



House of Commons  
CANADA

## Legislative Committee on Bill C-27

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CC27 • NUMBER 005 • 1st SESSION • 39th PARLIAMENT

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EVIDENCE

**Wednesday, June 6, 2007**

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**Chair**

**Mr. Bernard Patry**

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Wednesday, June 6, 2007

•(1635)

[English]

**The Acting Chair (Mr. Brian Murphy (Moncton—Riverview—Dieppe, Lib.)):** I call this meeting to order. It is meeting number five of the legislative committee on Bill C-27.

Today we have before us, from the Department of Public Safety, James Bonta, and from Correctional Service Canada, Larry Motiuk.

Gentlemen, we'll commence with your opening statements.

Mr. Bonta, if you would start, we would appreciate it.

**Dr. James Bonta (Director, Corrections Research Unit, Department of Public Safety):** Thank you very much, Mr. Chairman.

First of all, I'd like to introduce myself and tell you a little about who I am.

I'm Jim Bonta. I began my career as a clinical psychologist and for 14 years was the chief psychologist at the Ottawa-Carleton Detention Centre. While I was there in the detention centre I began doing my research. In 1990 I joined the Department of the Solicitor General, as it was called at the time, where I became director of research. I have spent the last 30 years of my career trying to understand and better assess the risk that offenders pose to the community and issues around their rehabilitation. Basically, how can we identify high-risk offenders and separate them from the lower-risk offenders? What kinds of interventions may work best in reducing their chances of recidivistic crime?

The research in Public Safety Canada, where I am director of corrections research, has spanned, as some of you may know, areas from dangerous offenders to the national flagging system. We have worked on research projects with prosecutors and the courts on various issues.

I'm here today to try to answer your questions as they relate to our scientific understanding of the assessment of risk and the treatability of offenders.

**Mr. Brian Murphy:** Thank you, Mr. Bonta.

Mr. Motiuk, please.

**Dr. Larry Motiuk (Director General, Offender Programs and Reintegration, Correctional Service Canada):** Thank you very much, Mr. Chair.

My name is Larry Motiuk. I'm currently the director general of offender programs and reintegration at the Correctional Service of Canada, at national headquarters. I have been in that position for a

year. For 13 years prior to that I was the director general of the research branch for the Correctional Service of Canada. Like Dr. Bonta, I began my correctional career in the provincial system. I started working in field work placement as a student in 1979, stayed on to work until 1988 in the provincial system, and then moved on to federal corrections in 1998.

My background is mostly in research, as you can imagine. I have done quite a bit of work in the area of assessment, treatment, and program efficacy. The areas I've worked on in particular with the Correctional Service of Canada are on conditional release supervision standards, sex offenders, high-risk violent offenders, as well as the assessment processes and the treatment programs.

I am also an adjunct research professor at Carleton University and have worked with students over the years, particularly in the area of psychology. I hold a PhD in psychology.

I am here to answer as best I can questions you may have with respect to any of the issues in administration of the sentence and the management and treatment of offenders in the Correctional Service of Canada.

**The Acting Chair (Mr. Brian Murphy):** Very good.

For the first round, seven minutes, we'll commence with Mr. Easter.

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

Welcome, gentlemen.

I think you were here during the previous discussion with the Canadian Police Association. I raised a question with them basically on the balance between justice and incarceration versus civil liberties. In my view, reverse onus in our criminal justice system is a huge step forward. It's a huge step. I don't know whether it's forward or backward at the moment, but it certainly has consequences for civil liberties and rights.

From your research perspective, Jim, you mentioned you've worked toward basically a scientific understanding of assessment of risk and treatability. With the dangerous offenders, in the main—I don't even know if you can answer this question, and you've worked closely with them, I suspect, from a scientific understanding—is it right to take their civil liberties away? Is there a possibility of these folks being able to get back into society? Or is it a lost cause?

•(1640)

**Dr. James Bonta:** I'll begin.

I can't speak specifically on the civil liberty issue. It's a bit outside of my realm.

I could speak about two things. One is about the challenge of making a prediction as to who is going to reoffend. In the scientific literature we cannot make a perfect prediction, and we're always, even in the research studies, balancing off who we can correctly identify and who we may misidentify. What I'm getting at is, we may be getting better and better each year in identifying the highest-risk offenders, but at the same time we will still identify offenders who we think are dangerous and who end up not being dangerous. We have different interventions to deal with them.

The issue of treatability is a very difficult one, especially among the highest-risk offenders. There is now abundant research literature showing that certain kinds of treatment programs can be very effective in reducing recidivism when it's targeted to the right people in the community. In fact, on average, based on over 200 experimental and quasi-experimental studies, the appropriate treatment can reduce recidivism by about 30%.

I just want to put that into perspective for everybody. Chemotherapy for breast cancer runs success rates of about 12%. Taking aspirin to fend off a heart attack has about a 3% effect. So when we're able to look at treatment that can reduce recidivism, or show success by 30%, that's pretty astounding.

One of the things that has occurred in the research treatment literature is that the number of studies specifically focusing on the highest-risk populations is very, very few. As a researcher, all I can say is I don't know for sure whether the treatments that are being given to medium-risk and a bit higher-risk offenders can apply to this highest group of people whom this committee is examining.

**Hon. Wayne Easter:** In the previous presentation as well, one of the arguments for moving to reverse onus is the fact that some offenders don't participate in the programs or the process. So I would ask you this: how do you assess risk and threat if the offender refuses to participate in an evaluation or assessment process in terms of a dangerous offender?

•(1645)

**Dr. James Bonta:** Perhaps I can bring on the more general, and then Dr. Motiuk could maybe speak to how Correctional Services does it.

In general, with the assessment of risk, there are many ways of doing the assessment without the direct cooperation of the client. You can assess risk by collecting or gathering information from other sources, and not only criminal history, which obviously can be taken from police records, but other risk factors such as employment or substance abuse. You can collect the appropriate information by talking to the people who know this client.

**Hon. Wayne Easter:** Larry.

**Dr. Larry Motiuk:** To answer the question about assessment and evaluation from a practical perspective, within the federal correctional system we have a very comprehensive intake assessment process at the beginning of the sentence to get estimates of the level

of risk, the needs, the security requirements, and the programmatic requirements for offenders. The purpose of this is to develop a comprehensive correctional plan to engage the offender. Assessments of motivation to engage in that plan are also gathered at the beginning.

What we do in terms of assessing people who are deemed to be high-risk violent offenders, particularly offenders who have come in with dangerous offender designations or sexual offences...often they are referred for specialized assessments or supplementary assessments for sex offender risk in particular, or other kinds of areas as well. We engage psychologists and psychiatrists in those evaluations and incorporate those in a comprehensive multi-method approach towards assessing each and every individual case, the purpose of which is to prioritize their risk and needs, establish a correctional plan, and find out those targets for intervention that are likely to reduce their likelihood of reoffending. And then we begin that process at the beginning stages, the first phase of the offender management process in corrections.

All of this is gathered to actually find a suitable placement for that individual. On the security they require, we have three considerations in that: we have safety of the public; we have the safety of the institution, the staff, and other offenders; and we also have the escape risk of that individual should they escape from custody.

For the most part, this evaluation takes about 90 days. We have to incorporate information gathered from police records, courts, and other available documentation on the offender to come to some kind of conclusion or picture of each and every case.

Then we also engage the offender in that correctional plan development. We expect them to engage in it. Now, not every offender, that is correct, will engage or cooperate in their plan, and not every offender will stay in treatment. There is a percentage that will drop out, and there are some who are removed from programming. This group is of great concern because they actually pose a higher risk to reoffend, the ones who don't stay in treatment.

So in terms of how we accurately gauge that, there are assessments of motivation, there are statistical assessments, there are risk assessment tools by multiple professionals. It's all aggregated to draw a conclusion about each case. It's re-evaluated through various stages of the sentence and modified accordingly in terms of whether or not there have been gains in programming or not.

**The Acting Chair (Mr. Brian Murphy):** Thank you, Dr. Motiuk. We'll have to stop you there.

[Translation]

Mr. Ménard will ask the next question.

**Mr. Réal Ménard (Hochelaga, BQ):** Thank you, Mr. Chair.

First of all, it would have been helpful if you had brought along briefs and information. I don't know if you submitted any that were not translated, but I must confess that some background information would have helped.

You are all social scientists. You are not members of the legal community and you have very specific information on behaviour determinants, and thus, on the psychological variables which mean that we are more likely to engage in one particular type of behaviour, or act in a particular way, than another.

I would like to have some background information, and to have your opinion in writing on a certain type of information. What do we know? For example, when analyzing the risk of re-offending, do we lean more towards nature or nurture? Are variables part of the equation? Are there some circumstances, which collectively are more likely to lead to recidivist behaviours?

The wealth of social science knowledge that you will impart through your testimony will confirm or refute the fact that the social solution may not be found in law. As some people have argued at this table, we may be dealing with a problem where we should look more to prevention, rehabilitation and treatment for solutions.

In terms of the state of things, the state of knowledge from a scientific perspective, are we more in the realm of nature or nurture? Are there treatments that can be endorsed? What should our response be to the recidivism of dangerous offenders? Is this a question of mental illness or simply delinquency? I would like to have some written information on this topic.

● (1650)

[English]

**Dr. James Bonta:** Certainly we'll provide you with written background on some of this information.

We have come a tremendously long way in our ability to assess the risk of reoffending. I've been doing this type of research for 30 years. At the time when I began, much of risk assessment was pretty well based on professional judgment. If you were going to go through training as a psychiatrist or psychologist, you were expected to know who was high risk and who wasn't.

We are continually moving, and 20 years later we have a much more accurate picture of what are the key risk factors for criminal behaviour, what's more important than other factors. We know that certainly everybody here would easily recognize that criminal history is important. But pro-criminal thinking is one of the most important predictors of criminal behaviour, as are the associates whom you hang around with, and certainly anti-social personality features. I'm not specifically talking about psychopathy here. I'm talking about personality features such as impulsiveness, lack of self-control, self-centredness. We have been able to rank in order what are the most important predictors and what are the least important.

As I'm sure my colleague will say, Correctional Service is in the business of assessing these factors in a reliable way. The highest-risk offender—

[Translation]

**Mr. Réal Ménard:** It is very important to have at the very least a summary table of all this information. I don't really think that

anyone is interested in reading 3,000 or 4,000 pages. A summary table would be greatly appreciated. The fact remains that we are all Parliamentarians, and that we will be enacting a bill that will create new law.

Earlier, Mr. Cannavino indicated that the bill applied to people who had committed three serious offences. That is not quite accurate, since the bill also applies to designated offences, of which some may be less serious than others. While they all raise social concerns, it may be somewhat ingenuous to reduce everything down to three serious offences.

For an expert witness, for whom the rules of appearance based on jurisprudence are already known, and which I will not get into here, would it be possible, from a first offence, to inform a jury or a court that there are probative, plausible and scientifically recognized risks that the individual will re-offend? As an expert witness, can you share this information with a court to avoid any subsequent pain to the community?

[English]

**Dr. James Bonta:** I think that is a possibility, and I believe there is one offender who was found dangerous on the first serious offence. I believe there is one case like that.

If you complete a comprehensive assessment of all the various risk factors, it is possible to meet someone who has those anti-social personality features, has committed a serious offence, meets the legislative requirements, and has all the other risk factors.

● (1655)

[Translation]

**Mr. Réal Ménard:** Mr. Chair, this is the first time that we have invited representatives from the social sciences to speak to this committee, and I am rather excited intellectually.

If you were asked, would you be prepared to conduct an ad hoc education session for members outside of this committee? I would be prepared to spend a few hours with you to learn about the clinical reality and the evidence available on this subject. There is a wide variety of material that we should tap into, but that, within this context, may not fit in with our work.

This session is due to end soon. However, prior to our return to work in September, it might prove interesting for those members who so wish to receive a few hours of real education on this matter, the clinical picture, the predictive variables to control. I may even make a motion to that end, in due form. Regardless, I feel that we should approve such a suggestion.

**The Acting Chair (Mr. Brian Murphy):** The suggestion is a good one, Mr. Ménard, but it remains to be seen if Mr. Bonta would agree to spend two hours with you.

[English]

With that, we now turn to Mr. Comartin for his seven minutes.

**Mr. Joe Comartin (Windsor—Tecumseh, NDP):** Thank you, gentlemen, for being here.

Have either one of you ever testified in court on a dangerous or long-term offender application?

**Dr. James Bonta:** No, I haven't.

**Dr. Larry Motiuk:** I have once.

**Mr. Joe Comartin:** Because of the way you've described your careers, can I assume that your focus has been primarily on research? Or has it also been on assessment and treatment?

**Dr. Larry Motiuk:** I'll speak on behalf of the one case for which I was subpoenaed. Ironically, it was almost 20 years after I worked at the Ottawa-Carleton Detention Centre. We take our clinical notes, and somehow they ended up in court during the hearing of a dangerous offender application. There were some notes taken about violence in the family, and it turned out that the victim had been a repeat offender. Also, the person who perpetrated the offence had victimized this individual repeatedly over the years.

Basically I was called upon to testify about the veracity of the clinical assessments that were done at a point in time to establish a pattern of criminality over a period of time.

**Mr. Joe Comartin:** Both Mr. Ménard and I have made it quite clear that we're opposed to the use of reverse onus. One of the concerns I have is of the quality of the evidence that the accused person will be required to bring forward.

As I understand the process, although we've never used this before, probably a clerk or a police officer will be put on the stand. It will be said this person has committed two prior offences and has now committed his third. They fit within the category in the code of designated offences, and that's all the evidence that will be put in. So there will be no evidence put in by the Crown of a psychological or psychiatric nature.

If in fact that is going to be the pattern of what we see, what I'm asking you is, where would the accused person be able to get evidence to establish in the reverse that they are not dangerous offenders?

**Dr. James Bonta:** I don't know if this will answer your question, but I'll try. In the assessment of risk, the general view among scientists in this area is that we need multiple indicators of risk. Criminal history is one indicator, and it is one of the better ones, but other indicators are almost equal in predictive power.

When we talk about risk factors—

• (1700)

**Mr. Joe Comartin:** Dr. Bonta, I'm sorry for interrupting, but I want to focus on that point you just made. In terms of those other indicators, can they be placed before a court with some degree of reliability and credibility by other than psychiatrists and psychologists?

**Dr. James Bonta:** Yes, I believe so.

**Mr. Joe Comartin:** So what would the source of that other information be?

**Dr. James Bonta:** The other major indicators could be simply assessments of criminal thinking, pro-criminal attitudes, which do not require a licensed psychiatrist or psychologist to make—

**Mr. Joe Comartin:** So you could be using psychometrists or social workers?

**Dr. James Bonta:** Yes.

I think in some correctional systems they may even administer paper and pencil measures of some of these to get direct assessments of pro-criminal thinking, so to speak. What I'm saying is we have risk factors, and the flip side of a risk factor is a strength. So if you're unemployed and you can show that you're employed, you have a strength and you have a risk factor. Presence of substance abuse or the absence of substance abuse: a risk factor and a strength.

So to try to answer your question, what can someone say to show they have some positive aspects to them? It's simply looking at their having the absence of these risk factors, which could be measured in a number of ways; they are working or whatever.

**Mr. Joe Comartin:** But if I'm sitting there as the judge, how do I interpret the significance of those other factors without expert testimony?

**Dr. James Bonta:** I would invite the judge to attend a meeting with Mr. Ménard so they can be educated about the importance of risk factors. That's something I have personally done in going out to speak to judges on understanding the technology of risk, because they're faced with it every day.

**Mr. Joe Comartin:** You would need to recognize, Dr. Bonta, that given the limited number of applications we have, and even if they increase somewhat, the chances of most judges seeing one of these during their careers is limited to one or two, given that most judges are only on the bench for 10 or 12 years.

I want to explore another area with you. In terms of the quality of the evidence that could be put in front of a court.... This really raises the issue—and there was a suggestion that you heard it from the CPA earlier—that one of the amendments that should be moved is to include the provision that an application could be made for a dangerous offender designation in the circumstances where there has been a long-term offender designation and the person has breached the conditions.

Given that scenario—the application is now coming forward for the dangerous offender—would both the quality and quantity of evidence...? I assume the quantity would be a definite increase because the person has been incarcerated for a number of years. But would the quality of the evidence—the certainty of your assessment in terms of the likelihood of this person continuing indefinitely to be a risk to society—go up because of the length of time the person had been in custody? I'm assuming there would have been ongoing assessments and treatment modalities applied during that period of time, or maybe attempted to be applied.

Just objectively, from the outside I'm thinking if a person had been in custody—I'll think of the Callow case—for 20 years. You've had a long-term opportunity to observe, assess his capabilities, his risk to society. That evidence would be superior in quality to what we would have had had they made an application when he was first convicted 20 years ago.

**The Acting Chair (Mr. Brian Murphy):** You have about a minute to answer that.

**Mr. Joe Comartin:** Couldn't he just say, yes, my analysis is correct, Mr. Chair? We'll save all that time.

**The Acting Chair (Mr. Brian Murphy):** If it's yes.

**Dr. Larry Motiuk:** I'll say a quick yes, the quality of assessment goes up with the amount of time one has to observe the behaviour of the phenomenon under question. There's time to observe. There are opportunities provided to engage in treatment or in interactions with others. Bringing forward that information forms part of the overall estimation of risk in terms of in what situation or circumstances this individual would pose a threat in some form or other.

So to be clear, yes, I think you would have an opportunity to add value to the overall quality of those assessments given what's occurred during that period of time. Also, if there's a breach during a period of supervision—what are the aspects around that—it allows those who are tasked with the supervision of those individuals to bring forward evidence as well.

•(1705)

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

I'd ask Mr. Fast to proceed.

**Mr. Ed Fast (Abbotsford, CPC):** Thank you, Mr. Chair, and thank you to both of you for coming here today and sharing some of your thoughts on this issue.

Mr. Bonta, I've received two different studies you have prepared. One was in 2006, entitled *Tracking High-Risk, Violent Offenders: An Examination of the National Flagging System*, and you also did another study, *The Crown Files Research Project: A Study of Dangerous Offenders*, about 10 years earlier. In the first study, I believe you made the statement: "There is now a consensus that general reoffending can be predicted among criminal populations." And you just confirmed that a few minutes ago by stating that criminal history is the best indicator of recidivism. It's not the only indicator, but it's the best indicator.

You also noted in that first study that there are about 300,000 violent or sexual crimes committed annually, and of those, there are about 57,000 of those offenders who could be expected to reoffend again, but there are only 30 designated offender designations, which basically works out to less than 1% of the violent recidivist population. I think that is the nub of the issue here. We have a significantly sized population that can be expected to reoffend, and our legislation tries to focus in on that.

Are you in a position to be able to say, at least on a general basis, that if a person offends once—a violent or sexual crime—there's an increase of probability that the individual will reoffend, and that if the individual commits two crimes of similar nature the probability of recidivism goes even higher, and if there were a third offence it goes even higher? Is this a statement you can make?

**Dr. James Bonta:** What you're saying is half true, from the empirical evidence. Committing a first-time violent offence, and there's no other history of a violent offence, is actually associated with a decrease in the likelihood of it recurring. It may sound surprising, but a violent offence by itself with no history makes you less likely to commit a new violent offence.

Once you've gone by and started having a history or a pattern of violent behaviour, then the risk begins to increase. If you've committed a violent offence, and you've done it once before, yes, you have a higher likelihood. If you've done it twice before you have a higher likelihood, and those likelihoods increase in very small increments. Our prediction gets better when we start considering other risk factors.

**Mr. Ed Fast:** I'm looking at your report, *An Examination of the National Flagging System*, and you mention that 57,000 of those offenders of violent sexual crimes committed in Canada annually can be expected to reoffend with a violent or sexual offence.

Based on what you've just told me, those 57,000, most of them, are going to have reoffended at least one time before.

**Dr. James Bonta:** For that data, for sure, yes, you're right.

**Mr. Ed Fast:** Is that correct?

**Dr. James Bonta:** Yes.

**Mr. Ed Fast:** Have you had a chance to read our legislation?

•(1710)

**Dr. James Bonta:** Yes.

**Mr. Ed Fast:** You've had a chance to read the reverse onus provisions?

**Dr. James Bonta:** Yes.

**Mr. Ed Fast:** And also the provisions that still allow the judge to have some discretion? Correct?

**Dr. James Bonta:** Yes.

**Mr. Ed Fast:** Are you in a position where you're able to say whether this legislation is appropriate, given the increased risk once someone has been convicted of a third violent or sexual offence?

**Dr. James Bonta:** I think that's a little bit outside of my scope as a researcher who basically looks mainly at the evidence, and I provide that to our policy group for them to consider in terms of a policy direction.

**Mr. Ed Fast:** You're not an advocate for policy per se. Is that right?

**Dr. James Bonta:** I think it's important to have policy, but I think it's important to have evidence-based policy, and that's why I'm there in the department, to have our group provide evidence-based policy.

**Mr. Ed Fast:** Mr. Motiuk, would you take the same position? Or are you able to comment?

**Dr. Larry Motiuk:** I think I would take the same position as Dr. Bonta, insofar as there are still a lot of questions remaining in terms of what reverse onus and three convictions mean, by definition, or as criteria for selection of those deemed to be high risk.

In terms of the administration, or the risk appraisal, we would expect that it somehow contributes to the overall estimation of risk.

**Mr. Ed Fast:** Have you looked at the list of the designated offences, to review those in terms of how you regard their seriousness?

**Dr. Larry Motiuk:** No, I haven't, but I would assume that many of those offences on the list would be of that nature.

**Mr. Ed Fast:** Very serious.

**Dr. Larry Motiuk:** Yes, of course.

**Mr. Ed Fast:** Many of them are.

Can we discuss a little bit further the report from 2006? Mr. Bonta, you had focused on the national flagging system. I think I understand what it generally involves, but there are many Canadians who feel that whatever system we have in place right now to flag dangerous offenders—even if they're not designated that way but might be considered to be a high risk to reoffend—the flagging system has still not protected them. For example, in the Peter Whitmore case, he is a great example of someone who had a history of sexual offences, and in fact was sentenced to five years in prison. When he was released on parole he reoffended on at least two occasions when he was found in the company of young children. And there are many other cases like that, which we can refer to, causing Canadians serious concern.

In terms of the flagging system itself, are there some problems with it that you've identified? Are there ways of strengthening it so that we don't have the kinds of cases that Peter Whitmore highlighted last year?

**Dr. James Bonta:** From our evaluation of the first four years of the national flagging system, we basically found that it was identifying high-risk individuals and identifying and bringing to trial those with dangerous offender designations or long-term designations in a way that was 18 times more likely than we would have expected without the system operating.

That being said, it is not perfect. I think the national flagging coordinators recognize this and are working hard to improve it. From a research perspective, we are presently working with the national flagging system to look at ways to improve it. What can we do to make the tracking of these high-risk offenders more accurate and more efficient in bringing them to the Crown's attention, so they can proceed with the appropriate designation?

**The Acting Chair (Mr. Brian Murphy):** We'll have to stop there, Mr. Fast.

Mrs. Jennings, for five minutes, in this second round.

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

Thank you very much for your presentation.

I'd like to ask, given your expertise in evaluating the level of risk posed to the community by prisoners in the correctional system, and given the fact that once someone has been designated a dangerous offender or a long-term offender and comes into the correctional system, they would undergo an assessment—which, Dr. Motiuk, you mentioned could take up to 90 days, I believe—do you have any data indicating whether your assessment of those two categories of offenders, or the assessment of them done in the correctional system, is incorrect? For instance, is there data indicating for someone

designated a dangerous offender by the evaluation that you or the system did over the 90 days that the level of risk and threat could have been supervised in the community, and for someone designated a long-term offender when evaluated on their intake into the Correctional Service, is there data indicating that a dangerous offender designation would have been more appropriate?

Are you in a position to answer that?

• (1715)

**Dr. Larry Motiuk:** To answer definitively, perhaps not. But in 2002, when I was managing the research branch, we undertook a pretty comprehensive study examining the characteristics of those who were designated as dangerous offenders versus those who were given long-term orders. There were dramatic differences in some important areas. For certain, a conclusion of that research was that those who were designated by the courts as dangerous offenders were indeed high-risk offenders. They had histories of violence—repeated violence. And on the traditional risk indicators that we would assume would designate them as that, they came out quite characteristically like that. So on a continuum of risk, shall we say, those that were deemed to be.... And they distinguished themselves from the general penitentiary population as well.

This report is available. It's been published, and it's on the website.

There is a continuum, and they distinguish themselves, of course, from the general offender population as well on a number of important characteristics that we know are good risk predictors.

To answer the question of whether we think there were some who shouldn't have been, from my reading of it, no. Perhaps others may—

**Hon. Marlene Jennings:** You're talking about dangerous offenders.

**Dr. Larry Motiuk:** That's right.

**Hon. Marlene Jennings:** Okay. I also asked about the long-term offender.

• (1720)

**Dr. Larry Motiuk:** The long-term offender is not so clear. We need to do more research in that area to understand that population. They are quite heterogeneous in some respects. Some of them are serving time in provincial jurisdictions, and then they get the long-term supervision order for us to supervise. They would distinguish themselves, I would assume, from others in the population as well. Because there is so much difference within that group, it would be hard to definitively say that they all should have been there or shouldn't have been there. Again, they might be. Nevertheless, I think that takes closer examination.

What was dramatic for us was that they do distinguish themselves as three populations—the dangerous offenders, those who have long-term orders, and those who are in the general population—on what we would assume to be a very good, clear indicator that there is a continuum of risk, under many measures.

**Hon. Marlene Jennings:** Okay. Given that, are you in a position to comment on the impact...? You've just said that the research shows clearly that dangerous offenders who have been designated as such are clearly a high risk and are a completely different population, in terms of characteristics, from long-term offenders, and then again from the general population within the correctional system.

In that case, is the reverse onus that is created under Bill C-27...? It states that if the prosecutor makes an application for an expert assessment, and an order is given, then once the assessment report is filed, if the Crown applies for a dangerous offender hearing and designation, the offender is automatically presumed to be a dangerous offender. And the court shall deem that offender to be a dangerous offender unless the offender shows, on a balance of probabilities, that he or she is not a dangerous offender.

Are you in a position to say that this would then create a danger that we would have offenders who normally, under the current system, would be, for instance, designated long-term offenders, but because they don't have the resources or whatever, they will not necessarily be in a position to overturn the presumption that they are dangerous offenders? Therefore, they would have a designation that is in fact an incorrect designation.

**The Acting Chair (Mr. Brian Murphy):** You have about a minute to designate your answer.

**Dr. Larry Motiuk:** I know there are some opinions in terms of interpreting the data along those lines. That is, the resources might not be there for those individuals because of some risk factors. Maybe they don't have stable employment patterns or the resources to defend themselves. This I'm not sure of.

To answer the question as to whether there is a margin of error in some of these evaluations, we don't have definitive research on that yet to clearly distinguish that. Is there a portion that should be designated? I don't know. You would have to look at that in a more focused way in that population, because they share some characteristics as well. They are a higher continued risk. I do not want to have the committee think that they are not at risk. There are some common risk factors they share with dangerous offenders and some they do not. That's the question one has to delineate on a case-based approach.

**The Acting Chair (Mr. Brian Murphy):** Thank you for your answer.

We'll now turn to Mr. Norlock.

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

Thank you very much, gentlemen, for your testimony today. I find it very enlightening.

Dr. Motiuk, your background indicates to me that you've studied psychology from a holistic point of view, not just criminal. Have you done any studies with regard to just human behaviour in general?

**Dr. Larry Motiuk:** Yes.

**Mr. Rick Norlock:** Would you agree with me that we can study the criminal and likelihood to reoffend, but as legislators, and when we're looking at all sorts of legislation, our responsibility is also to look toward the victim? Would you agree that we would need to do that also?

**Dr. Larry Motiuk:** Insofar as understanding the victimization patterns of the offender, it's going to yield very important information to the estimation of risk. We know that. Also, in the research, we know that the dangerous offenders distinguish themselves from people serving long-term supervision orders on victimization in terms of who they select and as a group. It's part of an artifact of who we have as the pool to study, too, I have to be clear about that.

Indeed, victim relationship and victim numbers and characteristics are important to the examination and the estimation of risk for these individuals, because for dangerousness we need to understand the circumstances and context under which these situations prevail. It's part of the estimation of risk.

When we do assessments at intake on the offender population, we systematically gather information in this regard on each and every case, and particularly those who are involved in personal violence.

**Mr. Rick Norlock:** Very good. It goes down, actually, a double path, and that's very good.

The path that I was wanting to go down is the path of the victim as opposed to the criminal who wants to victimize a specific victim. When we were talking to some of the other witnesses, one witness in particular indicated, or there was an overt indication, that we need to consider the victims.

What I'm saying to you is, from the victim's point of view, a person who has exhibited antisocial behaviour towards not only a specific group—which I'm going to get into, hopefully, if I have a few moments—but in particular victims in general, we need to have some closure to their crime experience. Part of the closure to the crime experience is to know that the person who perpetrated the crime against them, him or her, will probably not be able to do it again, specifically or especially if that person has committed that crime before.

I guess what I'm saying is the criminal may be locked up—and you can comment on this, please—physically in jail, but the victim now is locked up in a continuous cycle of fear of being revictimized. I'm referring to those serious cases such as rape and pedophilia and their lifelong effect on the victim. The victim needs to know that at least the perpetrator, especially if it's a second or third time, and in this case we're talking about the third time, isn't going to reoffend.

So while we may concern ourselves—and I'm going to leave the terms to the side—with fear that we're locking up somebody physically, should we not be looking at making sure we don't lock up, emotionally, the victim for their whole life?

• (1725)

**Dr. Larry Motiuk:** I'll comment on the issue of victims in relation to offenders who perpetrated very serious offences. Victims do have some mechanisms, in terms of notification when situations are happening such as transfers from one facility to another or to different levels of security, or even for release. They also have mechanisms to appear before parole hearings, and impact statements are used all the way through in the evaluation or estimation of risk for offenders and at multiple decision points along the sentence.

**The Acting Chair (Mr. Brian Murphy):** Dr. Bonta, perhaps.

**Dr. James Bonta:** I would just add something general on the psychology of victimology. I have conducted a number of studies to evaluate restorative justice programs, in which victims meet their offenders. Reading that literature, one of the things I learned is that, just as offenders do, victims differ in terms of what they need. Some victims really ask for a different kind of resolution to the prison they are confined to as a result of their victimization.

I agree with you that all victims want to make sure they are safe. For some victims, making sure someone is locked away in prison never to harm again is satisfying, but there are victims—and I have met them—who say, “This doesn't bring closure to me. I need to do something else.” So it's a very complex problem. There are studies in which victims, or the families of victims, in the United States have gone on to death row to meet the offender to bring closure to their lives.

**The Acting Chair (Mr. Brian Murphy):** The meeting is almost on death row.

[*Translation*]

Mrs. Freeman, you have the floor for the last five minutes.

**Mrs. Carole Freeman (Châteauguay—Saint-Constant, BQ):** Thank you for being here. I found your presentation extremely interesting.

My question is for Dr. Bonta.

In your presentation, you mentioned that more than 200 studies indicate that there are treatments available to prevent recidivism, and that these treatments can reduce the risk of recidivism by up to 30%.

Could you provide some further details on this matter so that we may clearly understand the kinds of treatments involved?

[*English*]

**Dr. James Bonta:** Just to be very brief, we now know that the most effective treatments have certain characteristics.

The first characteristic is that the treatment has to be of the appropriate intensity or frequency for the risk level of the offender, so higher-risk offenders require much more intensive long periods of treatment. In fact, low-risk offenders who receive intensive treatment show either no impact on recidivism or it actually makes them worse.

Second, we know what should be the targets of treatment: what should treatment programs be focused on? They are those risk factors that I spoke about before—pro-criminal thinking, social networks. It used to be thought that things like self-esteem were important. We now know that treatment programs targeting self-esteem only produce confident criminals.

We also know the third important factor is that the cognitive behavioural programs are by far the most effective. There are very many different counselling treatment approaches. If we have a treatment program that focuses on high-risk offenders, focuses on what we call criminogenic needs and on appropriate risk factors, and does so in a cognitive behavioural fashion, the research literature indicates, on average, a 30% reduction in recidivism when those programs are delivered in the community. The very same programs delivered within institutions have about a 20% reduction in recidivism. It tells us that the same program placed in the community is more effective than the program in an institution.

• (1730)

[*Translation*]

**The Acting Chair (Mr. Brian Murphy):** Mrs. Freeman, is that sufficient? There are two minutes left.

**Mrs. Carole Freeman:** Yes, that will be fine.

[*English*]

**The Acting Chair (Mr. Brian Murphy):** I would like to thank the witnesses and members of the committee.

This was the most enjoyable presidency I have ever had, and ever will have. Thank you very much.

The meeting is adjourned.







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