. Coming from a corporate background I've been through the hoop and I've learned how to manage people. When they come here it's overwhelming sometimes.

How would you suggest that they do this management training? Would it be three hours, would it be...?

The Chair: Very quickly, please.

Ms. Nasha Brownridge: I don't have an exact time frame. One thing I would say is that there should be different categories for individuals who have experience, but also recognizing that this is a completely different environment from where someone else may have managed in the past.

The Chair: Thank you.

Mark Warawa, five minutes, please.

Mr. Mark Warawa (Langley—Aldergrove, CPC): Thank you, Chair.

Is there a consensus on what the definition of harassment would be? It seems to be the common theme. There are three groups represented here today. Would you agree on that definition?

Ms. Colleen Bauman: I don't think we've consulted each other on that definition, but I think you will find a lot of commonality in the views, so that if we were to spend some time on it we could come up, along with other unions, with a definition that was agreed upon.

This is not something that is novel or new. There are definitions of harassment that you can find in many different contexts, and that also have been interpreted legally, so I don't think that should be seen as this great challenge, or something that's so difficult. There are many recognized and used right now in the federal public service; that's why we were suggesting the Treasury Board policy. That is

used every day in the federal public service. I don't think we should be scared of a definition of harassment. I think intelligent minds coming together can come up with one that is widely accepted.

• (2005)

Ms. Nancy Peckford: I would also add that I think different legislatures—and we're talking political institutions—have found comfort in defining harassment in terms of what it is and what it isn't, and these are people from very different walks of life with very different partisan backgrounds.

Again, I think we're at a stage now culturally where most people around this table, and not just us, would in fact be able to agree on a definition without significant difficulty.

Mr. Mark Warawa: My apologies for interrupting, but my suggestion is that you might put your heads together and provide guidance to this committee. This committee is going to be making a recommendation to the government and possibly amending the legislation as it is now, sending it back to the House, and then to the Senate. This will be happening again in the Senate committee. If there is a lot of thought, and you get consensus on what the definition should be in Bill C-65, I think it would go a long way to achieving what you want.

I think there is support around here if it were a definition that we could all support. Particularly if the witnesses are supporting it, then that would go a long way.

I do have a question for Ms. Peckford and Ms. Sutton.

My curiosity in having studied criminology and Corrections Canada, and visiting the different institutions from the Fraser Valley, Matsqui, which is a medium security, and then going up to Kent, and to Mountain, and visiting the different.... There is a dynamic, a feeling, a culture around each of these institutions that's quite different as you move around.

My question is, for people working in these different environments, is there a different level of sexual harassment? Does it breed a sexual harassment environment?

Ms. Nancy Peckford: Certainly, having visited several over the course of the past couple of years, my experience suggests that the degree of harassment can vary significantly, not that harassment doesn't happen. I would have to point to Edmonton Institution.

MP Pam Damoff had the occasion to visit a variety of institutions. Certainly I think in the case of the maximum security prison in Edmonton, there was such a profound sense of disconnect. Last week, we had a visit and the warden described it as an island unto itself. It was so profoundly disconnected to the overall CSC culture, which isn't fabulous, quite frankly. There are other institutions where USJE is seeking workplace investigations because we know there is troubling behaviour there too. Yes, it does vary.

Does that suggest that the leadership is only required in Edmonton? I would say absolutely not. I think there's an obvious need for better mechanisms, and I'll let Bethany speak to them because there's a culture-wide feeling but no doubt it has varied.

I think what's remarkable about Edmonton Institution is how long it went on and how fundamental commissioner leadership is. Unfortunately, I'm sad to say it, we didn't have it. The union was often told that they were chasing ghosts, that unless people were putting their names, their personal lives, on the line that investigations were not warranted.

I think that's why this legislation is so valuable, when you're looking at RCMP, CSC, some of these other workplaces. You absolutely need a safety mechanism outside the department. It is also true of Parliament Hill.

Once again, I'm super happy to have a safety mechanism. We want you guys to get it right, because we know we've only got one shot at this right now, apart from a five-year review, and it's important that we make sure we make it as strong as possible.

The Chair: Thank you.

MP Trudel, you have three minutes.

[*Translation*]

Ms. Karine Trudel: Thank you, Mr. Chair.

I barely have three minutes to wrap up, but I would like to hear all of your comments.

Bill C-65 aims to set aside the joint occupational health and safety committee, a joint committee that involves the employer, workers and the union on certain occasions. You mentioned the importance of including the union. I would like to hear your thoughts on this.

Do you think that the occupational health and safety committee should be maintained, and be a part of the investigation process into cases of assault or harassment?

Let's begin with Ms. Bauman.

•(2010)

[*English*]

Ms. Colleen Bauman: I would encourage opportunities for the union and the employer for joint discussions going forward. I know, for example, the NJC is a forum in which this type of issue could be discussed between unions and the employer going forward. We would definitely want to see a role for unions as this develops and is implemented to make sure that members get the broadest protection as possible.

Ms. Nasha Brownridge: Reiterating, we do believe the unions need to be involved, and if we were afforded that right to be involved in the discussion, we would absolutely want to take part. I think there would be consensus that ensuring the unions are active, not only in developing this legislation but once the process is implemented, I think we would appreciate that joint committee opportunity.

Ms. Nancy Peckford: Obviously, we need to be cognizant that the Hill is not a widely unionized environment, so whatever stipulations are in the legislation should be such that non-unionized

staff can still avail themselves of a rigorous process. We know that reality as it exists on Parliament Hill.

I would invite Bethany to speak about where unions can add value. Bethany was part of an RCMP collaboration in a division in this country where something egregious did occur. The collaboration with the union is value-add, it's efficient, and it allows for better, more productive conversation and stronger recommendations. I think that's what we want: no flailing, just people bringing the best of what they have to offer.

Ms. Bethany Sutton: We undertook a joint evaluation in the workplace—a wellness review—and we found that the employees and our members said, "Oh, thank God you guys are working together. I don't want to feel like I'm just a union member. I don't want to feel like I'm just an employee. I am both of those things." They said to us, "Thank you for not splitting me apart. Thank you for having both of you work together." I think in that way it is absolutely crucial that the union is involved, and in that case, it was absolutely the union that brought the high-level expertise to the table.

I will mention that in that case—and this speaks to a number of the questions that we've gone on about today—something happened during "learn about harassment" week. The highest-level person in the organization referred to the highest-level woman in the organization using a sexually suggestive term in front of hundreds of employees. It was a slip on his part for sure. Because the person was very sad and remorseful about it in his apology, which he made to all 300 people, managers stood up and said—this is during anti-harassment week—"No, no. We want jokes in the workplace."

The organization undertook a full review of that incident in the hope that the RCMP could bring harassment expertise to the table at every level, and at every level the expertise wasn't there. Consistently they were unable to explain to their people why.... To the union, it didn't matter so much that the mistake was made. What mattered was that they were entirely unable to manage that mistake and explain to the workplace what harassment was, even though it was anti-harassment week and even though everyone had taken training.

I know it's part of the challenge. There's an absolute necessity for that training. Those workplaces, even when there's an anti-harassment week and anti-harassment training.... We believe that 95% of those in that particular workplace didn't understand the RCMP definition of harassment, which we believe is a decent definition. I think all of us could send some definitions that we think are decent for the committee to consider. We found that 95% of that workplace, and I would say all the way up within the RCMP, did not understand the definition of harassment.

•(2015)

The Chair: Thank you.

That brings us to the end of the second round of questions. I know Pam would like some additional time. We do have time left. I know you guys have said you're good.

Would you like another few minutes? Maybe we can keep it to four minutes and four minutes.

Pam.

Ms. Pam Damoff: Thank you.

I want to go through the process, and I want to use Edmonton Max as an example. I used it with the officials when they were here and we talked about employees having to go to their employer prior to going to the minister of labour. The thinking was that your first course of action is to go to your employer. At Edmonton Max, people knew they couldn't do that. They knew that they would suffer horrible treatment if they did come forward, so they didn't. What they told me is that employees can choose at any time to go to the minister of labour under this legislation, and that it will be posted in the place of employment.

In a situation like that, do you think this legislation would have made a difference, or do you think that fear would still have been there, recognizing that there are certain things you can't legislate? You can't legislate the stupidity that was going on there, but do you think this legislation would have been helpful?

Ms. Bethany Sutton: I believe it would have been helpful. I think part of what was happening at the Edmonton Institution was that it was such a rotten environment and they were so concerned. What is clear is that certain correctional officers—or guards as we may understand them—would actually lock people in longer with very dangerous inmates when they were unhappy with something that person had done. You may be a parole officer and you may want to buck the culture of bullying in the institution, and those correctional officers would have access to when you're locked in with a dangerous inmate and when you're not. To the issue of female parole officers, they would often leave those individuals in longer than they should have, if a certain set of very rotten correctional officers.... It has permeated the entire organization.

Absolutely, you can imagine that if you think you're going to be left with a severe sexual offender longer because you're challenging someone in your organization...yes.

Ms. Pam Damoff: There was an example in the report of someone—and I believe it was a female employee—being forced to watch one of the guards humiliate an offender, to the point where the offender soiled himself. That was the punishment for coming forward. It was to watch this humiliation of another human being.

So how could you come forward? I was hoping you would say that this would give people some confidence.

The other thing I want to touch on, though, is the tip line, which I know has been set up. It sounds great. I do have concerns that.... People should use it, so don't get me wrong on this. I encourage the staff in the institutions to use it. But could it be used, if there were a personal dispute between two people, to make false allegations, and is there a fear that there needs to be something in place to ensure it's not being used in the wrong way?

Ms. Nancy Peckford: I think the purpose of the tip line is to give people an anonymous way to bring forward a complaint that was subsequently investigated through a disciplinary process. Actually, part of our concern at the Edmonton Institution—and again, I'm very limited in terms of my time on this file—is that the disciplinary process was used, in many cases, to investigate, and as a consequence, the normal rigours of a harassment process and investigation were not used.

In one instance, we're familiar with an indigenous woman who bravely came forward. She was an employee at the institution. She clearly documented a lot of her concerns. There was a disciplinary investigation. Then the people she alleged were perpetuating significant abuse were brought back to the workplace under the auspices of a disciplinary process, where she had no access to the results of the investigation.

I think, more broadly speaking, tip lines are really a response to crises. What we want with the legislation is a really good process from start to finish, so the last thing we need are tip lines. I think, obviously, that giving federal public service employees and now parliamentary staff access to the safety mechanism is so key, and that's that an investigation can be—

•(2020)

Ms. Pam Damoff: I know my time is up, but I have one comment. Your employees said to me that we were their only hope. I want you to take back to them that we're listening, and give them hope that things will change.

The Chair: Thank you.

Next is MP Trudel, and I believe Mr. Morrissey has a very brief question as well.

MP Trudel, go ahead for four minutes.

[Translation]

Ms. Karine Trudel: Thank you Mr. Chair.

I would like to go back to the last question I put to you, so that all of our guests may reply. I want to hear what you have to say about the fact that Bill C-65 aims to exclude the joint occupational health and safety committee from investigations into cases of sexual assault or harassment, or any other type of harassment. One of the main arguments we have heard here at committee is that such incidents need to be handled very confidentially.

What do you have to say about confidentiality, as it relates to the importance of keeping the union in the process, as well as the occupational health and safety committee?

[English]

Ms. Colleen Bauman: I think one area the legislation has recognized as a key area of concern, which prevents people from coming forward, is a fear that their identity won't be kept confidential. It is a key element of this.

It also, I think, goes to issues of procedural fairness for both complainants and respondents in processes like these that there is an element of confidentiality while the investigation is ongoing. It will also encourage complainants to come forward if they know their identity won't be known throughout the workplace.

Ms. Nasha Brownridge: On the topic of confidentiality and this reporting mechanism and how unions can be involved, I think it is very important to allow an individual, the complainant, to choose whether or not they have union representation with them, but it has to be an informed decision. They, of course, have to be aware that they have that right and be aware of where they can get those resources. It should be a survivor-led process. It should be up to them who has that information.

If there were a case where an individual, whether here on Parliament Hill or elsewhere in the public service, said that they didn't want that information shared, I have to say, as long as it is an informed decision, that should absolutely be respected.

Ms. Nancy Peckford: Absolutely. I think one of the reasons people aren't coming forward on Parliament Hill is that they do not believe their alleged experience will be kept confidential.

Quite frankly, I think Equal Voice has very serious concerns about the role of the whip in the existing House of Commons policy. I think it's very problematic that the whip is one of the primary people recommended to somebody who believes they have been harassed. I believe Equal Voice would support taking the whip out of the process entirely.

I'm speaking of existing House of Commons policy. We are hopeful the legislation will compel improvements to the policy, and one of those is to take the explicit references to the party whip out of this equation entirely. It's a highly partisan environment. That person is a liaison who, even with the best intentions, cannot always be objective, or they can be the bully, as we know.

It's obvious to us that, while confidentiality in and of itself is really important, the mechanisms have to support people believing they will be safe in the process. I don't think we have that currently, and I don't think the legislation in its current form guarantees confidentiality to the degree that the process overall will be effective.

The Chair: Thank you.

We're going to MP Warawa.

Mr. Mark Warawa: Thank you.

I wasn't going to ask about the whip, but since you made those comments, and since I've been here for 14 years, I can tell you that one of the first things you do is find out who the whip is, and you get a list of people who are looking for jobs. The whip's office has been very instrumental over the years if I am looking for staff.

To have the whip totally out of the equation if there is an issue may not be helpful. Maybe they aren't involved to the level they are now, but I think they still have to be involved because they are the gatekeepers of each party if there's a problem. They report to the leader if there's a problem. I think it's important to have the whips involved to some degree, but this will be up for discussion around this table.

I do have a question for you, though. It relates to people who have become victims of harassment, particularly sexual harassment, who are struggling now as a victims. There was a discussion. I think it was you who talked about providing support for victims and what that looks like.

We've heard from the House and what the House sees as taking care of anybody who needs help. Could you tell us if the help that presently exists is adequate? In some cases, I would guess that such a person may not be able to continue working in this environment if they are struggling and there are triggers that bring back that harassment assault. They are really struggling. Is what we have now adequate, or does it need to change? If so, how would you see it changing?

• (2025)

Ms. Nancy Peckford: Because our expectation of the House of Commons is that it models the 21st century workplace, it's really important that staff who have been harassed, or who have had a highly negative experience through harassment or workplace violence, have access to better supports than they currently do.

In some cases, I don't even think staff are aware that there might be resources available to them—and I will defer to my colleagues to speak to that—but I believe if you have been courageous enough to have gone through the process to talk to a party whip, or talk to the chief human resources officer, to have endured an investigation, you should be entitled to far more counselling than is currently provided, which is extremely limited if I'm not mistaken.

Because we look to this place to model the best of what Canada has to offer, it is incumbent on parliamentarians to ensure that people leave with the best impression, even if they have had a negative experience. I think people are very open to hanging onto the most positive view they can have of Parliament, even when a person has engaged in very troubling behaviour.

Ms. Nasha Brownridge: I would certainly agree that resources, at least here on Parliament Hill, are quite limited. The main one that we often refer staff to outside of our collective agreement—so this would apply to all political staff from all parties—is the employee assistance program. It is a great program that is available to staff, but it's one resource.

Other resources have to be taken into consideration, and I spoke to them in my testimony. It's not just the support systems—things like the EAP—but also, as you mentioned, triggers and situations where people will have trouble returning to work. With the paid time off, that's where that becomes crucial. For individuals going through this process who have experienced harassment, both on Parliament Hill and in other workplaces, not having adequate time off to be able to handle those situations can be completely detrimental to their mental health and otherwise, and also to their productivity.

While our collective agreement provides time off, the House of Commons—as you may be aware—only gives 10 to 15 days off for vacation, and 1.3 sick days per month to the employee. That would not be adequate in attempting to deal with a situation of harassment. Additional time off for the explicit purpose would be an important resource in enabling them to also seek out their own resources.

The Chair: Thank you.

Ms. Colleen Bauman: Can I just quickly mention a model that is used by the Law Society of Ontario? The Law Society of Ontario has discrimination and harassment counsel. If a young associate at a law firm is experiencing sexual harassment, they can call up this independent person, who is employed by the Law Society, for advice and counsel. That individual can also intervene on their behalf if they so wish. It's not an enforcement mechanism, but it is another access and it's independent. It might be a model worth considering.

•(2030)

The Chair: Thank you.

MP Morrissey, for just a few minutes. I understand you have a quick question.

Mr. Robert Morrissey (Egmont, Lib.): Thank you.

It follows up on the earlier testimony of Ms. Peckford. One of the issues that was raised was of entities investigating themselves.

Do you feel the legislation goes far enough or is strong enough in the area of covering entities investigating themselves? Your group represents a broad range, and that could include any of your groups.

Ms. Nancy Peckford: You're right to suggest equal voices of multipartisan organizations. We've undergone a process to gather input from diverse perspectives in terms of the experience.

Not everyone will believe that the process is independent, even if it is perfectly executed, because there is that perception that the ministry of labour—if asked to make an investigation—is in fact a political entity, and that there might be considerations about whether or not an investigation occurred or did not occur because it fell into the hands of the ministry of labour.

The legislation absolutely has its limits. We've looked at policies and at legislatures that bring in the ombudsman, the Public Service Integrity Commissioner, and that really look to make sure there are mechanisms that are non-politicized. I don't know what's possible here. You've received all sorts of technical advice, but the legislation is only as good as it's perceived to be, and that's where there are some challenges with the current proposed language.

I'm confident that there are some workarounds, if the committee tried hard enough, because that's where absolutely there remain some challenges. Although this legislation is well intended, and in spite of the respect we have for Minister Hajdu and the process, I don't think we're quite there, no.

The Chair: Thank you.

Thank you all very much for being here today. It was a late evening. We've got two of these late night committees this week. Thank you very much for helping contribute to this review of this legislation, and I really appreciate you all being here.

To my committee colleagues, just a reminder for future business: February 28, from 3:30 to 5:30, we'll be meeting at 228 Valour, and then 6:30 to 8:30 we're going to have a similar issue with votes, so we're moving it here as well. Sorry, we're across the hall to 253D, here in Centre Block.

Thank you very much, everybody. Thank you always to the folks on my left and right and in the booth.

The meeting is adjourned.

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