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Chair

Mr. Garry Breitkreuz

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•(1115)

[English]

The Chair (Mr. Garry Breitkreuz (Yorkton—Melville, CPC)): I'd like to bring this meeting to order.

This is the Standing Committee on Public Safety and National Security, meeting number 39, and we are continuing with our study of federal corrections, focusing on mental health and addiction.

Before we go to our first item here, I am going to read something I want the committee members to listen to very carefully, because you're going to have to approve this: "That the committee defray the hospitality expenses related to working meals to be held during its travel to Oslo and London during the week of November 22 and that the clerk in consultation with the chair be authorized to purchase mementoes."

Do you all understand the gist of that?

Mr. Mark Holland (Ajax—Pickering, Lib.): These are mementoes to give to....

The Chair: To whose who are—

Mr. Mark Holland: Officials.

The Chair: Yes.

Mr. Mark Holland: Not mementoes for the clerk.

The Chair: No.

Okay, is that approved?

Mr. Roger Préfontaine (The Clerk of the Committee): Sir, I just noticed that I should have added in there, in case we need it, a working lunch in Montreal.

The Chair: Oh, we forgot Montreal. We may have a working lunch in Montreal, so we're going to add that as well, on the evening of Thursday while we're in Montreal. That's dinner.

I'll read this again quickly: "That the committee defray the hospitality expenses related to working meals to be held during its travel to Oslo and London and in Montreal during the week of November 22"—of course, the previous week for Montreal—"and that the clerk in consultation with the chair be authorized to purchase mementoes." That's small gifts as a courtesy for those we meet, our counterparts in Norway and England.

Yes, Mr. MacKenzie?

Mr. Dave MacKenzie (Oxford, CPC): Could you clarify? I have some questions. They are for the hosts.

The Chair: Yes, for our colleagues in Norway. This is not for the committee.

Mr. Dave MacKenzie: Right. So the committee will receive their per diems and pay for their own....

The Chair: Oh, yes.

Are you all in favour of that? Any objections?

(Motion agreed to)

The Chair: Thank you. We will now go to the business that's listed on our order paper.

We would like to welcome from the Correctional Service of Canada the director general, the senior deputy commissioner, and the deputy commissioner for women. We'll ask you to introduce yourselves, maybe give a little background....

Is there a point of order?

[Translation]

Mrs. Maria Mourani (Ahuntsic, BQ): Mr. Chairman, since you've raised the question of travel, I wanted to tell you once again that I'm very concerned about the trips that will be organized and about the fact that we should be vaccinated. In fact, I am very concerned that we're taking the plane, that we're going to a number of provinces and two different countries. We'll be in contact with a lot of people. I think it's essential that we find a solution to the vaccination problem.

[English]

The Chair: I'm not sure how we can handle this. I wonder if we should approach our House leaders and our whips to see if something should be done about that.

Mr. Norlock.

Mr. Rick Norlock (Northumberland—Quinte West, CPC): Chair, I want no special treatment because I'm a member of Parliament. I wish to be treated the same as every other citizen in this country.

Some hon. members: Hear, hear.

An hon. member: I agree

The Chair: All right. I really don't want to take more time to discuss this, because we should be listening to our witnesses, but I think you've made your point. If we need to discuss this more, let's raise it at the end of the meeting. Okay?

Okay. Who would like to go first and maybe just give us a little bit of your background? Are you each going to give a presentation?

Deputy Commissioner Marc-Arthur Hyppolite (Senior Deputy Commissioner, Correctional Service Canada): Only two people.

The Chair: Two people. Go ahead.

D/Commr Marc-Arthur Hyppolite: Good morning, everyone.

My name is Marc-Arthur Hyppolite. I am the Senior Deputy Commissioner for Correctional Service of Canada. I studied criminology, sociology, and psychology at the University of Ottawa. I also went to the Collège de Maisonneuve in Montreal. I am here to represent the Correctional Service of Canada. I have 25 years of experience in corrections and a few short periods of time in other government departments.

I'm pleased to be here and I would like to thank you for the opportunity to speak to you today.

As you know, Mr. Chair, Canada's aboriginal people are grounded in a very rich and diverse culture. Unfortunately, this history has led to a disproportionate number of aboriginal people in Canadian penitentiaries. CSC's actions, as described in the strategic plan for aboriginal corrections and supported by the recent accountability framework, reflect an understanding of that history, the current social reality, and the importance of cultural traditions when formulating meaningful correctional policy for the aboriginal people in our care.

• (1120)

[Translation]

As the Commissioner informed you in June, we have seen a significant change in the offender population profile over the past decade. Increases in the number of offenders with mental health problems and substance abuse problems are important factors in this offender profile.

Where this differs between the aboriginal and non-aboriginal population is that aboriginal offenders tend to be younger, be at higher risk, and have more health problems—specifically fetal alcohol spectrum disorder and mental health issues.

[English]

Additionally, we have found that aboriginal offenders have a significantly higher rate of drug and alcohol problems than non-aboriginal offenders.

Our approach to aboriginal corrections is based on the continuum of care that encompasses each stage of an offender's sentence, from admission to release into the community. The continuum of care, which was created in consultation with aboriginal stakeholders and partners, developed new opportunities to address aboriginal offenders' needs, as reflected in the 2006 to 2011 strategy plan for aboriginal corrections. This was developed to enhance CSC's capacity to deliver effective intervention to first nations, Métis, and Inuit offenders and to integrate this continuum into Correctional Service of Canada.

CSC recognized that aboriginal culture is holistic in nature and elders are integrating and assisting in the intervention plans for aboriginal offenders to ensure they are reflected in their healing plan. Through our experience working with aboriginal offenders, it is clear that programs that include culturally appropriate elements of correctional interventions are more effective with an aboriginal

population that has higher risks and needs than other segments of our population.

As you know, effective correctional programming is an essential element in reducing reoffending and preparing the offender for their safe return to the community. As such, they include the integration of effective correctional program principles with traditional aboriginal healing and spiritual approaches.

Research has shown that programs that include culturally appropriate elements in correctional interventions are more effective with aboriginal populations that have higher risks and needs than other segments of our population.

[Translation]

With this in mind, we provide programs specifically designed to meet the unique needs of aboriginal offenders, we work in partnership with aboriginal communities, and we rely on the guidance provided to us by the aboriginal advisory committees that we regularly engage to help implement our plans for action.

[English]

One example is the aboriginal offender substance abuse program, which is offered at both the high and moderate intensity levels. The program is for male aboriginal offenders and is designed to reduce the risk of relapsing into substance abuse and reoffending. The program is based on a holistic approach to ensure the impact of addictions is examined across physical, mental, emotional, and spiritual dimensions in a safe and supportive environment. It is also culturally responsive to the needs of first nation, Inuit, and Métis offenders.

Looking forward, CSC has invested nearly \$33 million in aboriginal corrections over 2009-2010 to support the following: the expansion of aboriginal intervention and healing programs in our institutions and of healing lodges in communities; the contracting of more elders in our institutions and in the community; an increase in apartment units and houses to offer more intensive healing support; and the creation of more aboriginal employment and job placement opportunities.

I am confident that our dedicated research and our effective program development have put us on the track to respond to the offender profile and to address the unique needs of aboriginal offenders. Within this body of work, measures to address mental health and substance abuse are important priorities.

•(1125)

[Translation]

Thank you for this opportunity to speak and I welcome any questions you may have.

Then, if you want the Deputy Commissioner for Women to make a presentation, that will be possible.

[English]

The Chair: Go ahead, Ma'am.

Deputy Commissioner Elizabeth Van Allen (Deputy Commissioner for Women, Women Offender Sector, Correctional Service Canada): Thank you, and good morning, Mr. Chair and committee members.

Just as a little bit about my background, I have been with the Correctional Service of Canada for 25 years. I started out as a correctional officer at Kingston Penitentiary, so I've worked my way up through various positions within the institution on the security side of the house. On the case management side of the house, I've been at national headquarters for the last eleven years, and I've recently come into this position in the last year. That's a little bit about my background.

I'm very pleased to be here today, and I'd like to thank you for the opportunity to speak to you about issues surrounding women offenders. This is an area that is of key importance to the Correctional Service of Canada and one that is of great personal importance to me as deputy commissioner for women.

By way of background, I'd like to start with a few general comments about the women offender population in Canada. At any given time there are just under 1,200 women under federal sentence in Canada, with about 44% serving their time in one of our facilities and the remainder serving sentences in the community. In terms of the general demographic makeup of female offenders, they tend to experience poverty, are young, uneducated, and lacking in employment skills. Compared to the average Canadian, women offenders have a higher incidence of substance abuse and mental health problems and are more likely to have a history of physical and/or sexual abuse. In short, women offenders have unique factors influencing their criminal behaviour, and so they require an approach that is unique to their specific needs. This approach is commonly termed "women centred" in that it reflects the social realities of women and responds to the individual needs of women in our care.

As the senior deputy commissioner just reinforced, CSC has seen a significant change in the overall offender profile over the last decade. This applies equally to the women offender population. What we have seen in the last decade or so is an increase in women entering our care who exhibit mental health needs or who present complex behavioural concerns. We are also seeing women serving much shorter sentences. Taking into account these and many other factors, we are certainly facing greater challenges for our organization in terms of how we effectively manage women offenders and help them forge a path away from crime and towards more positive life choices.

One of the ways we are building on our capacity to address the needs of women offenders with mental health concerns is by

identifying their requirements from the first day of admission. To this end, CSC is improving its screening and assessment process at admission with the implementation of the computerized mental health intake screening system. If we can better identify mental health issues from the beginning, we are in a better position to proactively address them.

For women who are identified as having higher needs or severe mental health concerns, we currently have three options. The first is two intensive psychiatric treatment units, one at Philippe-Pinel and the other at the regional psychiatric centre in the prairies, for those women who require treatment in a psychiatric facility.

The second option is that CSC has implemented the structured living environment, which provides a separate living space and programming area within the institution for women classified as minimum or medium security. It is a therapeutic environment that is staffed 24 hours a day with an interdisciplinary team that can provide specialized correctional, rehabilitative, and mental health treatment.

Finally, for women requiring similar intensive intervention but who are classified as maximum security, CSC constructed security units at each of the five regional women's institutions. These units feature heightened security measures coupled with an interdisciplinary approach similar to the structured living environments that provides intensive staff intervention, programming, and treatment to these higher-risk women.

In addition, important interventions for women with mental health needs are dialectical behaviour therapy, or DBT, and psycho-social rehabilitation. DBT is a comprehensive mental health treatment for women with serious emotional issues and behavioural problems. DBT addresses these issues by targeting skill development in the areas of emotions, relationships, cognitions, and stress. Psycho-social rehabilitation addresses the needs of women who are cognitively low functioning. It helps them regain control over their lives by assisting them with living skills and formulating goals and plans to prepare them for independent living.

In addition, as a majority of women offenders are survivors of abuse and trauma, intervention to address these issues is also offered. Group and individual counselling is available to all women offenders to help address the significant impact these and other experiences have had on their lives.

As I mentioned previously, in addition to mental health concerns, statistics show that up to 80% of incarcerated women have a substance abuse problem. It is vital that we work with women to identify these issues and proactively address their addictive behaviours. CSC has developed a suite of programs specific to women offenders. I'd like to highlight two programs that are dedicated to helping women offenders address addictive and violent behaviours.

• (1130)

The women offender substance abuse program is designed to address the substance abuse needs of all women offenders. The program offers women offenders several levels of intervention from the time they enter the institution until the time of their warrant expiry. This includes maintenance programs in the community.

The second example is the Spirit of a Warrior program, which was developed by the Native Counselling Services of Alberta to address the needs of aboriginal women offenders, specifically targeting violence, substance abuse, and gang association, with the overall objective to reduce reoffending.

In closing, I believe the programs we offer women and the interventions we make to in order to empower them to make better choices are appropriate and effective. While CSC has come a long way in addressing the needs of women offenders, we still have work to do. The nature of our business is such that we must continually evolve and adapt to meet new challenges. I believe we're on the right path, and I look forward to discussing some of this with you today.

Thank you, Mr. Chair.

The Chair: Thank you very much.

Ms. Allgaier, I'll give you an opportunity to give us a bit of your background before we go to questions and comments, because you were not formally introduced.

Ms. Lisa Allgaier (Director General, Aboriginal Initiatives Directorate, Correctional Service Canada): Thank you.

I'm Lisa Allgaier, the director general for aboriginal initiatives. I've been in the position since November 2002. It was my first position with the federal government. Prior to that, I worked for the Province of B.C. as the director for aboriginal health.

I've worked in, with, and for the aboriginal community for over 20 years now, all my working career.

I'm first nations. My family is from northern Manitoba, from the Norway House and Cross Lake first nation communities, and I grew up mostly in British Columbia.

I'm happy to be here today. Thank you for inviting me.

The Chair: Thank you very much.

As is the usual practice, we'll begin with the Liberal Party, the official opposition, for seven minutes, please.

Mr. Holland.

Mr. Mark Holland: Thank you, Mr. Chair.

Thank you to the witnesses for appearing before the committee today. I appreciate your time.

Mr. Sapers, the correctional investigator, has long criticized Correctional Service of Canada for refusing to give the deputy commissioner for women full and direct authority for all matters affecting female prisoners, given that it is widely felt that by empowering the deputy commissioner for women, they would be much more able to serve the interests of female inmates. In fact, the correctional investigator has gone so far as to say that if the recommendations of the Arbour commission had been implemented, it's quite possible that the tragedy of Ashley Smith wouldn't have happened.

Why have those recommendations not been heeded, and why have Mr. Sapers' concerns not been recognized and implemented?

I'll go to Mr. Hyppolite first.

D/Commr Marc-Arthur Hyppolite: Mr. Chair, we are aware of the recommendation of the correctional investigator with respect to giving line authority to the deputy commissioner for aboriginal women. This question has been examined on several occasions and it is our view that the functional role played by the deputy commissioner for women at the national level is the right and effective way.

The deputy commissioners of our five regions have direct accountability and responsibility for providing correctional programs and services to women offenders. The functional role that we have is a very strong one, in charge of the establishment of policy. We have recently—and I would pass this over to Madame Elizabeth Van Allen—established a clear definition of roles and responsibilities between the deputy commissioner and the deputy commissioner for women. We remain convinced that the right way to go is not to give direct responsibility of line authority to this position but to work collaboratively with all the partners in the regions to make sure that effective corrections are delivered.

Mr. Mark Holland: Okay. You're disagreeing, then, with the concerns raised by Mr. Sapers.

• (1135)

D/Commr Marc-Arthur Hyppolite: Yes.

Mr. Mark Holland: Let me then ask Ms. Van Allen, if I could.

Concerning the recommendations of the Arbour inquiry as they pertain to your position specifically, do you feel that at this point, effectively, those recommendations have been implemented, or does your position still remain lacking with respect to Madame Arbour's comments?

D/Commr Elizabeth Van Allen: With respect to the deputy commissioner for women position, the governance structure decided on by the CSC is the right one. We've had many discussions as an executive committee about this structure and have landed where we landed.

After I came into the position in December of 2008, we constructed a roles and responsibilities document. We have shared that document broadly across the organization. I have taken a strong leadership role in terms of my functional leadership to work with the regions in strengthening those relationships with RDCs. And as you know, the regional deputy commissioners have assistant deputy commissioners who are actually responsible for the day-to-day management of the institutions.

I have forged strong relationships with that group. I meet four times a year with this group, who are responsible for the women's institutions, along with the women wardens. We come together four times a year to discuss areas of mutual interest and concern. Additionally, I have monthly meetings via conference call with this same group. So in terms of working together, we have strong working relationships and I think it works well.

Mr. Mark Holland: Right now we know, according to Don Head, that more than a quarter of female inmates face serious mental health issues. That figure is put higher by others, but a minimum of a quarter face serious mental health issues.

We know that the number of female aboriginal inmates is abhorrent, particularly relative to the non-aboriginal female inmate population—that it is over 32%. We know that addiction issues among female inmates in our prison facilities is above 75%. These are pretty terrible numbers.

I know you've referenced a couple of programs, but the reality is that even more inmates are going to be coming in. The strain on our prison system is going to be that much greater, and the resources you have been given are not that much greater. I would argue they are not even great enough to keep the status quo with all the new people coming forward.

How do you reconcile those numbers with what you're saying in terms of seeing improvements? What I see is the situation getting worse. That's my concern.

D/Commr Elizabeth Van Allen: Certainly the service is facing a number of challenges, as you have mentioned. We do see an increase in the number of women coming into our system with mental health issues. There is no question about that. Certainly it's no different for our aboriginal women, and yes, the prevalence of mental health issues for our aboriginal women is higher than for our non-aboriginal women.

But as I indicated, we have a number of programs and interventions. I just mentioned two, but we have an entire suite of programs with respect to aboriginals in general. We have elders, we have Pathway units, and we have programs that are culturally designed to address the needs of our aboriginal offenders.

With respect to mental health, we have an integrated mental health strategy, which we are in the process of implementing.

Mr. Mark Holland: Sorry to interrupt, but the problem is that a correctional investigator is telling us that we're really using our prisons as hospitals and we're failing miserably at that, and the programs and services and training that we have today aren't working. And the problem is that we're seeing an expanding population, as you've just said, and yet we're not really seeing much in terms of corresponding increases in budget.

We have maybe a little bit of an increase in budget, but wouldn't you agree that is only going to at best keep the status quo? When you have an expanding population and a growing problem and you're getting modest budget increases to face that problem, when you're already facing concerns brought forward by the correctional investigator, who is saying we're simply failing to deal with these mental health issues, aren't the resources we're applying to this not

really keeping our heads above water in terms of maintaining the status quo?

The Chair: We're out of time, but please give a brief response.

• (1140)

D/Commr Marc-Arthur Hyppolite: Mr. Chair, in its 2008 budget Correctional Service Canada received \$29.1 million to improve mental health. We have a comprehensive mental health strategy for the institutions, and we also have a community mental health strategy.

When aboriginal women arrive at the intake assessment, obviously they are assessed for their needs. We have five regional treatment centres that address mental health issues in relation to all offenders, including aboriginal, and to some extent aboriginal women as well.

So the mental health strategy has about six components. The first, when you arrive, is our computerized assessment screening, which we have just implemented. The second is the provision of mental health services for immediate needs, and you have intermediate needs, which is that the offenders who are suffering from mental health issues that are not acute enough to have them placed in a psychiatric facility get put in supportive units.

As well, we have some funding at this point where there's a sunset clause to 2010 when the budget review will be finished, and Correctional Service is intending to use breach funding until we can secure more permanent funding. Offenders who have acute mental health issues are placed in five psychiatric facilities. In addition, we have a series of contracts with mental health professionals in the community that also are designed to provide services. Last, we also make sure we have a training component to it, whereby staff can also interact culturally appropriately and professionally with offenders suffering from acute mental illness.

The Chair: Thank you very much. We went way over time there.

Monsieur Ménard, please.

[*Translation*]

Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ): Thank you, Mr. Chairman.

In 1996, Judge Arbour submitted her report following a commission of inquiry into the events that had taken place at Kingston Prison for Women. She made 14 recommendations. Have they all been implemented?

[*English*]

D/Commr Elizabeth Van Allen: As you know, there were quite a number of recommendations. Although CSC did not accept all of them, the vast majority were supported, and most of them have been implemented.

The nature of some of the recommendations are such that the work will continue to be ongoing. For example, that I explore ways with provinces and territories for cooperation in terms of things like common program delivery or joint staff training and exchange of services agreements is something we'll continue to work on.

We did a ten-year status report that is available—and I could provide it to the group—that clearly outlines every recommendation by number and what progress has been made on that to date, if you'd like a more comprehensive answer.

[Translation]

Mr. Serge Ménard: Later, in 2003, the Canadian Human Rights Commission prepared a report entitled "Protecting Their Rights", in which it conducted a systemic review of human rights in correctional services for women serving federal sentences. The report set out three guiding principles and even made 19 recommendations.

Could you tell us which of those recommendations have been accepted and implemented, and which have been rejected?

[English]

D/Commr Elizabeth Van Allen: CSC accepted most of the recommendations put forth by the CHRC, the Human Rights Commission. We report annually to them on the progress we've made with respect to each recommendation. I've met with CHRC twice in about the last six months.

Some recommendations, not very many, are not fully implemented yet. Work is ongoing to address the three areas that remain.

One important recommendation that's not fully implemented came out of that report, and I would comment on it—the development of the initial security classification scale for women. Part of the delay is that a soundly supported research tool requires that certain numbers of cases be considered, and the small number of women offenders we have coming into our institution necessarily means it will take longer to collect the data and test the prototype. So the work is ongoing with respect to that one.

None of the outstanding recommendations are linked to mental health or addictions. However, in response to certain findings, we continue to make efforts to strengthen the use of section 84 agreements for the supervision of aboriginal women offenders within aboriginal communities. Moreover, certain recommendations that have been enacted, such as the Okimaw Oheci Healing Lodge in Maple Creek, Saskatchewan, have had positive impacts on these subgroups. The ten-year status report that I mentioned has a recommendation-by-recommendation breakdown we can provide to you, should you wish to have more detail with respect to each recommendation.

•(1145)

[Translation]

Mr. Serge Ménard: Now I'd like to hear you talk about Joliette. There was a lot of publicity when Joliette Institution was built. There were a number of articles on the subject, but I must say that, at the time, greater importance was attached to the architectural quality of the prison and to its living quarters. Joliette Institution was established some time ago, and I imagine programs have been established there.

Has this proven to be a positive experience for the women who have been there? And if it is a positive influence, can any lessons be drawn from it as well for the treatment of men?

[English]

D/Commr Elizabeth Van Allen: To note some of the history around women's corrections, there was of course a call for closure of the Prison for Women for many years before it finally took place and we developed the five regional women's institutions. As with anything, there are always some hiccups and challenges along the way when we institute something new. For example, the original vision didn't include a secure area within the institution to manage some of the more challenging inmates who required more structure and supervision; that was something that came later.

But in the end, we have built institutions that are based on the five overarching principles of the task force report, *Creating Choices*, those being empowerment, meaningful and responsible choices, respect and dignity, supportive environment, and shared responsibility. I believe that this was the intent with the institutions, and that's how they're built. It's a communal living style: they live in houses together; they have to learn to get along and support each other. I think for the most part it's a good environment, and it works for women.

[Translation]

Mr. Serge Ménard: My question is a little simpler than that. In a few words, has Joliette been a positive experience? If not, has it not realized the hopes that were placed in it?

[English]

D/Commr Elizabeth Van Allen: I think the opening of the five regional institutions has been a positive experience.

[Translation]

Mr. Serge Ménard: Because you know it had to be defended: in one segment of public opinion, it was considered almost a holiday village.

Mr. Hyppolite, I believe you want to speak.

D/Commr Marc-Arthur Hyppolite: A holiday village: the Correctional Service disagrees with that kind of assessment.

Mr. Serge Ménard: I do as well.

D/Commr Marc-Arthur Hyppolite: As you know, the institutions are built in a way that reflects Canadian values. The principles of our mission are very clear on that point. The concepts of rehabilitation and treatment of offenders are very clear in a country as civilized as ours.

[English]

The Chair: Thank you very much.

Mr. Davies, you may have seven minutes.

Mr. Don Davies (Vancouver Kingsway, NDP): Thank you, Mr. Chairman.

First I'd like to preface my comments by saying that I believe there are some good things going on in our corrections system, and I applaud you for those. I also want to make it clear that I think there are a lot of very good intentions and extremely committed people within our corrections system. I want to be clear on that, because we tend to focus on what's bad, and there are some positive things going on.

Having said that, I think it's more productive for us to focus on where we're falling short. I'm going to give you a couple of quotes from Mr. Sapers' report and ask for your comments. He says:

...I continue to be disappointed by the very slow pace of change and by the lack of real, demonstrable improvements in the delivery and quality of care and services available to offenders with mental disorders. As I have noted before, the problem is not one of poor intentions, but rather capacity of the system to respond, adapt and adjust. The overall situation of offenders with mental health disorders has not significantly improved since my office first reported on this troubling situation back in 2004.

Could I ask for your comment on that? Is Mr. Sapers wrong or right, or what would you have to say?

• (1150)

D/Commr Marc-Arthur Hyppolite: In terms of recognizing that mental health issues are serious challenges for the Correctional Service of Canada, we agree with Mr. Saper on this. Where we disagree is where he says that no progress has been made.

Since 2002 the Correctional Service of Canada has been working very aggressively on a comprehensive mental health strategy, and we are actually in the process of completing the vast majority of the phases of this mental health strategy.

When an offender arrives at an institution, and previously he was self-reporting on the issues, we have instituted a computerized assessment process whereby we can quickly identify the issues of mental health. And from that, the taking charge of that offender occurs. The correctional plan and the healing plan of that person is developed, which identifies what kinds of interventions are required.

Of course we are challenged, particularly in the area of retention and recruitment of mental health professionals. We are developing in terms of human resources a very aggressive recruitment process, but we do have some retention issues. We have enhanced the capacity of the regional treatment centres and we have almost multiplied the number of contracts we have with mental health professionals.

We also engage in many horizontal approaches with our partners and stakeholders. The issue of mental health has been discussed with the head of corrections in territorial governments, for example. We are in a constant search for best practices. The commission for mental health, chaired by—

Mr. Don Davies: Sir, I'm going to interrupt you, because I have limited time. You had a chance to give your speech. I want to focus on certain things.

The problem, sir, is that what you're saying here is not matching the reality of what's happening in prisons. When I go to prisons, and I've been to eight of them in the last two months, I'm told by everybody—inmates, the professionals who work there—that there is not adequate diagnosis or assessment when people are entering prisons. There is not adequate counselling that's going on. In fact, just about every person I talked to said there's almost virtually a

complete absence in our prison system of counselling. People want one-on-one mental health therapeutic counselling on a weekly, bi-weekly, or monthly basis, and they're not getting it.

I'm told there are 40% vacancies in British Columbia for counsellors, occupational therapists, and substance abuse counsellors. That tells me, sir, that despite all the talk and the speaking to people, whatever, on the ground, in our prisons, prisoners are not getting the mental health services delivered to them. What's your comment on that?

D/Commr Marc-Arthur Hyppolite: I would recognize we probably have some challenges in some areas, but I am not aware of any specific offender who's been diagnosed for mental health issues whose needs have not been attended to. Where we do not have, on site, a professional—for example, if someone quits—we have the capacity to recruit people from the community to come in and give the services.

While we could probably improve in many areas, I have to tell you there's a comprehensive service that exists from the beginning of the admission of the offender and then into the community and the continuum of care of that mental offender.

In fact, I can tell you that after the offender has done their time, we have established in the community what we call discharge planning, whereby before the mental offender is released there is a complete strategy, which also includes a circle of support in the community, and the offender is connected to resources in the community that can provide the needs and the services that the offender needs with respect to mental health.

• (1155)

Mr. Don Davies: Okay. I want to now move a little bit to the situation with women. My information is that Canada is one of the only major countries of the world that does not have an official mother-and-child program in our prisons. I'm also told that can be very effective for women in prison. Often the biggest motivation for women is to re-establish connections with their children. I'm told that 28 countries have programs to have kids in prison and that Canada is falling short in that respect.

I wonder if you have any advice or thoughts on that issue.

D/Commr Elizabeth Van Allen: In fact, with respect to a mother-and-child program in our five regional women's facilities, we do have that program. We made a few changes to it about two years ago, but the program is there. It does exist and it's available to women.

Mr. Don Davies: Can I ask you how many children are in that program in the country?

D/Commr Elizabeth Van Allen: I'm only speaking on behalf of the federal offenders. Since its inception, there has never been a large number of women who have taken advantage of the program.

Mr. Don Davies: Can I ask why that is?

D/Commr Elizabeth Van Allen: You can ask, but—

Mr. Don Davies: You don't know?

D/Commr Elizabeth Van Allen: —to be honest with you, I don't know why that is. However, right now—and I can verify this for you—I believe we have only one person participating in the program.

Mr. Don Davies: That's my understanding. In this country, to say we have a program for mothers and children, and to have one child in the country, tells me.... I mean, we're one away from having no program at all. That's something I would suggest we could look at.

I want to talk about segregation quickly.

I'm out of time?

The Chair: You're out of time, sorry.

Ms. Glover, please.

[Translation]

Mrs. Shelly Glover (Saint Boniface, CPC): Welcome to all the witnesses. It's an honour to meet you.

[English]

I'm going to follow on what Mr. Davies brought up, because I am interested in knowing how we are effecting some improvements with relation to women and their children.

I ask if you actively promote the relationship between the female offender and her children outside of the facility. Do you actively promote that?

D/Commr Elizabeth Van Allen: We offer programs with respect to parenting for the women. The whole decision around whether or not the child remains with the mother is based on what's in the best interest of the child. The community is involved in the entire process when making that decision; it's not only the CSC. The provincial child services people are involved in making an assessment, are involved in that decision, and it is taken into consideration when a decision is made. Obviously, we want to encourage that relationship between a mother and her child.

With some of the announced changes that were made to the program a couple of years ago.... Perhaps CSC could do a better job of speaking out to the institutions in terms of making sure everybody understands that the program is alive and is there, is available to women offenders who have come into custody with children, and that program is available.

Mrs. Shelly Glover: That's good to hear. I know for a fact it is encouraged, simply because my mother worked her entire career in a correctional facility.

I am also glad you brought up the fact that the interests of the child must be considered. Without that piece of it, we don't see a full picture. We could, in fact, be placing children at risk if it is not part of the assessment program. So thank you for clarifying that.

I also want to touch on what you said in your dissertation about maintenance programs in the community, because we all know that as long as they are receiving treatment and they're receiving programming in institutions.... What happens when they leave the institution? Recidivism, falling back into addiction, and those kinds of situations do happen. What maintenance programs do you have, since you touched on it in your speech?

D/Commr Elizabeth Van Allen: The thing about programs in the community is.... The challenge with women offenders, of course, is that they're geographically dispersed and their numbers are smaller. It presents greater challenges for us.

We have a maintenance program with respect to substance abuse that we can deliver to the women in the community. We try to deliver it in smaller numbers, if that's what the requirement takes. We also try to work with our partners in the community to get the services that our women need.

• (1200)

Mrs. Shelly Glover: Which partners?

D/Commr Elizabeth Van Allen: Partners like the Elizabeth Fry Society, the John Howard Society, and then we try to hook them up with the services that exist in the communities as well.

Mrs. Shelly Glover: What about mental health partners?

D/Commr Elizabeth Van Allen: That's a big part of discharge planning with our offenders, when they're in an institution, to try to work with....

With some of our challenging cases, the institution in fact works closely with the parole staff who are preparing for an offender to return to the community, determining the needs of that particular offender and what's required in the community, and putting in place the appropriate service and support for that offender. Where we can, we work with our partners and rely on them.

In fact, there was one very recent challenging case in which we were able to put together a very good plan of support for the offender and work closely with the Elizabeth Fry people to help the woman return to the community. I'm pleased to say that she successfully remains in the community, but it's not without challenges, of course.

Mrs. Shelly Glover: Go ahead, Mr. Hyppolite.

D/Commr Marc-Arthur Hyppolite: Let me be very specific with respect to the community mental health services that are provided. I can tell you specifically, approximately 50 new positions were created in support of the community mental health services—30 in the community at 16 separate parole offices. In addition to that, there were 14 new positions to provide discharge planning services for offenders in institutions, and five regional coordinator positions were created to coordinate the release of these offenders into the community.

That is specifically in response to the question by Mr. Don Davies.

As of March 31, 2009, 97% of the front-line positions in the mental health strategy were filled, so when there is an anecdotal story that there are no positions, no services.... A total of 471 referrals were made for clinical discharge planning services, and 540 referrals were made for community mental health specialist services, for a total of 923 individual offenders who were referred—88 were referred to both services. We are talking about a total of 923 offenders since we put that community mental health strategy in place. I could go on.

I can also tell you, out of the 52 sites, 43 contracts have been signed to provide for where we identified gaps, and that also includes fetal alcohol spectrum disorder. May I add that quite a number of our staff, especially correctional officials—we start with the managers, in terms of our training plan—who now interact with offenders with mental health issues are also being trained. I believe the last time I checked the numbers—which I can verify—1,600 of them had been trained.

Mrs. Shelly Glover: Very good.

Do I have a little bit of time left, Mr. Chair?

The Chair: You have less than half a minute.

Mrs. Shelly Glover: I want to touch on the aboriginal culture and traditional teachings. I was very pleased to hear that you are doing more in that venue. I've had personal experiences with aboriginal people who really do feel a sense of belonging and openness when they are allowed to practise those teachings. So I congratulate you for that, and I hope that also follows in the community maintenance, because they are introduced to elders in the correctional facilities, and I certainly hope they are encouraged to continue those relationships outside.

You do make a comment that's interesting in your dissertation, Ms. Van Allen, that we are seeing women serving much shorter sentences. Can you explain that comment?

D/Commr Elizabeth Van Allen: I believe 61% of the women coming into our institutions now are serving much shorter sentences, less than four years, so that means we have less time to work with them inside to prepare them for their return to the community. It's another challenge that we face.

Mrs. Shelly Glover: Is that because of the types of offences or...? Have you any insight into that?

•(1205)

D/Commr Elizabeth Van Allen: Unfortunately, no. We could do some digging to look and see, but the sentences are shorter coming in. That's what we're seeing now.

Mrs. Shelly Glover: Thanks.

The Chair: We'll have to wrap it up there. Thank you.

Mr. Oliphant, then Mr. Norlock.

Mr. Robert Oliphant (Don Valley West, Lib.): Thank you to all of you.

Mr. Don Davies: Mr. Chairman, I have a point of order.

I just want to be clear on this so that we manage our schedule properly. According to the schedule you've given, these witnesses are here from eleven to twelve, and from twelve to one we are to move to the next two witnesses. I'm just wondering how we plan on managing that.

The Chair: That's a good question. I'm at the will of the committee. We started maybe 15 minutes late, because the group that was in this room did not vacate it in time. I was going to split that time in half, allow these people to go a little bit beyond twelve o'clock, and then because we're here for three hours, we could let the next group go just a little bit beyond one o'clock.

Is that okay? Would you prefer to break now?

Mr. Don Davies: My suggestion would be that we give the full hour to these witnesses and the full hour to the next witnesses. Where we would take off the time would be in the last hour, which is optional, for the SOIRA. I'd rather hear from the witnesses.

How is that? We could have a full hour for each of the witnesses.

The Chair: So you want to go to about a quarter after?

Mr. Don Davies: Yes, on the condition that we spend an hour on the next one.

The Chair: Okay.

Mr. Don Davies: I think we could probably proceed with SOIRA.

The Chair: Is that okay with the committee?

Some hon. members: Agreed.

The Chair: All right.

Mr. Oliphant.

Mr. Robert Oliphant: Thank you all for the important work you do. I have a little less thanks, though, for the spirited defence of the status quo. I think that's good and loyal. But I don't think Commissioner Head is as committed to the status quo as you have been today. I can understand this, given the clippings I read this morning about new civil servants having to sign on to the government's economic action plan. You need to know you have permission to help us make the system work better. That's what we're about.

Ms. Van Allen, at the end of your statement you said you still had work to do. I would like to focus on the work we still have before us. It might be capacity with respect to diagnosis or physical infrastructure. It might be staffing problems—bringing in the appropriate culturally sensitive and professionally trained staff. Or it might be a problem with the take-up of the programs by incarcerated people. The time is yours. We need your expertise to help us to do our work better.

D/Commr Elizabeth Van Allen: We have a challenge with our infrastructure's capacity to deal with our mental health offenders. For our women in minimum and medium security, we have a good program in place. Our structured living environments work well, and we've been commended for them. In fact, a recent review panel commented on the SLEs, as did Constance Glube in her assessment of CSC. That's working very well.

It's more difficult when we have to deal with women who have behavioural challenges stemming from more complex mental health needs. Unfortunately, working with these women requires a more secure environment. We have five regional facilities. The secure units are relatively small, and that poses challenges. That's an area we will have to work on in the coming years

Mr. Robert Oliphant: I don't want to interrupt, but I will. It seems to me these are not mutually exclusive. Behavioural issues are very often, if not almost always, related to mental health. This is the crux of what we're trying to do here. We want to have a facility that provides treatment but is safe for correctional officers and the community. Do we have insights on that?

D/Commr Elizabeth Van Allen: This is an area we've been looking at since I've come to this position. We've done assessments of some of the infrastructure requirements in connection with the types of women we're having to work with and the challenges they present. We'll have to work through the normal Treasury Board processes to move some of our ideas forward.

• (1210)

D/Commr Marc-Arthur Hyppolite: We have challenges to work with in improving the system. We're not going to sit here and say we don't have challenges and everything is great. As to mental health, there are a series of things we're concerned with. We're sharing best practices with specialized agencies and the community. There's a component of our mental health strategy that has not been funded. We've been funding it internally. We are trying to secure permanent funding after March 2010 for our community mental health initiative. This has to do with intermediate mental health care, which is necessary when somebody is suffering from mental health issues that are not acute but require support. We want to be able to create supportive units that will provide immediate care to these people. This is not funded, and we'd like secure funding for it. We also need to improve our capacity to diagnose, in the interest of gaining a better understanding of the prevalence of mental health disorders.

Moreover, we are limited by a severe shortage of equipment and mental health staff such as psychologists and nurses. It's a major issue for us in some parts of the country, particularly in areas such as Grande Cache, Alberta, and Port-Cartier, Quebec.

Mr. Robert Oliphant: Will more people in jails due to mandatory minimums, etc., help or hinder the situation?

The Chair: Go ahead. Just a brief response.

D/Commr Marc-Arthur Hyppolite: It would present additional challenges. Obviously we would have to enhance our capacity to address those needs based on the demands we identify through assessment and identification indices after the intake assessment. The computerized assessment tools will help us do the screening too.

The Chair: Thank you.

Mr. Norlock, please, for five minutes. Then Ms. Mourani has made a request to ask questions also.

Mr. Rick Norlock: Thank you very much, Mr. Chair. I'll refrain from any cheap political shots.

I'd like to ask a couple of questions.

The first question will be to Mr. Hyppolite. I don't want to call it the typical profile, because that's not where I'm going, but would I not be correct that generally speaking the federal correctional institutions are about the last stop for many of these people? In other words, they began with treatment programs in the community, whether it be AA or addictions. Then, through some issues at the school they may have received family counselling. Then if they are generally engaged in criminal activity, they would go on to a provincial institution, because the offences may be a first offence, second offence, maybe more minor in nature. The federal corrections are about the last stop. Would that be a fair assessment, or are there some other types of profile there?

D/Commr Marc-Arthur Hyppolite: To illustrate what you said, if we take aboriginal offenders, for example, basically we are at the receiving end of the issue. Most of the issues are not only multi-faceted—*multidimensionnel, comme on dit en français*—but they are also very complex. They are societal issues that require a concerted effort.

We usually receive the offender with a multiplicity of issues. You have issues of under-employment and low levels of education. Sometimes there is a social history that includes sexual abuse, domestic violence, substance abuse issues. You have issues of mental health, PTSD. And now it is further complicated by the proliferation of gangs. Many in this community are diverted by the influence of gangs.

When we receive these individuals in our system, we have to compose a multi-disciplinary team to develop the proper correctional planning and interventions to address the needs of the offender. It's not only done within the institutional setting, it's done as part of a continuum of care when they return to the community as well. We have demonstrated that the more we program them in the community, the less likely they are to reoffend and return to our system.

In addition to many of the interventions we have, we provide eight core correctional programs for aboriginal offenders. These include a basic healing program; living skills; circle of change; a high-intensity aboriginal family program, In Search of Your Warrior, which is a violence prevention program; and Spirit of the Warrior, which is a violence and addictions program, as well. We have a program for sex offenders that is related to the Inuit; an aboriginal offender substance abuse program, which is an addictions program specifically designed and culturally sensitive to aboriginals; and an aboriginal women's maintenance program, which is an after-care program in the community.

•(1215)

Mr. Rick Norlock: Are the programs you are referring to delivered under the Pathways program? Having visited it, I know the prison in my area has just built a separate unit specifically for first nations people. I'm referring to Warkworth Institution. I'm advised it is beginning to have the largest number of aboriginal Canadians there. I was there for the opening, and of course some of the local chiefs and elders from the various first nations territories around the prison were there.

I wonder if Ms. Allgaier could talk about whether there is a Pathways program, and does it encompass all of that?

The Vice-Chair (Mr. Mark Holland): There's time for about a 30-second response.

Ms. Lisa Allgaier: I'll be fast.

Pathways, just for clarification, isn't a program; it's an intervention. The programs Mr. Hyppolite just mentioned are actual correctional programs that are part of Correctional Service programs or a healing plan. The Pathways units were established very quickly, largely but not only for aboriginal offenders who wish to follow aboriginal healing to address their issues—mental health, addictions, and other historical or family issues—more intensively. Pathways unit is a place where it's intended to offer far more intensive healing and intervention for a number of offenders. There is one at Warkworth as well as at a number of other institutions.

The Vice-Chair (Mr. Mark Holland): Thank you.

Now it's Madame Mourani, for *cinq minutes, s'il vous plait*.

[Translation]

Mrs. Maria Mourani: Thank you, Mr. Chairman.

Good morning, everyone, and thank you for being here.

Mr. Hyppolite, you talked about programs. The Correctional Service invests 2% of its budget in programs. I would like you to tell me about the waiting times by program and by institution as well as inmate access to those programs. If you don't have the figures with you, I would like you to forward them to the committee later.

D/Commr Marc-Arthur Hyppolite: I promise to provide you with the details on waiting times by institution and by program.

•(1220)

Mrs. Maria Mourani: I'd also like to have the figures for women and for men.

D/Commr Marc-Arthur Hyppolite: In its two-year reintegration plan, the Correctional Service acknowledges the utility and essential nature of programs. When an inmate arrives at intake, he is taken in and an intake assessment is conducted. That inmate's needs are evaluated in "criminogenic" terms and in terms of employment. A correctional plan is then developed, and that's when the necessary referrals are made.

Mrs. Maria Mourani: I'm very familiar with the process.

D/Commr Marc-Arthur Hyppolite: Of course there are more requests than what we can offer.

Mrs. Maria Mourani: Knowing that there are a lot of requests and that programs are essential, why invest only 2% of your budget? Those programs are part of the CSC's mission. Why not invest 5%,

10% or 20% in programs, particularly since you say there is a shortage of professionals.

D/Commr Marc-Arthur Hyppolite: The largest part of the Correctional Service's budget goes to fixed costs.

Mrs. Maria Mourani: It goes to security.

D/Commr Marc-Arthur Hyppolite: We've made submissions to the Treasury Board and, under the transformation agenda, received additional funding that we've just reinvested in programs. Our three-year plan has just been approved about two months ago. We intend to invest more, up to \$5 million next year and \$5 million the following year. We have up to three years to invest directly in programs, including employment. We've just developed an employment strategy for inmates and aboriginal offenders.

In the transformation context, we've just restructured the architecture of our program. We've just done what we call an integrated correctional program. It's a program intended for everyone, but if an offender, for one reason or another, has not finished his program and is transferred to another institution, the modules he has not completed can follow him. That will lower the drop-out rate and increase the percentage of people who complete their programs, as well as our ability to offer the program to a much larger number of individuals requesting it. We're currently carrying out a pilot project in the Pacific Region to validate this new program, which is complete and comprehensive, and which is intended for everyone.

Mrs. Maria Mourani: Let's take, for example, the Regional Mental Health Centre, the RMHC. Inmates can come from other penitentiaries across the country. They are assessed and transferred to treatment wings. When treatment is completed, the inmate is placed in a transfer wing before returning to his or her initial penitentiary.

How much time elapses between the transfer of inmates to a transfer wing, where they receive no programs, and the moment they return to their initial penitentiary, whether it be the RMHCs or all the correctional centres of that kind in Canada? I'd like you to submit a document on that.

D/Commr Marc-Arthur Hyppolite: Yes, I can provide that document to you. That's not a problem.

However, you should know that, in the mental health treatment centres, there is an institutional head who manages the institution and, at the same time, a clinical director. When the doctor treating the individual refers that individual to the centre, the two heads must talk to each other, and the admission must be done by the clinical director of that centre.

This requires a great deal of mobility and speed. I imagine a bed must be ready and a treatment plan also has to be developed. So, clinically, it's not complicated, but it's at least complex.

Mrs. Maria Mourani: I'm going to tell you why I'm asking these questions.

It has been brought to my attention that these inmates sometimes stay in these transfer wings for a very long time, not necessarily for clinical reasons. Instead it's because they're not wanted in their initial penitentiaries or because the presence of certain inmates in transfer wings must be justified from a capacity standpoint.

I would also like to understand why inmates can sometimes stay in transfer wings for a year without being able to take any programs. I would like that to be explained to me, because if two heads have to talk to each other and it takes them a year to do that, something is very definitely wrong, I can tell you that. Oh, oh!

D/Commr Marc-Arthur Hyppolite: If patients stay in transfer wings for a long time because no one wants them, that's unacceptable.

However, you should know that, under the policy, it is the referring institutional head who has the last word when a transfer is made. The fact that the other person is less open and receptive does not necessarily mean that the final decision of the transferring head can't be made, obviously, in a secure manner for the institution, employees and other inmates. If an inmate presents a risk that is beyond people's ability to manage that risk, they will be obviously acting with a great deal of precaution. It's not necessarily... [*Editor's note: inaudible*].

[*English*]

The Chair: Thank you.

We have to wind it up here. I would like to thank our witnesses for coming.

• (1225)

[*Translation*]

Mrs. Maria Mourani: Thank you, Mr. Hyppolite.

Mr. Chairman, I would like Mr. Hyppolite to submit two documents that I mentioned earlier. I would also like him to submit a document on the manner in which persons with disabilities and autistic individuals are managed at CSC. I would like that document to be brought to our attention in view of the fact that these kinds of individuals may wind up in the correctional system. These are very special individuals who must not necessarily be confused with those who have mental health problems.

In any case, I would like someone to explain to me a little how the CSC manages that.

[*English*]

The Chair: Make that request to him and he can try to supply it to the committee.

[*Translation*]

D/Commr Marc-Arthur Hyppolite: That's the third request?

Would you restate the request?

Mrs. Maria Mourani: Yes, absolutely.

I would like to know how the Correctional Service manages, in its penitentiaries, individuals with severe cognitive impairments—or simply individuals who have disabilities—identified as such and autistic individuals.

D/Commr Marc-Arthur Hyppolite: All right. You want to have a document on that?

Mrs. Maria Mourani: That's correct.

[*English*]

The Chair: We'll suspend for a moment.

Thank you.

• (1225)

_____ (Pause) _____

• (1225)

The Chair: We're pleased to have with us Dr. Peter Ford, physician, appearing as an individual; and the Canadian Association of Elizabeth Fry Societies, represented by Ms. Kim Pate.

We welcome you to our committee. We're afraid we're going to be pressed for time. You will probably not have nearly as much time as we originally thought. We're going to have to compress the proceedings, as we have a bill to deal with.

Dr. Ford, please begin.

Dr. Peter Ford (Physician, As an Individual): My name is Peter Ford. I am a physician recently retired from the department of medicine at Queen's.

For the past quarter of a century I have been looking after patients with HIV and associated diseases. Also for about a quarter of a century I have been looking after federal prisoners with HIV, which I do by going into the prisons on a regular basis.

At any one time I have 35 to 50 patients in the eastern Ontario area with HIV. Ninety-five percent of these have hepatitis C, which is, in this particular context, a marker of intravenous drug use.

Because of this high prevalence of hepatitis C in the HIV population, we did some studies back in the nineties—the first one was in 1994—to see what the prevalence of HIV and hepatitis C was in the institutions generally. We looked at a medium security institution in the Kingston area and did an anonymous study, which showed us that 28% of the inmates had hepatitis C and 1% had HIV.

We repeated that study in 1998, by which time 33% of the inmates had hepatitis C and 2% had HIV. With the second study we did a detailed questionnaire, which could be linked to the blood samples anonymously. What we discovered was that almost everybody who had hepatitis C had a history of intravenous drug use. The people who gave a history of sharing injection equipment had the highest incidence of hepatitis C. But the most alarming thing that came out of that study was that there was a group of people who had not injected outside prison but had shared injection equipment in prison, and two-thirds of these people were positive for hepatitis C.

So what we're looking at is a problem with a communicable blood-borne disease, which is being imported into the prisons and is proliferating within the prisons. That has some very serious public health overtones, because these folks are going to get out and they're going to go on doing what got them infected in the first place. In addition, hepatitis C can be spread by sexual transmission—just under 10% is spread by sexual transmission—so the risk is going to move beyond the intravenous drug users to their sexual partners.

The long-term health costs of this are very considerable. It costs about \$20,000 to treat somebody with hepatitis C. The treatment is not always successful. The treatment is not always possible because the patients don't identify themselves or because they're not suitable for treatment—and there are some reasons why people do not get treated.

The end product of hepatitis C is liver failure. Liver transplantation due to liver failure from hepatitis C is now the largest cause of liver transplantation in North America, and we're only in the early stages of this epidemic. The epidemic of hepatitis C infection has blossomed with the increase in intravenous drug use, but it takes 20 years to get to end-stage liver failure. So the big bulk of this problem is not going to arrive for quite some time yet.

Corrections is going to find itself looking after people with terminal liver failure, and this is a very expensive prospect. As a physician, I am very concerned about the amount of hepatitis C, and to some extent HIV, that is related to intravenous drug use in our institutions.

I have brought with me something that can be passed around, but if it is going to be passed around I would really asked that you don't open this container. This contains a syringe that was brought into our clinic in Kingston by a very frightened guard who had just stuck himself on it while doing a cell search. This syringe was probably the only syringe on the range from which it came. It's probably been used by at least 10 to 15 different people, several of whom would have been infected with hepatitis C and some of whom would have been infected with HIV.

• (1230)

You will see that this syringe, which is made from a ballpoint pen, tape, and a needle that probably came from an insulin syringe, is dirty. It's not possible to clean it. There is no way you can clean this syringe, even with the best intentions. These syringes are not only responsible for transmission of hepatitis C, HIV, and hepatitis B, but they are also responsible for a large number of rather nasty injection site abscesses that I see in the course of my work in the prison. I think this is a problem that also needs to be addressed.

Thank you, sir.

The Chair: Thank you very much.

Dr. Peter Ford: I don't know whether you want me to pass this around.

The Chair: Does the committee want this passed around? If you'd like to see it, maybe you could go over to that corner.

Ms. Pate, please go ahead.

Ms. Kim Pate (Executive Director, Canadian Association of Elizabeth Fry Societies): I want to thank you for inviting us here. I also want to bring regrets from my president, Lucie Joncas, who had hoped to attend, but I think it's in part a reflection of the volume of what's coming before us that she was not able to.

One of the things I'd like to start with was also one of the questions posed to the Correctional Service of Canada in the last session. One of the reasons that women are the fastest-growing prison population also relates to this increase in more federally sentenced women serving shorter sentences, and it is in fact going to

get worse, I would suggest, especially with the recent passage of Bill C-25.

One of the reasons we're seeing this is that with the cutbacks to social services, health care, and educational services in the community, those who are most marginalized and most dependent on those services are more likely to fall through the cracks and end up being criminalized and ultimately institutionalized, as there are fewer options, fewer places to go to for services, fewer places to get the assistance they require. We're actually seeing individuals coming in and asking for sentences under the real and well-intentioned assumption or belief—by crown counsel, by defence counsel, by the individuals themselves—that they'll actually be able to access more programs and services in the federal system.

Our federal prison system is likely the best in the world. We say that without necessarily having a great deal of pride in that right now, because it is not very good at this stage. In fact, there are many deficits, and I'd like to speak to some of those. Some of them have already been spoken to. You have copies, I'm sure, of the recent report of the correctional investigator that was tabled by the Minister of Public Safety last week. I'm also aware that you're familiar with the reports into the death of Ashley Smith and other Office of the Correctional Investigator reports.

I was just at the RPC in Saskatchewan yesterday, the regional psychiatric centre, about which you heard. It's always interesting to me to hear the descriptions of these institutions from the perspective of those who have a responsibility to uphold the work that they do as part of the Correctional Service of Canada, and to uphold the policy. I would suggest to you, though, that the reality belies the representations that you heard, not because there aren't well-intentioned people—there are very many good people working within the corrections system—but increasingly because they are unable to actually talk about what's really happening in the system.

When I was in the regional psychiatric centre, I saw women in what was described to you as intensive psychiatric care. Intensive psychiatric care is essentially segregation, with chemical restraints in addition to the mechanical restraints and the uses of force that you've heard about and seen chronicled in various reports. I was looking into the treatment that was used with people like Ashley Smith. You'll pardon me, but I'm using that example because there have been so many publicly discussed descriptions of her treatment that it probably will generate some images that you're able to link this to.

The only difference I saw in the treatment of the women compared to the last time I was there was that women are now less likely to be in security gowns unless they're actively suicidal. If they're self-harming, they may instead be in institutional sweats. When you're visiting that institution, that's what you'll likely see, if indeed you meet with the women there—and some of them are interested in meeting with you; you need to know that.

Also, although we are repeatedly advised that the prisoners there are treated as patients, when I was at the courthouse where the corrections supervisor who has been charged with assaulting Ashley Smith is facing those charges and is now on trial as I speak, successive staff talked about the fact that even for nursing staff and mental health staff within a psychiatric hospital that is also duly designated as a penitentiary, the priority issue is security, not the treatment needs of the individuals who are there.

Even though that is not the law and is not the policy, it is the perception of the staff who were testifying, who presumably were also prepared for that testimony. To them, in fact, the priority issue is security. When you look at issues of mental health as you're going around the institutions, I would suggest that you ask questions of all of those programs you heard about. They are very good programs, and some of them are excellent programs, but ask how often they are offered and how many people have been through those programs recently. Are they operating currently? How many people in the last year have been through those programs? What is the duration of those programs? How long have they been fully staffed?

A benefit of this committee is in fact that there has been an increase in resources going into those areas over the past few months. It's a credit to all of you that you're doing this work, because in fact there are individuals who are benefiting.

● (1235)

There are individual women who have been released, and I'll talk a bit about some of those cases in a minute. They were also alluded to by the previous speaker.

I also want to say that I disagree, however, with the notion that we need to improve the mental health strategies within the prisons, for the very reason I just spoke about. I think it will be very difficult to improve mental health services in the prisons. The women's prisons have the best mental health resources in the country, and yet in the special living environments—or they may be called something else now—the mental health units that were just described to you are essentially for those who have intellectual disabilities or less severe mental health issues.

The women with the most significant mental health issues, as I sit here today, are still the women who are in segregation units, are still the women who are self-harming and are experiencing the response to their self-harm as punitive responses, whether or not that's the intention of staff. I agree that in fact for many staff it is not their intention; however, that's how it's experienced by the individual women. And if they try to speak out or grieve those situations using the mechanisms available, they are often encouraged to remove the grievances or not follow through on them. You just need to look at the reports into Ashley Smith's death to have an excellent chronicling of how this occurs and how those responses are systematically not an effective way to deal with either individual issues or systemic issues.

I also want to ensure that you are aware that, as we try to raise some of these issues, we have some very real difficulty in being able to gain access. We are in discussions right now. We have been denied access to segregation units. Concerning the very areas we have documented over the years with the correctional investigator and others, or have asked the correctional investigator to examine after

we have identified issues in set areas, whether it be concerning the Prison for Women in 1994, or Ashley Smith recently, or other women now who are in those areas, one of the responses has been that we may not be allowed access any more.

We have been denied access; it is unclear right now what the official position is. The last letter I have from the Commissioner of Corrections said that we were not permitted to go into segregation units. Since that time, in discussions with the commissioner we've been advised that it will be at the warden's discretion. I've been allowed into one of the units and not allowed into another.

So I encourage you also to ask those questions—of who is monitoring what's happening—and as you're examining this issue, to really focus on the recommendations made by Louise Arbour, by the Human Rights Commission, by the Office of the Correctional Investigator, and by Corrections Canada's own task force on the use of segregation, which recommended limits to the use of segregation and changes to the classification. Even though there's a new classification scheme, it is still predominantly the needs of women—and of men, I would suggest—that are translated into risk factors that allow them to be classified as requiring higher security, allow them to be kept in segregation.

And I can't stress sufficiently the need for external oversight of corrections. Even though the Privacy Commissioner has ruled that we should have access to the records of Ashley Smith, we still don't have them, so I can't tell you some of the things that I'm pretty certain existed and happened, based on what she told me and what other prisoners told me and what staff have told me.

I also want to reiterate something that I have said to a number of you in other committees and other contexts, which is that we are increasingly being asked by the Correctional Service of Canada itself—not officially, but by corrections staff—to take on these issues in courts and with human rights complaints in various other venues, because people are feeling impotent within. People feel that they can't speak out about the very real issues of the limits being placed upon them.

There are examples of very positive things that have happened. I was going to give you a list of 15 women whose cases.... I won't do that, because I see the chair shaking his head.

I will tell you about the one alluded to by Ms. Van Allen, the deputy commissioner for women. She talked about the very good progress that has happened with a woman who was released recently after being in segregation. Let me tell you, that was one of the examples of people coming to us asking us to push at every level we could to have this woman out. I'm very pleased that Corrections Canada and the National Parole Board saw fit to release this woman. I'm very pleased to tell you that I've now seen her three times in the community. She's doing very well; she's in her own place; she's working; she's blossoming. People from Corrections whom I introduced her to last week, when I was at a conference and invited her to come and have lunch with us, did not recognize her, three months after she was out of that segregation cell. That should tell you something about the difference in her mental health, just being free. I use "free" loosely, because she's under supervision; but being in the community, having some support, having a place to live, having something to do, and having community support around her.

Let me also tell you—I have yet to have this confirmed, although I've requested the information—that it cost, I'm told, \$2 million to keep that woman in the conditions she was in in prison, just for overtime, and there is something on the order of \$10,000 per year being spent on that kind of support in the community.

• (1240)

I would strongly urge that when you're looking at these issues you examine ways in which the resources can be developed in the community, not within the prison, so that individuals can go into the community for those services. From day one of a sentence, for health reasons people can go into the community and access services.

I understand that we need to move to questions now. I look forward to those questions.

The Chair: I'm going to have to limit every party to one round. There will be seven minutes for the Bloc, the NDP, and so on, and then we'll have to wrap it up there. I'll be very strict on the seven minutes.

• (1245)

Mr. Don Davies: Mr. Chairman, I have a point of order and an objection to that.

In the last hour I very clearly raised this issue. I said that we would agree to go over on the previous witnesses on the condition that we have the full hour for these witnesses. My understanding was that it was accepted.

The Chair: But then you accepted the fact that Ms. Mourani used her turn in the last round. She said that clearly. So we're going to cut this round off seven and a half minutes earlier.

Is there any other solution to this?

Mr. Mark Holland: If we do the math on this, it should all make sense.

The first question is, when did we start?

The Chair: It was at 11:15.

Mr. Mark Holland: I think it was more like 11:20.

The Chair: No, we started, actually, at 11:14 and some seconds afterwards. Then we dealt with some business. We started at about fourteen and a half minutes after 11:00 or something like that.

What's your point?

Mr. Mark Holland: We had agreed to go to a quarter after. I think that's when we—

The Chair: We will. One round will take us to that point.

Mr. Mark Holland: That's fine.

The Chair: Go ahead.

Mr. Mark Holland: Thank you, Mr. Chair, and I thank the witnesses.

Time is limited, and there's a lot of ground to cover.

First, Dr. Ford, I share your concerns around the rates of infectious disease in our prison system. I'm wondering specifically whether you have any information on the impact the government's strategy of zero tolerance towards drugs has had on infectious disease. We know that millions of dollars have been spent, which random testing has shown have had no impact on the use of drugs in prisons. In some cases it has gone down 1%; in other cases, it has shown drug use up 1%.

What I'm hearing anecdotally is that the strategy has had a major impact on the rate of infectious disease; people are using dirtier needles and methods of getting drugs. That creates a huge health concern, and not just in the prison population. I think sometimes we don't consider that over 90% of inmates then come out, and that this creates a major health issue for the population more generally.

Do you have any specific figures on the impact this government's strategy is having in relation to infectious disease?

Dr. Peter Ford: These are hard figures to get. We were planning to do another study in 2002 of the same sort in a medium-security prison and were within two days of starting when Corrections shut us down and wouldn't let us do it. What I can tell you is that in 1994 we did a study, and 12% of inmates said they had injected during the course of their prison sentence. In 1998 we asked the same question, and the figure had gone up to 25%.

We think, and I think Corrections agrees, that part of the problem was the random drug screening that was introduced. That meant it was impossible for people to smoke marijuana and get away with it, because it kicks around in the urine for up to two weeks after use, whereas cocaine is gone within a few hours, and so is most of the metabolite of heroin. So there are some maneuvers that clearly have increased risk in the prisons in a rather indirect sort of way.

The other thing that increases harm is cell searches that remove the few syringes there are. Sometimes two or three ranges are using the same syringe, which may be hidden behind a brick in the shower area. So there are major problems.

Are people injecting more? I don't know that, but I'm certainly not seeing any less communicable disease.

Mr. Mark Holland: I think it's disgraceful that this was shut down, because the reality is that we have to get at this. I think we have a massive problem with infectious disease in our prisons. The reality is that those problems then spill into the general population. I think people deserve honest answers, particularly when the actual use of drugs is either unchanged or when, as I've said, in one instance random testing has shown it has gone up.

Ms. Pate, we had Mr. Jones before committee. He was echoing many of the concerns we heard from the Correctional Investigator, from Madam Arbour, and many others. He gave us a quote that said the direction the government is heading in with respect to its crime agenda and corrections "contradicts evidence, logic, effectiveness, history, justice, and humanity". He essentially was saying the same things that Jackson and Stewart said, that we're heading to the American disaster. Would you agree that this is the trajectory we're headed along right now?

• (1250)

Ms. Kim Pate: Yes, I would. And if the committee doesn't already have a copy of the report that Human Rights Watch International did—and it's five years old, I think, now—where they talked about the number of people with mental health issues being higher in prisons than in any mental health institutions in the United States, it would be very useful, because I think a lot of these issues are also canvassed there, in addition to the excellent report done by Michael Jackson and Graham Stewart.

Mr. Mark Holland: Now, you also referenced in your comments the problems we have getting public answers to what happened with Ashley Smith, the correctional investigator expressing real frustration with the lack of action that has been taken.

Would you agree with his conclusion that the changes that need to be made in the wake of what happened with Ashley, and the lessons that should have been learned there, haven't happened, and that in fact we're seeing similar cases to what happened to Ashley play out in our prison system and we can expect similar tragedies if action isn't taken?

Ms. Kim Pate: I do agree with that. Yesterday I saw two of those women. In fact, the woman who I mentioned would be another one of those women had she not been released earlier in the summer. And there are other women, as well, who I mentioned. So I'm very happy, if there's an opportunity, to provide more details about some of those women.

We have had a few cases we've been able to try to get close to court. And very positive for those women, their situations have changed, but there's always someone else who can come in and end up in that same position, unfortunately.

So yes, we need broader-based systemic change, which can be achieved by looking at some individual accountability mechanisms. The correctional investigator talked about getting rid of the management protocol, which is something this committee should look at as well. It's a super-max designation. The women in those categories are all aboriginal women right now, and they're women with significant mental health issues. So I think we need to be examining the interplay between the translation of needs into risk factors.

Also, looking at and examining Ashley's case, I have been told by people both within and outside of corrections who have examined her situation—not just within the federal sphere—that every single incident where she acted outwardly in a threatening way towards staff was something that was predictable and provoked, despite the official position as put forth. In fact, there were very real periods of time when there weren't outbreaks, but that's not what gets documented in files. Most of the files document everything negative that happens within the prison for an individual prisoner.

Mr. Mark Holland: You indicated those examples and that you might be able to provide them to committee. I think that would be very helpful.

The last question, because I think it may be the only question I have left to be able to ask, is about the recommendations of Madame Arbour. The correctional investigator has been very critical of Correctional Services of Canada for not implementing a number of them, but one specifically is giving the deputy commissioner for women full and direct authority for all matters affecting female prisoners.

You heard the comments from the department officials with Correctional Services of Canada saying they don't agree with the correctional investigator. What would your response to that be? Do you agree that Madame Arbour's recommendations in that regard are important? What is your response to the department response today?

Ms. Kim Pate: Yes, we do agree with the recommendation of Madame Arbour. In fact we, the correctional investigator, and a number of other groups at the Arbour commission recommended a completely separate system because of the manner in which male corrections influences negatively what happens with women. In fact one of the challenges in Ashley's case and all of these other cases is that who is responsible, ultimately, is often a very difficult piece to pin down. It could be the warden, it could be someone in the community, it could be the regional deputy commissioner, it could be a policy decision that's being encouraged from national headquarters, and sometimes it's all of those. So it's very difficult to determine. It's easier then to defray responsibility, but it's very difficult to have the kind of accountability and sentence management that we need to have.

Thank you.

The Chair: Thank you very much.

Monsieur Ménard, you're giving your time to Ms. Mourani.

Ms. Mourani, please, go ahead.

[Translation]

Mrs. Maria Mourani: Thank you, Mr. Chairman.

Good afternoon. Thank you for being here and for helping us with this study. I have a question for Ms. Pate.

I'll summarize what you said: the correctional institutions, the penitentiaries, are not really places where individuals with mental health problems can be managed. The Correctional Service, it has to be admitted, is really based on risk management.

In your opinion, are the psychiatric hospitals of the various provinces able to manage the risk that a person who has a mental health problem and who is a criminal may present? Do they very readily do that, currently, in the case of former inmates, perhaps? Ultimately, could the 20% who are in the correctional system and who are identified as very ill simply be managed in psychiatric hospitals?

• (1255)

[English]

Ms. Kim Pate: It would be my opinion, yes, that they could. The law currently, as it exists, the Corrections and Conditional Release Act, would allow that.

In fact, Corrections routinely sends individuals to psychiatric institutions in jurisdictions. The obvious one people know about and was discussed is the Phillippe Pinel Institute, which has a separate unit. In addition, though, in this region, St. Thomas has been used. Other hospitals have been used. Portions of Kingston General have been used. It depends on the institution, but most of the provinces and territories—not all the territories—have locked forensic units.

Although those sometimes aren't the greatest places, because of the limited resources, in my experience, the reality is that every single prisoner, to a person, who has gone from a prison segregation cell to a forensic unit, even if it's a locked forensic unit, even if it's the most secure forensic unit, even if it has essentially the same conditions of segregation, within 24 hours has shown improvement. Partly it's because of the more appropriate medication treatment or whatever. As well, they are treated, fundamentally, as individuals with a mental health issue whose behaviour is symptomatic of that mental health issue, not of bad behaviour, which is how they tend to be seen in prisons, not surprisingly. That's what prisons are.

As I mentioned, at the regional psychiatric centre most of the staff believe that security takes precedence over mental health, even though it's the business of this facility.

Another issue you should ask about, especially in the psychiatric centres you go to, is how many times committal proceedings are commenced. In my experience, the mental health legislation is often used to commence committal proceedings and to then do forced injections. It is then abandoned before the mechanisms for oversight kick in at a provincial mental health point.

My post-graduate work right now is in forensic mental health because of these issues. So if there's anything we can assist with, I'd be happy to. I know that we're limited in time.

[Translation]

Mrs. Maria Mourani: Thank you, Madam.

You talked a lot about segregation. Bill C-47 sets out various measures for change at the Correctional Service, including measures designed to provide greater penalties for non-compliance and inappropriate behaviour in the penitentiaries.

In your view, can that bill be even more harmful for persons suffering from mental disorders and who do not necessarily have the same way of expression their emotions, their experience as someone who does not have mental health problems?

[English]

Ms. Kim Pate: The more limited access is to conditional release options. The more the statutory provisions allow, and in fact are supposed to ensure, that they happen, the more we'll see these individuals not being able to earn their way out. Right now, people have to earn their way out. I can tell you that the women I'm talking about, including women who go back and forth now from the community to Pinel, who used to go back and forth from psychiatric hospitals to segregation units—and there was a lot of intervention to break that cycle—are individuals who would continue to be in the system right now if we didn't have interventions like statutory release.

As we see some of the elimination of those options, we're going to see more individuals to warrant expiry, and then they'll be released into the community. We already see them at that stage now. Last year, there was a woman who went straight from the management protocol described in the correctional investigator's report to the street. She went from being cuffed at the back, in a security gown, escorted by three to five staff through the institution whenever she was out of her cell, to the street, with no resources, or virtually no resources. Eventually we were able to get some resources for her.

That's what we're going to increasingly see. It's a set-up. It's a huge financial cost, but it's also a huge human and social cost for those individuals and for the community as a whole, because there aren't resources. Far better to invest those services now in community-based services, even locked forensic mental health services if we need them, than to put them into prisons, I would suggest. Our organization would support that.

• (1300)

[Translation]

Mrs. Maria Mourani: Do you really think that, with regard to assessing the merits of parole, the Correctional Service has that expertise specific to the mental health field? Assessing the merits of a criminal inmate who belongs to a street gang, a criminal organization or any other form of criminal behaviour but who does not have mental health problems is one thing and that's part of the criminological side of the assessment of risk and merit.

However, how can anyone assess the merits of someone who is suffering from mental health problems, from psychotic disorders, who sees things behind you, who is in his officer's office and who tells him that he sees the devil with tentacles behind him. I've previously experienced that; that's why I'm asking you the question. How can anyone assess the merit of someone who is in the midst of a psychotic crisis?

[English]

The Chair: Very briefly.

Ms. Kim Pate: Thank you.

You said more eloquently what I was just trying to say a minute ago in response to your previous question.

Again, one of the recommendations made by Louise Arbour and repeated by the correctional investigator in the most recent report is for a someone with mental health expertise to make an independent review of those who are currently in segregation.

We are seeing people spending longer and longer periods in those conditions and developing more mental health issues. We now have two cases where judges have actually found that prison is a risk factor for someone with a mental health issue committing a violent offence. It is not something inherent in that individual, but the fact that they have become habituated to an institutional environment that promotes that kind of response as a way to get attention in whatever way they can.

The Chair: Thank you very much. We'll have to end it there.

Mr. Davies, please, for seven minutes.

Mr. Don Davies: Thank you, Mr. Chairman.

The first thing I want to do on behalf of all Canadians is thank you, Ms. Pate, and the Elizabeth Fry Society for providing such an essential and profoundly important service to women across this country.

I also want to thank Dr. Ford for all the work you have done in our prisons for the last 25 years. I can tell you must have started quite young.

There is so much to ask on the subject of mental health, and we only have seven minutes. I'll just get to some specific things.

I want to come back to the issue of segregation. I think all members of this committee would probably agree that we're dealing with mental health problems in our prisons by tossing people into segregation. The other thing I hope everybody agrees with at this point is that segregation is probably the worst place you can put someone who is having an acute problem with mental health.

Mr. Sapers puts it best. He says that prolonged periods of deprivation of human contact adversely affect mental health and are counterproductive to rehabilitation.

I do know there are models around the world that are using methods other than segregation. One of them is used at an institution in Britain called Styal Prison, where I understand they have a ten-bed unit. When someone self-harms or goes into some sort of behaviour indicating acute mental illness, the person is sent to that unit and one specific staff member is assigned to that person. Essentially that person is put within a health care setting within the institution.

Do you think that is something we should emulate in this country?

Ms. Kim Pate: Certainly the examples.... Bedford Hills Correctional Facility in New York has a similar model for mental health system services for prisoners. It is run by the psychiatric hospital in New York.

Some really important units once existed in the U.K. but they have since been shut down. Barlinnian shot units were in existence for those seen as the most problematic and who also likely had mental health issues. We often think of these sorts of therapeutic environments as essentially long gone.

There are examples of some institutions that worked very effectively to provide positive and effective intervention. Most have been shut down, much like the resources in the community are being shut down. I would encourage you to look at those.

I would also encourage you to look at and get some of the information that women have asked us to get about their cases but which we are unable to get. Unfortunately, so much is being focused on the fiscal aspect. I am more interested in the human and social cost of what's happening.

Just looking at some of these cases and the difference in costs to keep those women in community, I have a list of women who were classified as some of the most problematic when they were in prison and who are now in the community. They may go into hospital from time to time, but they are not out there creating mayhem. They are not a risk to the public. If they are a risk to anybody it is to themselves, and this is not on a regular basis but when they have flare-ups of mental health issues or—

• (1305)

Mr. Don Davies: On that score, are there sufficient resources in the community, particularly for women coming out of federal institutions—halfway houses or places of support—where they can continue accessing the programs they need?

Ms. Kim Pate: No, there are not. In fact, you may want to consult with another American, Jerome Miller, who was head of juvenile corrections in Massachusetts in the seventies and led a—

Mr. Robert Oliphant: On a point of order, there are eleven conversations going on in this room with officials and with staff and with members of the committee. I can't hear the witness even with my earphones on.

The Chair: Respect the witnesses, please.

Thank you. Good point, Mr. Oliphant.

Go ahead, Ms. Pate.

Ms. Kim Pate: Jerome Miller talked about when they were decarcerating young people in juvenile corrections, one of the issues they didn't do sufficiently was transfer those resources into the community. So there are individuals who have had experience doing this and have learned from those experiences, and I would encourage we look at that. We could start with a decarceration strategy for a number of the individuals with mental health issues. Even if we took half of the resources that are currently being spent to keep them in custody and inject those into the community, we could see huge benefits for not only those individuals but also for many others with similar issues. I think we can do that and should do that.

Mr. Don Davies: The previous corrections officials I think did a wonderful job trying to defend their system at this point, about which there is much to be defended, but I think they were a little exuberant in that endeavour.

I'm reading from Mr. Sapers' report, where he says:

In the six-month period between April and September 2008, there were 184 self-harm incidents reported in SITREP, more than double the number recorded over the same period in 2006.

That tells me that if we have double the amount of self-harming incidents in a two-year period, that must be an indicator that we are failing to provide necessary programs, interventions in our prisons. Do you have any experience with the concept of self-harm in prisons and suicide attempts?

Ms. Kim Pate: In our experience with the individuals we're working with, and the regional advocates who go on our behalf into the institutions, the more desperate people feel and the less hope they have, the more likely it is.... Usually they'll first act out against themselves. Then they may start acting out against others—staff, other prisoners—and ultimately may commit suicide.

That is something that's well documented. Dr. Jan Heney, who worked at the Prison for Women, did a research piece for Corrections on suicide. Dr. Kathleen Kendall did an evaluation of the therapeutic programs and the difficulty of providing therapeutic programs in prisons. She actually worked for the Correctional Service of Canada. Most of those reports won't be brought forth willingly by Corrections, I would suggest, because they're highly critical. The very people, though, who are encouraging us to use them, in court or wherever, recognize that in fact there is a very real need to change direction.

Mr. Don Davies: If you could leave this committee with one thing each that we could do to improve mental health provision in prisons, one thing for each of you, what would that be?

Dr. Peter Ford: I think a very realistic approach to the drug addiction problem. There's a big overlap between mental illness and drug addiction; you can't separate the two.

We see a lot of schizophrenics who come in off the street, who have been living on the street, who are HIV positive, hepatitis C positive, because they've got into drugs. There's a big overlap here. There's not a great deal of attempt being made to address the addiction illness. Addiction is a crime, as far as Corrections is concerned. It is in fact an illness, in the same way alcoholism is an illness. I think the approach to addiction needs to be switched a bit, to address that fact.

Ms. Kim Pate: I would say if you have the external accountability, which triggers people being moved into the community so that they can have the services provided in the community and an array of options—from those who aren't a risk to the public to those who are acutely psychotic who may need a very intensive, secure forensic setting—to have those services provided in a community context; i.e., being governed by the mental health system, not by the corrections system.

The Chair: Thank you very much.

Mr. Rathgeber, please, for seven minutes.

Mr. Brent Rathgeber (Edmonton—St. Albert, CPC): Thank you, Mr. Chair.

Thank you to the witnesses for your interesting presentations.

Dr. Ford, I listened to your opening remarks quite carefully. In response to Mr. Davies' last question, you indicated, and I certainly agree, that the spread of infectious diseases—HIV and hepatitis C—are a problem within our prison system. Your closing statement and your opening remarks say it's a problem that needs to be addressed. In response to Mr. Davies' question, you said "We need a realistic approach to drug addiction." I'm sorry, sir, I don't know what that means. You've identified the problem. What is the solution, in your view?

●(1310)

Dr. Peter Ford: There are a number of solutions. Nobody has an easy answer to drug addiction. It's a major problem for society that we spend a lot of time trying very hard not to address, because it is a big problem to resolve. But it needs to be recognized that drug addiction is an illness, so addicts need to be put into proper programs to try to prevent use. I think that one has to accept that use is going to occur, and clearly it is occurring in the prisons. People are injecting in very unhealthy circumstances. We need to address that.

Europeans have addressed that with needle exchange schemes in prisons, and it's very interesting that most European countries are now adopting this. There's a pilot scheme in Russia. Iran has a needle exchange scheme. Kazakhstan has a needle exchange scheme. Even Moldova, which most people haven't heard of, has a needle exchange scheme in their prisons. There is no English-speaking country in the world that has a needle exchange scheme in its prisons, even though we have major drug problems.

Mr. Brent Rathgeber: Am I to assume from that answer that you are advocating for a state-sponsored needle exchange program in federal prisons?

Dr. Peter Ford: Yes. This is an official position of the Canadian Medical Association, and also the Ontario Medical Association.

Mr. Brent Rathgeber: You understand the dilemma there. It is against the law to consume or possess substances that are on schedule A of the Controlled Drugs and Substances Act. You understand that.

Dr. Peter Ford: Yes.

Mr. Brent Rathgeber: The people who are in the federal prison system are there because they've been convicted of violating a serious offence, and part of their rehabilitation, presumably, is to learn respect for the law, the Criminal Code, and the Controlled Drugs and Substances Act. So how does Corrections Canada possibly resolve the dilemma by sanctioning, if not enabling, a violation of the Controlled Drugs and Substances Act?

Dr. Peter Ford: They go and look at the European models, where every prisoner coming into prison is supplied with a needle and syringe, which is put on the wall of the cell. Drug use is still illegal, but if it occurs, it's going to occur without that needle and syringe being shared with 15 other people. It also removes the hazards to the guards, who at the moment are at risk of getting stuck when they do cell searches. It is possible to do it; it does happen in many jurisdictions, and it works.

The other thing that is always raised in objection is that these needles and syringes will be used as weapons, and that has not occurred in the European system.

Mr. Brent Rathgeber: I understand that, but you also understand the dilemma, the dilemma that it puts the state in when it's sanctioning, if not enabling, a violation of its own law.

Dr. Peter Ford: The state would not be sanctioning drug use. Drug use would still be illegal in the prison. The state, on the street, issues free, clean needles and syringes to drug addicts.

Mr. Brent Rathgeber: This government doesn't.

Dr. Peter Ford: This government does. It's run by provincial authorities. The City of Kingston, for instance, exchanges 250,000 needles and syringes a year. That is legal, but the use of the drugs and the possession of the drugs is not legal. This has to be a bit of a dilemma, but it's a public health issue.

Mr. Brent Rathgeber: You referred to a European model. Tell me, Doctor, does the syringe and the needle on the shelf in the prisoner's cell have any other use, any other possible use, besides intravenous drug injection?

Dr. Peter Ford: No, nor does the bleach that Corrections already issues to prisoners.

Mr. Brent Rathgeber: Ms. Pate, you follow women's corrections issues very closely, and I appreciate your work and your expertise. So you'd be familiar with the 1996 report of Justice Arthur with respect to certain events at the Prison for Women in Kingston, and the subsequent 2003 Canadian Human Rights Commission report, *Protecting Their Rights: A Systematic Review of Human Rights in the Correctional Services for Federally Sentenced Women*. In both those reports, which of course by those years, 2003 and 1996, you will appreciate had a different government running the corrections system, how many of those 19 recommendations have been implemented?

Ms. Kim Pate: Corrections would indicate that most of them have been, and I would say that in part, many of them have been. There's a deputy commissioner for women, but with none of the other recommendations that went with that position. It depends on which recommendation you're talking about.

What's important for you to know is that the 1990 report of the task force on federally sentenced women, against which each of those has been measured—it was a Conservative government that implemented that task force—promoted actually very much a decarceral model. In fact, it promoted minimum security settings across the country for women. I would suggest that was a very wise recommendation. It was derailed because of the mix of women into men's, so the minute there was an escape, women running away and being caught within ten blocks, there was a decision to put massive security around. The perception was that somehow they were going to pose a risk, which never came to pass in those cases, or in others. Nevertheless, because there have been some high-profile incidents of men escaping, that was used to justify this.

I think what Louise Arbour said was the recommendations that were made in 1990 talked about women's corrections being a flagship for corrections as a whole, being the place where you can actually make some really progressive changes that don't increase risk to public safety at all, and that hasn't been followed. I would urge you to very much look at those and examine the possibility, because with this population you could be doing that. In fact, it's a great missed opportunity to not do that.

The heads of corrections all across the country, federal, provincial, and territorial, in the mid-nineties had a strong push for a decarceration strategy, which never got implemented as well. That was supported, as I understand it, by all parties.

• (1315)

Mr. Brent Rathgeber: Thank you.

You've both been most helpful.

Ms. Kim Pate: Thank you.

The Chair: Thank you very much for coming before the committee.

Unfortunately, we are very pressed for time. We are going to suspend for less than a minute, turn the television cameras off, and go into clause-by-clause of our bill.

Thank you again.

• (1315) _____ (Pause) _____

• (1320)

The Chair: Let's reconvene.

We're doing clause-by-clause of Bill C-34, an act to amend the Criminal Code and other acts.

Again, we welcome as advisors, as witnesses to the committee, Ms. Mary Campbell from the corrections and criminal justice directorate, and Mr. Douglas Hoover from the criminal law policy section. Thank you very much for coming.

We need to proceed as quickly as possible here.

The government is distributing some amendments in regard to what we're going to be discussing momentarily.

Mr. Dave MacKenzie: Mr. Chair, when we finished off at the last session we had an amendment from the NDP and a subamendment from the Liberal Party. We have discussed this, and I believe if you ask you will find that the Liberal member will withdraw his subamendment and the NDP member will introduce a slight change in the drafting of his amendment.

The Chair: Is that the case, Mr. Holland?

Mr. Mark Holland: Yes. Mr. MacKenzie does speak for me on this occasion.

The Chair: We work together so well at this committee.

Mr. Davies, are you willing to resubmit the amendment with some minor alterations?

Mr. Don Davies: I am, Mr. Chairman. Thank you.

The Chair: Could you please do that right now?

Just to make sure that our procedure is all right, do we have unanimous consent to proceed?

I see there are no objections. Go ahead, sir.

Mr. Don Davies: Thank you, Mr. Chairman.

I believe the amendment has been passed around. It's subclause 33 (2).

For the benefit of all members, at our last meeting I was hoping to amend the bill to require that registrants have to provide, within seven days, information relating to a change of employer. But through errors in drafting, it purported to be much wider than that, which was never the intention. So the drafting has been redone to make it clear that we are adding only the change of employer to the requirement of name and address that has to be reported within seven days.

I'd like to thank all of my colleagues and this committee for their kind cooperation in this regard.

The Chair: Mr. Davies has moved that motion. You've had a chance to hear the explanation.

Mr. Don Davies: Mr. Chairman, I might also say, just quickly, that there is a consequential amendment by Mr. MacKenzie that accompanies this bill. I think it is simply required to conform with this one.

The Chair: Mr. MacKenzie is indicating that's in fact so.

Is there any more discussion on this before we vote on it?

The legislative counsel has just told me that we can also apply the vote on this to clause 34.1.

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

Mr. Don Davies: Mr. Chairman, can the record reflect that I won one?

Some hon. members: Oh, oh!

Mr. Don Davies: I'm teasing.

The Chair: You somehow feel that we don't appreciate you at this committee. That's not the case, Mr. Davies; you are making a valuable contribution. You are making us think through all of these things very carefully, so that's appreciated. Thank you.

(Clause 33 as amended agreed to)

(On clause 34—*Notification of absence*)

• (1325)

The Chair: I believe the government has amendment G-3 on clause 34 that they would like to move.

Mr. Dave MacKenzie: Mr. Chair, I'd like to move that clause 34 be amended by replacing lines 11 to 17 on page 28 with the following:

their address or location—if they decide, after departure, not to be at their main residence or any of their secondary residence for a period of seven or more consecutive days or if they have not given a notification required under paragraph (a)

The Chair: Is there any more explanation that you wish to offer?

Mr. Dave MacKenzie: I read you the amendment, and the explanation is that Bill C-34 would require registered sex offenders to notify registry officials in advance of any absence of seven days or more from their main or secondary residence.

This amendment would correct a gap in the legislation to ensure that registered sex offenders still have a legal obligation to notify registry officials about an absence, even if they did not do so before they departed.

The amendment would also ensure concordance between the English and French provisions.

The Chair: Is there any discussion?

(Amendment agreed to)

(Clause 34 as amended agreed to)

The Chair: We have another amendment, G-4, which would create a new clause, 34.1.

Mr. MacKenzie, could you please move that and give us the explanation?

Mr. Dave MacKenzie: Chair, I would move that the portion of section 8 of the act before paragraph (a) be replaced by the following:

8. When a police service or the Commissioner of the Royal Canadian Mounted Police receives a copy of an order sent in accordance with paragraph 490.018(1) (d) of the Criminal Code, either a person who registers information for the police service or one who registers it for the Commissioner shall

And the rationale is that this, I believe, is a consequential amendment that would be required if the first proposed amendment were made where we did the new clause 10.1, and it would ensure that the RCMP officials at the national sex offender registry are authorized to enter information from registration orders into the database. So it goes back to our original 10.1 and it's consequential to that.

The Chair: Mr. Holland, do you have a comment?

Mr. Mark Holland: Were there reasons that these items were not included in the original bill? Were these oversights?

Mr. Dave MacKenzie: I believe there was an oversight in the original drafting of the bill.

Mr. Mark Holland: Can you confirm that, Ms. Campbell?

Ms. Mary Campbell (Director General, Corrections and Criminal Justice Directorate, Department of Public Safety and Emergency Preparedness): Yes, it was just a simple oversight.

The Chair: Thank you.

(Amendment agreed to)

The Chair: Amendment BQ-1 I believe will also create a new clause. I'll give an opportunity for Monsieur Ménard to move the amendment.

Go ahead, sir.

[*Translation*]

Mr. Serge Ménard: I move that Bill C-34 be amended by adding after line 31 on page 28 the following new clause:

34.1 Paragraph 8(a) of the Act is amended by adding the following after subparagraph (vi):

(vi.1) the person's *modus operandi*,

We discussed this a number of times during testimony: we wanted information to be provided on how a sex offender generally operates so as to facilitate the work of police officers looking for the offender and for all the other valid reasons. In practice, it's true that the majority of sex offenders very often have one particular way of operating.

Mr. MacKenzie, I don't know whether you still want to bring up what you previously communicated to me. I took the opportunity to conduct some checks. We submitted these amendments a number of days ago. The legal drafters met and first thought that we could insert Latin expressions. In this case, this Latin expression is commonly used in both official languages. The term "modus operandi" also exactly describes what we want to express in the bill. Upon discussing and consulting on the matter, they agreed to keep the Latin expression "modus operandi" and not to suggest other French or English expressions that would mean the same thing.

•(1330)

[English]

The Chair: Okay, I'll let Mr. Holland make a comment, and then Mr. MacKenzie.

Mr. Mark Holland: Thank you, Mr. Chair.

Just before we begin debate, I recall that last time we got into a lengthy debate before deciding whether or not we could debate an item. I understand there are some objections—which I don't understand, to be clear—that need to be explored before we can debate this matter. I'm just wondering if we can expunge those before moving to debate.

I just don't want to see us debate something for a long time that we can't vote on. I think we need to determine the admissibility of the motion first. I don't understand the issues regarding admissibility, but it's been brought to my attention that there are some, so if we could deal with those first before engaging in debate, I think it would make sense.

The Chair: Well, you're asking me to rule before it's all done.

Mr. Mark Holland: No, I'm just asking for that issue to be raised now, as opposed to our getting into a debate on it.

The Chair: If the committee approves this, I won't rule against it—if that's what you're asking.

Mr. Mark Holland: All right, on that basis, I would support it.

The objections that I've heard, to this point, rest with difficulty of incorporating the word “modus operandi” in the bill. That strikes me as odd. While Latin is not one of our official languages, there are many words incorporated into both English and French that are directly Latin. I would suggest that the word “caveat” is a perfect example of a Latin word that's often used in a legal context. In fact, there are many expressions in law that are directly lifted from Latin. So it's my understanding that “modus operandi” is a valid legal term. In fact, it's commonly used in both the English vernacular and

[Translation]

in French, in the vocabulary of people who speak French. Those people say “modus operandi”, not something else, and the context is of course clear. That is why it is logical for me to support this motion of Mr. Ménard's.

[English]

The Chair: Okay, thank you.

I'm going to ask Mr. MacKenzie for a comment, and then, Ms. Campbell, you can comment.

Mr. Dave MacKenzie: Yes, absolutely.

Chair, the government does not support the amendments. According to Justice Canada drafters, the use of terminology that is not in English or French, such as *modus operandi*, is not permitted in drafting legislation. Moreover, *modus operandi* is not a precise term and would not lead to standardized data fields or descriptors in the national sex offender registry. Further study and consultation would be required with the provincial and territorial partners as well as the police community to determine precisely what is meant to

everyone by the term “modus operandi” to identify clear parameters and consistency. I would ask that you defer to the officials, who I think can answer more of the issues that have been raised here.

The Chair: Okay, I'll give Ms. Mourani a chance for a brief comment and then we'll go to our officials.

[Translation]

Mrs. Maria Mourani: Thank you.

I would just like to remind my colleagues that the *modus operandi* is fundamentally important for police the matter of sexual offences. The term “modus operandi” can be translated by “mode d'opération” or “mode opératoire” in French, or “M.O.”, “method” or “method of operating” in English. Here's how a pedophile operates. For example, he goes around a school. That's how he recruits his victims. Afterwards he attracts them in some way so that he is in a better position to kidnap them, or he uses lures, for example. Thus, he says he is looking for his animal.

These guys can generally be identified by police not only for prevention purposes, but also for investigation purposes. Why for investigation purposes? Because, from the moment we know how a sex offender operates, we can trace not only a victim who might have disappeared, but also the pedophile in question. It's as basic as a make of car, a licence plate, his name and his address.

•(1335)

[English]

The Chair: I was going to let everybody have their say and then get the legal opinion.

Mr. Davies, quickly please.

Mr. Don Davies: I submitted an amendment that got to the stage to be drafted in this, and it's not in the package. I don't know why that is. It might have been my office.

The Chair: With regard to this....

Mr. Don Davies: The reason I put this forward is that it may help achieve what Mr. Ménard is trying to do. I used English and what I said was, “a description of how they committed each crime of a sexual nature of which they were convicted”.

The Chair: I'm not sure why it wasn't included.

A voice: It's not the same.

Mr. Don Davies: It's not the same? If that's not the same, I just thought it might be helpful. I don't know why that wasn't included.

The Chair: I'm told it was not received. So I'm not sure what happened.

You're sure you submitted it? Does it resolve this issue?

Mr. Don Davies: They're shaking their heads no. That's fine.

The Chair: Was somebody over here...? Yes, Ms. Glover.

Mrs. Shelly Glover: I'm going to be very brief. I don't know if there was a problem with translation or what, but what Ms. Mourani was saying was not addressing the problem we have. The problem is in whether or not the wording itself and the Latin is acceptable. Everything she said.... No one has mentioned that. I just want her to know we're not disputing what she said. It's just the Latin translation that's the problem.

The Chair: Mr. Oliphant.

Mr. Robert Oliphant: Some are going to support the concept, the principles. I have no difficulty with *modus operandi*. It's interesting we also use MO. I would say MO would be insufficient language, but that's the vernacular. *Modus operandi* I think is the phrase. If some experts have trouble with that, they may be the same experts who left out paragraphs we're now fixing. I want to be careful about always deferring to experts. I would like the concept in. I think the concept that Mr. Davies did is a very appropriate descriptor to go after "modus operandi". It seems to me there could be a subamendment to the amendment, "modus operandi," and then his phrase. I think it's the same thing. If not, it's very close.

I think police officers always use the term "modus operandi". It's what I hear. So I want the concept in, and we're going to have to figure out how we put it in.

You use MO, don't you?

The Chair: Let's all proceed with an open mind. Let's listen very carefully now to our—

Mr. Robert Oliphant: We have Latin on our coat of arms in Canada.

The Chair: Yes, and I wonder how many Canadians understand the terms.

Let's all listen very carefully and try to make our decision on what we hear in the next few minutes here.

Ms. Campbell, please.

Ms. Mary Campbell: Thank you, Mr. Chair.

You're much more attentive than my law students, I can tell you.

I can obviously not comment on the merits of the proposal but simply inform on the background. When officials looked at the amendment, one of the things we did was to consult with the drafters at the Department of Justice. So all I can advise the committee, as Mr. MacKenzie has done, is that the response we got from the legislative section was that only English and French words can appear in the statute. I appreciate that this is odd, because my colleague Mr. Hoover looked in the index to the Criminal Code, and of course the words *mens rea* appear there. However, he advises me they do not appear in the section in the code itself.

Of course those of us who have been to law school spend enormous amounts of time learning Latin phrases in the law and use them quite regularly, but that is a bit different from their role in drafting a statute.

The other thing I did was to go back to *Black's Law Dictionary*, 8th edition, as this is the standard dictionary. *Modus operandi* is in there, along with many other Latin legal phrases. It's defined in Black's as "A method of operating or a manner of procedure; esp. a

pattern of criminal behaviour so distinctive that investigators attribute it to the work of the same person".

I sought also instruction in the French and found a very useful volume entitled *Les locutions latines et le droit positif québécois*, which also contains *modus operandi* and defines it as

●(1340)

[Translation]

a "Way of working, operating, doing, method of acting."

[English]

The last point I would make is that this phrase does not appear in the Ontario sex offender registry statute or regulations, and the challenge in identifying elements in section 8, of course, is to be precise enough that all field officers are able to input accurate relevant information. There is some concern among officials that the phrase, although well understood in a popular context, may not be sufficiently precise to allow police officers to identify what needs to be in there. And of course in section 8 they're receiving the order from the court, so they are to a large extent going to be reliant on the court information. So things like a name or fingerprint or the precise offence are very easy to put in a header to a field and to enter. There is some concern that anything like MO or the English or French words that define it would lack that kind of precision.

That's simply a comment on the technical aspects, not obviously on the merits of the proposal.

The Chair: Mr. Hoover, did you have a comment?

Mr. Douglas Hoover (Counsel, Criminal Law Policy Section, Department of Justice): I just wanted to add that while Parliament is its own master and it may put into legislation whatever it chooses, ultimately this would be a precedent, in our view. And if you used Latin language in a Canadian statute it may have no force and effect in law. So you may want to be aware of that. And again, I think it is translatable into English and French.

It would be certainly our position that it would be enforceable if it's in English and French and possibly not enforceable if it's in Latin.

The Chair: Ms. Campbell.

Ms. Mary Campbell: I would just add one thing, which I meant to say and then overlooked, Mr. Chair. Just also bear in mind, as has been said before, that the registry is one tool for police in investigating crimes and presumably at some point in preventing them. Other tools remain at their disposal, and what occurred to us of course was the tool known by its acronym ViCLAS, the violent crime linkage analysis system. This is a system maintained by police in relation to high-end violent offences. Former police on the committee may correct me, but in that database one might well find information about MO or related issues.

Police investigating the disappearance of a young child can go to ViCLAS as well as to the national sex offender registry and can compare the information in both. So if there were a distinctive element in the disappearance that matched something in ViCLAS, that information—the person's name—could be compared against the sex offender registry to see if in fact that person lived in the area of the disappearance.

The Chair: Could you suggest some words that we could substitute, so we wouldn't keep running into the problems you are suggesting?

• (1345)

Mr. Mark Holland: Can I ask a question?

The Chair: I've asked a question and then you can ask a question, Mr. Holland.

We're possibly going to reach an impasse here, and what can we do about that?

Ms. Mary Campbell: I don't have anything to suggest immediately. If the committee wished to stand it down for a few moments, the officials could take advantage of the direction of the committee to see if they can come up with something.

The Chair: Okay.

Does anybody else have any suggestions?

Mr. Holland, and then Mr. Oliphant.

Mr. Mark Holland: I guess the problem I'm having is that “modus operandi” appears in the *Oxford English Dictionary* as part of the English vernacular. There are many such words. *Mens rea* is another example that was referenced that's actually become part of the English language now. Our language is based on Latin. Our origins are Anglo in some cases, Saxon in others, and German or French in others, and we also have Japanese words. All of our words originate from other languages. This is not a virgin language, and after a period of time, the use of a word in our vernacular makes it part of our language.

My definition of when a word becomes part of our vernacular is when it appears in the *Oxford English Dictionary*, which is something of a bible of our language. So I'm having a little bit of difficulty understanding why we can't use certain words, because then I'm led to wonder what words, with what origins, we are not allowed to use. If we can't use words with a Latin origin, even if they have a contemporary meaning and are in an English dictionary, then what are the other expressions we are not allowed to use? And is there a dictionary of terms I can draw from that I'm allowed to use, and other terms that I'm not?

I'm confused by this, because the term *mens rea*, as an example, has a very specific meaning. If I say that a person had insufficient *mens rea* to comprehend the crime committed, it has a very particular context—though I suppose there's another way of articulating that too.

So I'm not understanding this. I think it puts us at a great disadvantage, and perhaps the best way to do it is to ask the officials to take some time to think about other wording, and also to answer the question generally of where we can draw our language from.

The Chair: Mr. Oliphant, and Mr. Davies. Let's try to move this along.

Mr. Robert Oliphant: I agree with Mr. Holland and would like that tested out first, but I'd also like to test.... I'm new to the clause-by-clause process, and this is the first time I've dealt with a piece of legislation. I've been an MP for a year, but it's the first time I've done clause-by-clause, so I don't quite know the procedure for how we test out the principle of what I think both of these amendments are about.

I think they're the same or very similar, and I think they are consistent with testimony we heard in our study on the legislation itself—not the study on this bill, but the study we did the week before. But I don't know how we test out whether we're in agreement.

This will strengthen the registry. This will give another tool to police. I think that's what the government side is asking for. We think this makes it better and more effective legislation, but I don't want to waste a lot of time on Latin-English-French words, whatever, unless we know whether or not everyone's in agreement. I think we have the votes anyway.

The Chair: Mr. Davies.

Mr. Don Davies: I just checked with our legislative expert. I don't know how this happened, but this was submitted. It doesn't really matter. I have language here that I think might accomplish this now. I'm going to read it again. It would add the following: “...a description of how they committed each crime of a sexual nature, of which they were convicted.”

When I read that information before, my Bloc colleagues told me that wasn't broad enough in terms of what they meant to capture by their concept. If I'm paraphrasing correctly, they want something that would capture the internal motivations of the perpetrator. But when I heard the reading out of the meaning of “modus operandi” in *Black's Law Dictionary*, modus operandi does not include a concept of internal mind. It's the pattern of how something was committed. With that in mind, if my Bloc colleagues are intent on putting in language that they would like to see that is broader than that, then that's up to them. But what I would suggest is that the language I've drafted—and I'm prepared to circulate that here—is something that's written in English, and it does add what I think most of us want added, subject to debate on the merits, which would be helpful for police.

If the registry knows that someone likes to commit a particular crime against children by using particular toys to lure the children.... Let's say they have a pattern of hanging around schools with a little puppy in their hand. That would be helpful information, probably, in a registry. I actually think this is better than trying to get into what their particular mindset might be, because it's objective. Where there are patterns of means of committing an offence that may be helpful for police to know when they're searching a registry.

I would once again just reiterate that I do have language drafted that I would put forward for the committee to look at if they think that captures what they want.

• (1350)

The Chair: Okay.

Yes?

Mr. Mark Holland: Can I get an answer on this? It may seem like déjà vu that I'm talking about this, but can I get an answer on what is verboten for me to use? I don't understand this concept.

The Chair: Verboten, for one.

Mr. Mark Holland: My point—and I'm being a little cheeky in making it—

The Chair: I'm German, I understood you.

Mr. Mark Holland: —is that we use a lot of language that we borrow from other languages, and we're being told that we can't use this because it's a Latin expression. I'm making the point that it's in the *Oxford English Dictionary* as part of the English vernacular. How is this distinction being made? This is how Latin and other terms and words are. I'm trying to understand that distinction.

The Chair: Ms. Mourani has the floor.

[Translation]

Mrs. Maria Mourani: I'd like to go back to what Mr. Davies said. In the French version of his motion, the words "description du crime" are used. However, the word "description" can mean many things. For example, describing a crime may be limited to the description of the crime scene, but that's not the same thing as a *modus operandi*. The description of the crime and that of the victim are part of the method of operating.

A sex offender often chooses his victim. Some do not choose their victim, but they are in the minority. That's part of the method of operating. If we want to define method of operating in a precise manner, we'll have to add the words "description of the crime scene", "description of the victim", "description of the various stages leading to the crime". The description of the crime is only one part of the method of operating.

[English]

The Chair: Ms. Glover, and then Mr. Rathgeber.

Mrs. Shelly Glover: I'm going to try to be brief again. I just want to reiterate what my colleague already said, that there are a couple of problems we have here, and for whatever reason, we've concentrated on this Latin word. But there's another problem, and that is that the people who are going to be using these sections typically are police officers, who don't study Latin, who cannot tell you very quickly what *mens rea* and *modus operandi* are, because depending on what province or what territory they're in, they use different wording. So there was a suggestion by Mr. MacKenzie that further study and consultation would have to be required so that provincial and territorial partners, as well as the police community, determine precisely what is meant by that term.

To answer Mr. Holland's question very quickly, hopefully as the parliamentary secretary for official languages I have some input on this. The two official languages, sir, are French and English. The advisors have told us that it's imperative that the statute itself be in either French or English. That eliminates all other—and we're talking about the statute itself. It may appear in the index. It may appear in any kind of document thereafter. But I heard clearly that it must be French or English only. If we see there are two problems, we may not be able to decide this here. We'll be going around in circles. Perhaps we ought to defer this so they can do a little more work, and then we can move on to other clauses so that we can get through this.

The Chair: Mr. Rathgeber.

Mr. Brent Rathgeber: Thank you.

I think I can help Mr. Holland with his problem.

The distinction is between words and phrases. If a word with a Latin origin makes its way into *Webster's Dictionary* it becomes eligible for drafting into a statute of the Parliament of Canada. But a phrase is different. *Mens rea* is a phrase, *actus reus* is a phrase, and *res ipsa loquitur* is a phrase. However, you might see the word *res* in the Parliament of Canada. So the distinction is between words with origins that ultimately have English usage, and phrases that are specific to Latin and therefore ineligible.

I'd be happy to go into more detail at my normal hourly rate.

Some hon. members: Oh, oh!

• (1355)

The Chair: Let's try to wrap this up, or we'll have to stand it down for a while.

Monsieur Ménard.

[Translation]

Mr. Serge Ménard: I agree with Ms. Glover. We should defer this.

However, I would simply like to emphasize that my idea—and I'm not saying this is the best one, even though I thought it was when I submitted it—was to save police officers time. The idea was to encourage them to describe a way of acting succinctly, so that it would be useful.

However, Mr. Davies' suggestions would lengthen the description. The idea would be to describe the various crimes from which police officers would have to deduce the *modus operandi*. I'm entirely in favour of the definition in *Black's Law Dictionary*. I find it very comprehensive. So if we all agree to add that concept, we can do so.

Lastly, I nevertheless wanted to point out that the term "modus operandi" may perhaps appear in *Webster's Dictionary*, but it is definitely in the *Petit Robert*, which is a kind of bible for ordinary French. The term is very succinctly defined as a manner of proceeding, a method of operating. In my opinion, both expressions correspond exactly to what I wanted to add. I hope you understand the distinction with regard to what Mr. Davies is suggesting.

[English]

The Chair: We need unanimous consent to withdraw. He's offering to withdraw the amendment at this point.

[Translation]

Mrs. Maria Mourani: I didn't understand what you said, Mr. Chairman. Could you repeat it?

[English]

The Chair: Did you offer to withdraw your amendment?

[Translation]

Mr. Serge Ménard: No, I suggested that we defer study of the amendment and that, in the meantime, experts agree on these matters. I wanted to add that. That's what I want, and I wanted them to understand it. I don't want police officers to tell all kinds of stories.

[English]

The Chair: Do you want to stand it down for a while, Mr. MacKenzie?

[Translation]

Mr. Serge Ménard: On the contrary, I want them to summarize, in a few words, useful information for the identification of a person, sometimes unknown, who has committed a number of crimes using the same *modus operandi*.

[English]

The Chair: Mr. MacKenzie.

Mr. Dave MacKenzie: I suggest we get ourselves out of this situation and ask the officials to come back at another time with more information on it.

I'm wondering about the propriety of moving through and accepting the rest so we only have that issue to deal with. I looked at our schedule, and others will have to look at it from their perspective. I think we have time free on December 3 to complete this.

The Chair: Ms. Campbell, do you want to say something?

Ms. Mary Campbell: We've just been having a quick discussion here. There seems to be a sense that given that *Black's Law Dictionary* says "a method of operating", it certainly corresponds to what is in the French dictionary. I'm not sure if it would be

[Translation]

"façon de travailler" or "façon de fonctionner"—

Mr. Serge Ménard: We're talking about a method of proceeding, a method of operating.

[English]

The Chair: Are you suggesting we accept that wording instead of "modus operandi"?

[Translation]

Mr. Serge Ménard: Yes.

[English]

The Chair: Okay.

Mr. Holland.

Mr. Mark Holland: I do have a problem. I mean, we've gone over this, about being in both dictionaries.... I'm sorry if you find me difficult on this, but when I look at any legislation that any police officer has to use, there is language that can be complex, but it's part of our lexicon.

I have tremendous difficulty with the notion that we can't use this, and I'm worried about the precedent it establishes. If I'm not able to use terms that appear in the *Oxford English Dictionary*, I think that's a dangerous precedent. The reality is that words, as Monsieur Ménard pointed out—two-word expressions, and déjà vu is another

one that's used in English—take on a very specific meaning. They are found in our dictionaries and they can be used readily in our lexicon.

I'm not suggesting we use that particular term in this, but I am saying that I have real problem with the precedent it establishes. We're out of time today, but I think we have to think on this. Maybe the department officials can come up with some better example of the words we're allowed to use from the dictionary and which ones we're not.

I'm concerned about the precedent.

● (1400)

The Chair: Mr. MacKenzie.

Mr. Dave MacKenzie: Mr. Chair, I think I have to agree that "method of operation" covers exactly what Mr. Ménard wants. I think it will do that. And I have a commitment from the officials that we can live with that. They will go back to the provincial and territorial partners and deal with the issue.

I think we can complete the whole thing if we can just move into accepting—

The Chair: Okay, let's do this properly. We have to take the amendment that Mr. Ménard has suggested, being "method of operation". You're making that amendment.

It has to be someone other than you. Sorry, that's right. You can't amend.

Mr. Dave MacKenzie: I so move.

The Chair: Mr. MacKenzie so moves. The words will now become "method of operation".

Am I going too quickly, sir?

[Translation]

Mr. Serge Ménard: No, but I only have two ears, Mr. Chairman. If two people speak at the same time—

[English]

The Chair: Lyne is going to tell you what it is in French. I can't pronounce it very well.

[Translation]

Mr. Serge Ménard: I see here in the dictionary, "manière de procéder".

Mrs. Maria Mourani: It's a method, isn't it? It's a way of proceeding, a method of operating.

Ms. Lyne Casavant (Committee Researcher): It's *mode opératoire* and "method of operation".

[English]

Mr. Mark Holland: Mr. Chair, we're here past two o'clock as it is. We've already agreed to come back to this matter. I can agree to us coming back to this matter at the beginning of the December. We still have the rest of the clauses to deal with.

My suggestion is that we deal with this when we come back.

The Chair: Could we vote on this so we don't have to rehash the whole thing?

[*Translation*]

Mrs. Maria Mourani: Mr. Chairman, I want to move a subamendment.

[*English*]

The Chair: If you're going to want to move a subamendment, we're going to have to leave it for now. We will continue this on December 3.

Does the committee agrees that we continue December 3?

Some hon. members: Agreed.

The Chair: Agreed.

The meeting is adjourned.

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