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Chair

Mr. Bernard Patry

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● (1530)

[*English*]

The Acting Chair (Mr. Brian Murphy (Moncton—Riverview—Dieppe, Lib.)): I'd like to call this meeting of the Legislative Committee on Bill C-27 to order.

[*Translation*]

This is our fourth meeting. Our witnesses today are Mr. Tony Cannavino, President of the Canadian Police Association,

[*English*]

and the executive officer, Mr. David Griffin, who are before us. We have received their briefs.

Gentlemen, you have your opening remarks.

Mr. Tony Cannavino (President, Canadian Police Association): Thank you very much, Mr. Chair.

I don't know if this is the last meeting before the break or whether we're going to have more during June and July. We hope you have your break.

The Canadian Police Association welcomes the opportunity to appear before the Legislative Committee on Bill C-27, An Act to amend the Criminal Code (dangerous offenders and recognizance to keep the peace).

The CPA is the national voice for 56,000 police personnel serving across Canada. Through our 170 member associations, CPA membership includes police personnel serving in police services from Canada's smallest towns and villages, as well as those working in our largest municipal cities, provincial police services, members of the RCMP, railway police, and first nations police associations.

Our goal is to work with elected officials from all parties to bring about meaningful reforms to enhance the safety and security of all Canadians, including those sworn to protect our communities.

For over a decade police associations have been advocating reforms to our justice system in Canada. In particular, we have called for changes to bolster the sentencing, detention, and parole of violent offenders.

The Canadian Police Association has been urging governments to bring an end to Canada's revolving-door justice system. Chronic and violent offenders rotate in and out of the correctional and judicial systems, creating a sense of frustration among police personnel, fostering uncertainty and fear in our communities, and putting a significant strain on costs and resources for the correctional and judicial system. We welcome the changes introduced in Bill C-27 to strengthen provisions dealing with dangerous and long-term violent offenders and sexual predators.

Bill C-27 makes the following amendments to the Criminal Code of Canada. First, an offender convicted of a third violent or sexual offence, a primary designated offence for which it would be appropriate to impose a sentence of two years or more, is presumed to be a dangerous offender and may therefore be subject to incarceration for as long as the offender presents an unacceptable risk to society. A recognizance to keep the peace may be ordered for a period that does not exceed two years in the case of a defendant who has previously been convicted of a violent or sexual offence. The conditions of a recognizance to keep the peace in relation to a violent or sexual offence are broadened to include participation in a treatment program, wearing an electronic monitoring device, or requiring the defendant to observe a curfew.

[*Translation*]

Currently, applications for Dangerous Offender designation are infrequent, as Crown Attorneys perceive the thresholds and onus to be high. A dangerous offender designation automatically provides for an indeterminate prison sentence in a penitentiary. While not eligible for statutory release, a dangerous offender will be eligible for day parole after four years' imprisonment and for full parole after seven years.

After that time, the Parole Board must reassess the offender's file every two years. Dangerous offenders who are paroled are subject to parole for the rest of their lives. If the Parole Board determines that they continue to present an unacceptable risk for society, they could stay in prison for life.

Bill C-27 does not alter the sentencing and parole provisions. An offender may appeal the dangerous offender designation.

● (1535)

[*English*]

In the interest of time, I will refrain from explaining the process of a dangerous offender application since it is well outlined in the Library of Parliament's legislative summary and in our brief. However, I would like to point out that the Supreme Court of Canada has rendered several decisions that uphold the dangerous offender applications process.

In Mack in 1988, the Supreme Court of Canada held that the standard of proof beyond a reasonable doubt applies only where the issue is the guilt or innocence of the accused.

In Lyons in 1987, the majority of the Supreme Court of Canada was of the opinion that the right to be presumed innocent did not apply in the context of a dangerous offender application.

In Lyons, the Supreme Court of Canada held that imprisonment for an indefinite period was not cruel and unusual treatment.

In Lyons, the Supreme Court of Canada held that the rules governing dangerous offenders did not violate section 9 of the charter, protection against arbitrary detention or imprisonment.

The Supreme Court of Canada held in Johnson in 2003 that before considering finding that an offender is a dangerous offender, the judge must consider whether the risk presented by the offender can be adequately controlled in the community and thus whether it would be appropriate to apply the long-term offender rules. The court said the imposition of an indeterminate sentence is justifiable only insofar as it actually serves the objective of protecting society.

Bill C-27 does not alter this situation. The court retains discretion not to make a dangerous offender finding in a case where another sentence would adequately protect the public and impose a less severe sentence, such as a long-term offender finding, or impose a sentence for the underlying offence as described in subclause 3(2) of the bill.

The CPA would, however, support an amendment to this provision that would require the onus to rest with the accused to establish that the public would be adequately protected by either a finding that the offender is a long-term offender, or a sentence for the offence for which the offender has been convicted. We submit this is consistent with the reverse onus for the dangerous offender designation for repeat offenders.

The CPA supports Bill C-27, with the proposed amendments, as a reasonable and proportionate approach to repeat violent offenders who present a significant threat to reoffend.

One, the dangerous offender amendments contained in Bill C-27 deal specifically with offenders who have already been convicted of a number of serious offences.

Two, in order to protect society from violent repeat offenders, it is necessary to impose a reasonable limit on the offenders' rights and freedoms.

Three, Bill C-27 provides protective measures, as previously mentioned. Bill C-27 does not alter the regime that applies to long-term offenders other than with respect to the assessment process. Bill C-27 amends the assessment process for both dangerous and long-term offender consideration.

The CPA would support an amendment to Bill C-27 that would address breach of long-term offender supervision orders. Currently a conviction for the criminal offence of a breach of a long-term offender supervision order, punishable by up to 10 years' imprisonment, cannot lead to a dangerous offender application by the crown prosecutor. The CPA would support the inclusion of the criminal offence of breach of a long-term offender supervision order in the list of designated criminal offences found under clause 1 of Bill C-27 definitions. If adopted, this would ensure that a long-term offender who is found guilty of breaching his supervision order could become subject to an application for a dangerous offender hearing.

The CPA has long been on record concerning the problem of the release of high-risk offenders in the community at the time of warrant expiry. The high-profile release of Karla Homolka and Clermont Bégin brought significant public attention to this issue.

● (1540)

Current mechanisms are inadequate to adequately address the protection of the public from persons who are identified to pose a significant threat to society, who are about to complete their full sentence without a successful parole period, and who were not designated as a dangerous offender at the time the sentence was imposed. While the CPA would support the creation of a process that would enable such a designation to be reconsidered prior to warrant expiry, this poses significant charter concerns.

Recognizances to keep the peace have been utilized, to some extent, to maintain supervision and preventive restrictions on individuals who are identified as presenting such a risk.

Bill C-27 deals only with those recognizances that deal with certain sexual offences in respect of a person under the age of 14 and with serious personal injury offences.

Bill C-27 extends the maximum period of recognizance for these offences from 12 months to two years, and it expands the scope of conditions that may be imposed by a judge in these cases. The CPA supports the proposed amendment set out in Bill C-27 with respect to recognizance supervision.

[*Translation*]

In conclusion, Bill C-27 is a proportionate and justifiable measure to protect Canadians from repeat violent offenders and safeguard communities. The Canadian Police Association supports the bill and urges Parliament to amend and pass this bill without delay. The CPA also supports the dangerous offender proposals contained in Bill C-27, with the proposed amendments, as a reasonable and proportionate approach to repeat violent offenders who present a significant threat to re-offend. The CPA would support an amendment that would require the onus to rest with the accused to establish that the public would be adequately protected by either a finding that the offender is a long-term offender or a sentence for the offence for which the offender has been convicted. The CPA would support the inclusion of the criminal offence of breach of a long-term offender supervision order in the list of designated criminal offences found under Clause 1 of Bill C-27. The CPA also supports the proposed amendments set out in Bill C-27 to extend the maximum period for a recognizance for these offences from 12 months to two years, and expand the scope of conditions that may be imposed by a judge in these cases.

Thank you very much.

The Acting Chair (Mr. Brian Murphy): Thank you, Mr. Cannavino.

We will now begin the first round of seven minute turns, and the first questioner will be Ms. Jennings.

I would like to underscore, Madam Jennings, that the seven minutes include your questions as well as the answers. The total amount of time is therefore seven minutes.

Ms. Jennings.

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Thank you, Mr. Chairman, and thank you for that little reminder.

I would also like to remind witnesses that, if the time allowed for the questions and answers is not sufficient for the provision of full answers to the questions put, they are perfectly entitled to provide their answers to the committee in writing, via a letter addressed to the Chair of the legislative committee.

I would like to begin by apologizing for my late arrival. I was held up in the House. I obviously missed a part of your presentation. Fortunately, I arrived as you were explaining that you would be in favour of the amendments that the Liberals would like to propose and under which the breach of a long-term offender supervision order would be included in the list of criminal offences that could trigger a dangerous offender hearing. I was very pleased to hear that.

When the minister of Justice appeared before the committee, several members questioned him repeatedly on the issue of the reversal of the burden of proof and the constitutionality of this aspect. I would like to know if the Canadian Police Association has examined the matter. We, members of the Liberal Party, have many reservations in this regard and are suggesting that instead of there being a reversal of onus, a third finding of guilt for criminal offences designated under the bill automatically trigger an assessment application.

● (1545)

Mr. Tony Cannavino: We did not hire constitutional experts, but I did have the opportunity to have discussions with Crown Attorneys. I recently attended parole hearings, among them that of Mr. Forget, an individual who attempted to murder two policemen. I thus had the opportunity to discuss in particular the reverse onus of proof.

Having to prove that an individual is a dangerous offender is quite a burden for attorneys. They say that it is a very demanding task. It is so difficult that in many cases, instead of applying the principle, they simply let it go. It requires too much energy, it is costly and it is a very involved process. It is in their view deplorable, because individuals having committed crimes of this nature should normally be declared dangerous offenders.

Crown Attorneys therefore fail to understand why the burden of proof should not fall to those individuals. The fact that they were thrice found guilty is in their eyes proof that these people were guilty of committing these acts. This is what the Crown Attorneys I have had discussions with have told me.

[*English*]

Hon. Marlene Jennings: Thank you very much for your explanation. I have a couple of other questions, if I still have time in my seven minutes. Goodness, I have four minutes left.

If Bill C-27 were adopted entirely now with no amendments, the prosecution would still have no obligation to apply for a remand and assessment order. If it's ordered by the judge, when the assessment order is filed, depending on the conclusions drawn within that assessment report, it provides the prosecutor with the possibility of applying for a dangerous offender hearing.

Under the current system, once an application for a dangerous offender hearing has been filed and the assessment has already taken place, if the Crown proves beyond a reasonable doubt that all of the statutory criteria for declaring the offender a dangerous offender have been met beyond a reasonable doubt, the judge must look to see whether or not the threat and risk the dangerous offender poses to the community can be controlled within the community.

I've also spoken with prosecutors, and they've basically said that as a result of R. v. Johnson, the courts are more and more requiring the prosecution to prove a negative so the individual is not declared a long-term offender: the risk and control cannot be controlled in the community for X, Y, and Z reasons. So Liberals are looking at the possibility of bringing an amendment that would place the burden on the offender to prove that he can be controlled in the community, and therefore the long-term offender designation is appropriate.

We believe that would not be a problem constitutionally, because the criteria for designating the person as a dangerous offender has already been proven by the Crown beyond a reasonable doubt. We believe that would be more effective than the amendment the government is bringing, which says neither party bears a burden in the matter.

If it's not something that the CPA has had an opportunity to look at, I would appreciate your looking at it and getting back to us.

Mr. Tony Cannavino: We support it is as long as it's an addition and not a substitution, because for us the reverse onus has to be if it's for a dangerous offender and for the long term. If it's an addition, we're okay with that.

If the reverse onus were for the long term but not for the dangerous offender designation, we would be against that amendment. The way we read it, your amendment suggests it would be reverse onus for both the designation of dangerous offender and the long term. That's what we're supporting.

● (1550)

[*Translation*]

The Acting Chair (Mr. Brian Murphy): Thank you.

Your time is now up.

Mr. Ménard, you have exactly seven minutes at your disposal.

Mr. Réal Ménard (Hochelaga, BQ): Seven minutes, including questions, answers, exchanges, jokes and humour. It is a package deal.

Welcome to the committee. It is always a pleasure for me to meet with you.

Clearly, I was not surprised when I learned that you supported the bill. I hope that I will not lose your friendship by telling you that the Bloc Québécois will not be supporting it. We have supported a good many bills, but we fail to see the need for this one. Furthermore, we believe that there is a danger that the precedent that will be created might bring about automatic responses.

I would like to ask you two questions. Yesterday, I tried to understand. First of all, I think it should come as no surprise that the threshold for the burden of proof is high, when we are talking about incarcerating someone for an indeterminate period. We are not talking about putting an individual in jail for three, four, five or ten years. People have rightly been declared dangerous offenders; they constituted a threat for society. We are clear on that. There must be provisions in the Criminal Code in order to be able to declare an individual a dangerous offender. There is agreement on that. There is no need to wait for the person to have committed three crimes. I hope that at the very first offence, the individual who is unable to control his impulses and who is suspected of being a serial killer, will be declared a dangerous offender and that we will not wait for him to wrack up three offences. We agree that the burden of proof must be substantial.

What is to your mind problematic within the present system, beyond the fact that the threshold for the burden of proof is high? Why the attorneys? Why the prosecutor? As the organization that is the spokesperson for Canadian police, why is it that the present system, with the way it now functions, is not always successful?

Mr. Tony Cannavino: First of all, this will clearly change nothing with regard to the friendship that we have—

Mr. Réal Ménard: That reassures me.

Mr. Tony Cannavino: —even if in our estimation the Bloc is on the wrong trail with regard to this bill.

Mr. Réal Ménard: Do not say that.

Mr. Tony Cannavino: In the view of the Canadian Police Association, having, as I told you, had discussions with Crown Attorneys working on these types of files, it is very rare to see an individual declared a dangerous offender after having committed just one offence. This is a very rare occurrence, even if the crime was a serious one. I do not have the statistics, but I can tell you that such cases do not even amount to 1%. It is even below that. The individual must by all accounts be a recognized psychopath and have perhaps killed ten persons at one and the same time, in a very sadistic fashion. Such cases are really exceptional.

There therefore must be a pattern, a series of crimes committed, confirming that the person always commits serious offences, as opposed to simply shooting at someone during a bank robbery, for example. And even the killing of someone during the course of a bank robbery can be considered a criminal act, but not a truly premeditated one. Therefore, it is really something very specific.

The other reason why the reversal of the onus of proof is important to us is the difficulty for a Crown Attorney to prove beyond reasonable doubt that the accused represents a danger. Those who practice the profession know that that means that there really is no escape. It becomes very difficult to really show that such is the case, even once the accused has gone through trial, has been declared guilty and has been sentenced.

Mr. Réal Ménard: You agree that this is they way things must be. If we are going to incarcerate someone for the rest of his days, we cannot simply do it based upon civil law evidence. There must be a serious threshold for proof. You would agree with me on that.

Mr. Tony Cannavino: We do not disagree with the fact that the individual who is designated a dangerous offender or a long-term offender must have committed very serious offences. We agree on that part.

However, what we are saying and what the team of attorneys is saying is that we have convinced a jury or a judge that the person has committed such and such a crime. But here, we would further be required to prove that this individual is not a risk for society. The onus of proof should fall on the accused, because the crimes committed show that he or she is dangerous or is a criminal who should be controlled. That is the difficulty.

● (1555)

Mr. Réal Ménard: First of all, we are talking about a marginal phenomenon. There are 354 offenders who are deemed to be dangerous in Canada. That is all the better; we are not going to complain about that. However, it is a phenomenon that exists.

Mr. Tony Cannavino: Unfortunately, that should not be the number. Those individuals who have committed acts of this nature...

Mr. Réal Ménard: I agree. I would like to live in a society where there is no crime whatsoever.

Mr. Tony Cannavino: The Garden of Eden does not yet exist.

Mr. Réal Ménard: Voilà! In my role as legislator, I cannot say that I am not concerned by the fact that we must protect ourselves, as a society, against offenders whose sadistic bent is such that they are dangerous or must be controlled.

The reasoning I do not understand is the following. How will the automatic reversal of the onus of proof... First of all, the burden of proof has not changed.

Therefore, if the difficulty lies in the administration of justice...

Mr. Tony Cannavino: Yes.

Mr. Réal Ménard: Then it is reversed.

Mr. Tony Cannavino: But it is enormous.

Mr. Réal Ménard: Yes, it is enormous, but a judge cannot declare that a person... The difference, clearly — and I agree that it is fundamental —, is that it will be up to the offender to prove that he or she must be granted parole. For a person to be declared a dangerous offender, he or she must have racked up quite a collection of serious offences.

What I do not understand is that if there is a difficulty procedurally, administratively or in the way in which justice is carried out, let us not wait until the person is at his or her third offence.

Mr. Tony Cannavino: Mr. Ménard, we will be dealing with that in the context of the review of Correctional Service Canada. We are already working on it. We are compiling a whole dossier on that. What is going on is frightening.

There is a direct link. There is a link between that and what is going on in the courts. Furthermore, the fact that it is becoming difficult for the Crown to have a person declared a dangerous offender or a long-term offender is having a direct impact on the way in which the individual is held and on his or her actions in prison, in other words his or her participation or non-participation in a rehabilitation program. This matter will require a debate by another committee.

If what is happening in the courts is treated properly, I believe that even with the addition of amendments... We support the amendments, obviously, because there are now two pertaining to the reversal of the onus of proof. This is not strictly for the designation of dangerous offender; this also applies to long-term offenders. This means that, depending on the dangerousness of the criminal, the individual in question will have to explain why he or she should not be subjected to long-term supervision or why he or she should not designated a dangerous offender.

The Acting Chair (Mr. Brian Murphy): Your time is up. It is now the NDP's turn.

Mr. Comartin, you have exactly seven minutes.

[*English*]

Mr. Joe Comartin (Windsor—Tecumseh, NDP): *Merci, monsieur le président.*

Thank you, gentlemen, for being here once again.

I really just have one question or area I really want to explore with you. I have to say that I looked at your recommendation 2(a), and my reaction was that it wasn't necessary. I have to say, like Mr. Ménard, that I'm not in support of reverse onus in these circumstances.

I don't think either one of you are lawyers, but did you have a lawyer or a prosecutor look at this? My sense is that the bill as presently drafted would require reverse onus to be applied to an accused after a third serious conviction; in those circumstances, the reverse onus would apply. They would have to establish not only that they weren't to be found as dangerous offenders, but also that a long-term offender designation or another sentence would be appropriate to deal with the security issue.

So I guess I'm looking for some explanation. We can't look at any cases, because we don't have a reverse onus as the present time.

● (1600)

Mr. Tony Cannavino: No, exactly.

Mr. Joe Comartin: I don't know. I'm just throwing it out at you, but it seems to me that it wasn't necessary, because as I read proposed subsection 753(1.2), it's already covered by that proposed subsection.

You obviously have a different interpretation. Could you expand on that and explain why you think it's necessary.

Mr. Tony Cannavino: If I get your question clearly, we want to make sure.... I had a discussion with crown attorneys, but it's very hard for me, because I can't give their names and it would be up to them to be here , and I don't want to interpret what they said. But they were supportive of the reverse onus, even with the amendment. When we heard about the amendment, I made some phone calls just to make sure it would be a good thing to do and if it would help them. Reverse onus, in this one here, is for both of them.

Do you have it there? Go ahead.

Mr. David Griffin (Executive Officer, Canadian Police Association): As you quite accurately pointed out, I'm not a lawyer either, but looking at proposed section 753—

Mr. Joe Comartin: It's proposed subsection (1.1), not (1.2), by the way. I'm sorry, I pointed out the wrong proposed subsection.

Mr. David Griffin: So subclause 3(1) of the bill amends subsection 753(1) and proposes two new subsections, 753(1.1) and 753(1.2).

Proposed subsection 753(1.2) says the following:

> Despite subsection (1), the court shall not find the offender to be a dangerous offender if it is satisfied by the evidence adduced during the hearing of an application under that subsection that a lesser sentence—either a finding that the offender is a long-term offender or a sentence for the offence for which the offender has been convicted—would adequately protect the public. Neither the prosecutor nor the offender has the onus of proof in this matter.

Mr. Joe Comartin: But if you understand the way the process works, when the application for the dangerous offender is before the court, there is always a consideration, like the "included offence" concept, always the alternative of the long-term offender or some other criminal penalty if the judge concludes that's sufficient.

So if you go back to proposed subsection 753(1.1), the reverse onus applies there. It seems to me that if this section went through, which I'm hoping it won't, the reverse onus would also apply to the accused person's having to establish that it would be sufficient to have him designated as a long-term offender or to have some other penalty as a result of the third-time conviction.

Mr. David Griffin: I don't think we saw it as being that automatic, and I think it's the last line of proposed subsection 753 (1.2) that expands that doubt, because—

Mr. Joe Comartin: Because of the requirement that neither has the balance—

Mr. David Griffin: Neither has the.... So from our perspective, it's kind of cascading. The first test is whether you are a dangerous offender. The second, then, would be—

Mr. Joe Comartin: There's a shortage of time.

So your position would be that if we were going to go this route, we would take out, in proposed subsection 753(1.2), the final sentence and put in your suggestion that the reverse onus apply to that as well?

Mr. David Griffin: Yes.

Mr. Joe Comartin: Then I have a quick follow-up question on that. There's been a debate. In fact, there are cases going on in the country that are conflicting as to whether the prosecutor has the responsibility, the onus, and whether that's proof beyond a reasonable doubt or just on the balance of probabilities. Do you have a position on that?

Mr. David Griffin: No.

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

The Acting Chair (Mr. Brian Murphy): Good, but you didn't take all your time, so we'll just sit here for two minutes.

I'm kidding.

Mrs. Davidson.

Mrs. Patricia Davidson (Sarnia—Lambton, CPC): Thank you, Mr. Chair.

Thank you very much for your presentations.

My questioning is perhaps going to take a little bit of a different route. I'm not a lawyer, so I'm going to be approaching this from a different aspect. I believe there is a fundamental right in this country for the general public to live in an atmosphere of relative safety. I also believe there are vulnerable segments of our society who need protection to be able to do that. As a legislator, I think it's our responsibility to see that happens.

I note with interest the part of your presentation where you say:

> Current mechanisms are inadequate to adequately address the protection of the public from persons who are identified to pose a significant threat to society, are about to complete their full sentence without a successful parole period, and were not designated as a dangerous offender at the time the sentence was imposed.

You also say:

> Bill C-27 extends the maximum period for recognizance for these offences from 12 months to two years, and expands the scope of conditions that may be imposed by a judge in these cases.

So my questions to you would be as follows. What would some of the positive aspects of doubling the section on peace bonds be? Second, can you please tell us what kind of role the police play in the surveillance of long-term offenders? Third, will the recognizance orders help the police with dangerous offenders?

● (1605)

Mr. Tony Cannavino: Our role is surveillance. There's not much done by us. We have to be very frank. It's normally Correctional Service Canada. That's part of their mandate.

So sadly—and you'll probably hear this when we attend that committee—we'll explain what they do, actually, and what the resources are to control them or to supervise them. From the information we have, it's really disappointing.

As far as our police officers go, if we know that somebody is released or there's a breach in the conditions, then we will intervene. But it's asking a lot of police personnel to do what we have to do, actually, and that's why we ask for more resources. We're hoping to get those resources, because it's very hard to do that part of the job, to compensate for the lack of resources that CSC is going through.

Mr. David Griffin: There are two benefits of those amendments. First is the extension, obviously, the greater time period. I guess you could always debate what an appropriate period of time is or how long it would be, and it may depend on individual cases, but one would assume that if somebody has gone through that period of two years after the end of their warrant expires, it would become more difficult to prove that there's a need to continue that indefinitely. The fact that the person has been back in the community for two years seems like a reasonable period of time.

Also, there is expanding the different conditions that could be placed on some of these offenders when they're put back in the community. We were pleased to see those expanded in Bill C-27 as well.

Mr. Tony Cannavino: On the conditions, the judge will decide what he is going to add to those conditions, so we're okay with that.

Mrs. Patricia Davidson: Do I still have some time?

Mr. Brian Murphy: You have over three minutes left.

Mrs. Patricia Davidson: When we're looking at this legislation, and you have made several comments on it and you've referred several times to the reverse onus portions of it and so on, can you think of any previous cases in which this proposed legislation would have been beneficial in managing dangerous offenders and would have helped the police?

Mr. Tony Cannavino: There are some cases I could suggest. There was the Brassard case and the Bégin case, and we could go on and on. I mentioned the Karla Homolka case also. When you're dealing with those people, you're talking about really dangerous offenders—violent. They are people who have committed more than one crime. You don't see somebody who has committed one crime being designated a dangerous offender. In my career of 35 years I have never witnessed a case like that. You are targeting those people who are a big threat.

In the Brassard case I mentioned, he was declared a psychopath with a 100% chance of repeating, and he wasn't designated a dangerous offender. Those cases are sad.

Mrs. Patricia Davidson: Could you comment also on the extension of the time for filing a psychiatric assessment? Is that going to help in some of the cases. Is it going to have an impact?

Mr. Tony Cannavino: In those cases—and I'm always referring to the review of CSC, because it is important also—anything that could be in place that would help us or help Corrections or communities if this person were going to repeat, or if this person went through treatment and is okay now.... Any tools that are added are for the sake of the community. That's why, for us, those are things that are very important in the tool box.

● (1610)

The Acting Chair (Mr. Brian Murphy): Thank you.

Now we'll turn to the second round of five minutes, beginning with Mr. Easter.

Hon. Wayne Easter (Malpeque, Lib.): Thank you.

Welcome, fellows. It's been a long while since I've seen you.

One of the difficulties with this kind of bill, especially with reverse onus, is maybe that we're going down a slippery slope where the balance between civil liberties and justice becomes skewed. I can understand where you folks are coming from, and I agree that dangerous offenders have to be kept off the street. Ms. Davidson raised the question of community safety.

With these changes, is it your expectation that more dangerous offenders would be kept off the street? What's your view on that? Would more be kept off the street?

I'll come to my second question when you answer that one.

Mr. Tony Cannavino: You talked about a slippery slope. The ones we're really targeting here—I'm trying to be careful with the words I use—are the dangerous offenders, the people who have been sentenced three times for violent crimes. We're not talking about shoplifters. I don't think it's a good thing to shoplift, but it's not those people we're focusing on. We're focusing on dangerous offenders, on sexual offenders. You know which ones they are. That's why we're not afraid that it's a slippery slope. We're really targeting those people.

And we have to find a way to keep them in. I was at a hearing a week and a half ago, and people had to go and testify there to try to convince the parole board to keep that killer inside. One of them had to go through five weeks of therapy, five days a week, just to be able to attend a hearing that lasted not even an hour. The criminal didn't even present himself at the hearing. He didn't think it was useful for him to be there, to attend that hearing.

They are bizarre people, they are dangerous to our society, and I'm not at all afraid that we're on a slippery slope, not at all.

Hon. Wayne Easter: I understand that side of the coin. I've been at a number of parole board hearings.

With these changes, in your example of that individual having to go to therapy for a number of weeks and all the mental and indeed financial strain on some folks to come to those hearings, will this approach lessen that impact on those individuals, and if so, how?

Mr. Tony Cannavino: Well, in these cases, with these people, you wouldn't have what happened with Clermont Bégin. He never went through any programs. He served his sentence and said, “Okay, bye-bye, I'm out.” Everybody says that this guy is going to repeat.

You would have people go to those hearings and understand how important it would be to go there to keep him there, no matter if it's 10 years, 15 years, 20 years. Why? Because there's no limit. If you are a designated dangerous offender, then there is no limit to your sentence. If you go into therapy and into those programs to try to improve yourself or to seek help, and it works, you will get out; if not, you won't play the system anymore.

So that would make a huge difference there. It wouldn't be the way it is, actually, where the burden is so high for crown attorneys.... And why should it still be for crown attorneys after you have three sentences for violent crimes? Why would it again be up to crown attorneys when it should be up to you, as a violent criminal, to prove that you're not a danger to society?

● (1615)

Hon. Wayne Easter: But in terms of arguing why reverse onus is justified, Tony, can you be a little more specific on the individuals who may have to appear to plead their case against the dangerous offender? I think we need the arguments on how it lessens the strain on them personally, how it lessens the strain on the system as a whole, and how in fact it better keeps dangerous offenders off the streets.

So can you be a little more specific?

Mr. David Griffin: I guess the context we've tried to present in our brief is that if we look at the current situation and the characteristics of the dangerous offender population in the system right now, there's a high number of offenders that have been convicted. In many cases these are people who are coming into the system as young people, as young offenders, and then continuing. We have a statistic, which the Library of Parliament presented, that 45% of them had at least 15 criminal convictions for serious offences before they were declared dangerous offenders.

The criterion that is being established for the reverse onus now will, we hope, generate more applications to consider these individuals for dangerous offender status and will put some onus on an accused person in those situations, with that serious criminal past, to demonstrate why in fact they should be released back into the community, given their serious criminal record. But at the end of the day, the judge will still have the discretion, whether or not the criterion has been met, to declare that person a dangerous offender. And it's certainly my understanding that this bill does not change that criterion, in terms of what the characteristics are to be evaluated, before that designation would be granted, and the assessment process will still require the same experts to evaluate that person as well.

From our perspective, should it generate a higher level of applications for more serious offenders? We hope so. Will it place different criteria in place on which the judge is going to evaluate them? No. Certainly, from our perspective, the characteristics and the risks that are to be assessed during the process would remain the same.

The Acting Chair (Mr. Brian Murphy): Thank you. We'll stop it there.

Mr. Moore, five minutes.

Mr. Rob Moore (Fundy Royal, CPC): Thank you, Mr. Chair.

Thank you both for being here today.

It was interesting yesterday on this bill. We had a presentation made by a criminal defence lawyer. He used a case scenario that we thought was pretty far-fetched, involving someone who had, on a scale of major to minor, a sexual assault that would have been at the more minor end of the scale, but it somehow led to dangerous offender designation for someone who no one thinks should be designated a dangerous offender.

What I've heard from you today and what I think we should all know around this table is that when we're talking about a dangerous offender, we're talking about the absolute worst of the worst when it comes to criminals. They are those who would prey on their fellow Canadians, prey on innocent Canadians, and in many cases prey on vulnerable Canadians. There's a real public interest that's been recognized with regard to these people for most of the last century, which is that in some cases the protection of society has to be paramount.

There are significant safeguards in place that continue to exist under these changes. What these changes simply do is that on that third designated offence, which is one of the most serious offences, the onus will then shift to the offender to prove, after they're already convicted, why they shouldn't be designated a dangerous offender.

I'd like you to comment a bit on that. It is such a high threshold that we heard yesterday that there are some individuals who really should have been designated—and I'd like your comment on this—and that any objective person would say they should have been a dangerous offender. They should have had that designation, and society should be protected, but because of everything that has to go into that and the hurdles that have to be leapt, it just doesn't happen. This is saying we recognize that, and those most serious individuals on that third offence will have to show why they shouldn't be designated dangerous offenders. I'd like you to comment on that.

Also, some of your figures say that 98% of dangerous offenders are classified to be at high risk to reoffend. As soon as we introduce a bill, so often all the focus goes on the offender—on protecting the rights of the offender, the rights of the accused—and we spend a small amount of time on the victims. For every criminal act, there's a victim somewhere. According to your statistics, 98% of dangerous offenders are classified to be at high risk to reoffend.

I did ask this question yesterday to witnesses. My second question is to ask you to give us a bit of a flavour of the type of people we're talking about—maybe what they think about human life, what they think about their fellow Canadians—and some of the things they've done, or the disregard they may have for the safety of society, and why this designation is needed for those most serious cases.

● (1620)

Mr. David Griffin: In terms of the first point that was made by the witness yesterday—and I haven't seen that testimony—certainly there are safeguards in the process, including the right for the person who has been perhaps wrongfully designated a dangerous offender to appeal that decision. So there is an ability to appeal the court's decision if in fact the offender believes himself or herself to have been wrongfully designated.

We have heard time and time again of cases where there's a reluctance to take the case forward because the threshold is seen as being very high. Really, this bill doesn't change the threshold. There's nothing in it that says we're going to lower the threshold to put more people in jail; it simply says we're going to lower the threshold in making those applications, encouraging an application's being considered after three serious convictions.

The statistics in our brief have simply been regurgitated from the Library of Parliament material already provided to Parliament about this, but they certainly paint a picture of psychopaths, of people with serious sexual abuse issues, and people who are generally victimizing women and children, and—of course, there are lots of generalizations here—in many instances, people who are considered to be at the far end of the scale or spectrum of potential for rehabilitation.

Because of that, and because of demonstrated repeat behaviour and unsuccessful attempts to rehabilitate those offenders, a determination is made that the person should no longer be returned to the community because of that concern. There is still a process in place, though, that even once the designation has been made, after seven years it has to be reviewed every two years.

So there are checks and balances all through the system. From our perspective, there are people living in our communities—and in some cases, their lives perhaps didn't start out on the easiest path—who unfortunately present a risk so serious to others that their liberty has to be curtailed.

● (1625)

The Acting Chair (Mr. Brian Murphy): That's it. Thank you, Mr. Moore.

[*Translation*]

Ms. Freeman will ask the last question.

Mrs. Carole Freeman (Châteauguay—Saint-Constant, BQ): Welcome, Mr. Cannavino and Mr. Griffin. Thank you for being here.

It is not without some surprise that you will discover that the Bloc is not completely in favour of this bill. The reversal of the onus of proof is for us quite worrisome, especially since three offences would automatically trigger reverse onus.

At present, there are some 384 dangerous offenders who have been documented. Of this number, 20.3% are Aboriginal. Therefore, out of a total of 384, there are approximately 80 Aboriginals. How do you envisage the future of these aboriginal inmates as dangerous offenders?

This will continue. They will commit three offences and they will automatically be incarcerated as dangerous offenders. We know full well that Aboriginals are over-represented in our penitentiaries. Do you not believe that this group will be even more a victim of discrimination, in one way or another? How will these people be able to defend themselves?

Mr. Tony Cannavino: Madam Freeman, I do not believe that these people are what we could call a target clientele. Those people who are incarcerated and who are dangerous criminals are not people who have committed three offences. These are people who have been imprisoned for three serious crimes. Three offences is one thing: these offences could be just about anything. We are talking about three jail terms for violent crimes or serious sexual offences. These are the people we are talking about. Be they Aboriginal, Italian or Portuguese, if they are dangerous criminals, to my mind, there is no distinction based on race, nationality or anything else. These are people who have committed serious crimes and who are a serious threat to the public.

I have some difficulty following the Bloc's reasoning, despite the fact that I very much enjoy discussing things with you. We are targeting violent and dangerous criminals. We are not talking about kleptomaniacs. A kleptomaniac is not going to be designated as a dangerous offender.

Mrs. Carole Freeman: Mr. Cannavino, we are targeting dangerous offenders, but we are also targeting a fundamental principle of justice: reverse onus.

Mr. Tony Cannavino: Madam, these are people who have committed crimes. These are people who, in general, are assessed and determined to be psychopaths and whose risk of reoffending is at 100%. These are the people that we want to keep behind bars.

The principles of philosophical rights and of the Charter are all fine and dandy, but it nevertheless remains that they are also aimed at protecting citizens. I do not want to expend my energy protecting dangerous criminals who could not care less about the lives of their fellow citizens. These are predators that we set free among the public. I want to do my utmost to keep these people in prison.

If these people, after having committed a violent crime, get therapy and try to better themselves, heal themselves, then that is something different. However, when these people play the system, do not even participate in the therapy programs, do their time and then cannot even be kept in prison, it is revolting for citizens.

I understand the principles and I am in full agreement with them. This will not affect someone who has made a mistake, who has gone through hard times such that he or she has committed a crime. We are talking about three convictions, in other words about a person who has been three times convicted of a violent crime. This is serious. And we are not talking about three crimes, but perhaps three series of crimes.

Mrs. Carole Freeman: We understand.

Mr. Tony Cannavino: I know that you understand, but I wish to make this distinction. The principle for me, Madam Freeman, is that we must pay attention to the citizens, who are the victims.

Mrs. Carole Freeman: There is nevertheless a principle in law that...

Mr. Tony Cannavino: Yes, I am not denying that. On the contrary, we believe that that is important. However, we must protect citizens against predators, serial killers, incorrigible repeat offenders. These people must be kept in prison and we must find ways to do this. This is one means of accomplishing this. I know that even the Ministère de la Sécurité publique of Québec has attempted to find a solution in order to keep people like Clermont Bégin behind bars, in order for them to be treated differently, for them to be designated differently. Why? Because the public is defenceless. The Crown does not have the tools needed to keep these people in prison.

● (1630)

Mrs. Carole Freeman: Do I have time to ask another question?

The Acting Chair (Mr. Brian Murphy): You have 10 seconds left.

Mrs. Carole Freeman: According to the numbers, 75% of dangerous offenders started out as young offenders and 96.6% of them committed sexual acts with use of force before the age of 16. We therefore see that 99.6 or 75% of dangerous offenders, depending, are or were young offenders.

Mr. Cannavino, as President of your association, what is your view of preventive measures, given that we see that 96.6% of dangerous offenders had already committed crimes before the age of 16?

Mr. Tony Cannavino: This is the reason why I am telling you that...

The Acting Chair (Mr. Brian Murphy): Mr. Cannavino, you only have 30 seconds left to respond.

Mrs. Carole Freeman: Would there not be some way of finding means to help them?

Mr. Tony Cannavino: Madam Freeman, yes, I believe that there are means to help these people, and that is the reason why the Canadian Police Association has asked for a review of the Canadian correctional system. It is precisely because we want to find tools and programs in order to try and save some of these people.

Mrs. Carole Freeman: Voilà. You believe that by investing in rehabilitation, in trying to help these young people...

Mr. Tony Cannavino: Some of them will be able to recover. As for the others, there will have to be...

Mrs. Carole Freeman: This might help us avoid overpopulating our penitentiaries later on.

The Acting Chair (Mr. Brian Murphy): I wish to thank the witnesses, Mr. Griffin and Mr. Cannavino.

There is going to be another meeting in three minutes.

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