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Chair

Mr. Ed Fast

Standing Committee on Justice and Human Rights

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• (1530)

[English]

The Chair (Mr. Ed Fast (Abbotsford, CPC)): I call the meeting to order.

This is meeting 44 of the Standing Committee on Justice and Human Rights. For the record, today is Monday, January 31, 2011. Happy new year to all of you. It's good to be back.

Just by way of explanation, pursuant to the order of reference of Monday, December 6, we're considering Bill C-54, An Act to amend the Criminal Code (sexual offences against children).

Typically we have the minister to start off our review. Unfortunately, the minister wasn't available until Wednesday, so I took the liberty of scheduling in four witnesses today.

We have, first of all, from the Canadian Centre for Abuse Awareness, Ellen Campbell as well as Sanderson Layng. Welcome to you.

We have, from the Ontario Provincial Police, Detective Inspector Scott Naylor. Welcome.

We also have, representing the Canada Family Action Coalition, Brian Rushfeldt. Welcome.

And finally we have, from my hometown of Abbotsford, Catherine Dawson. I understand you're representing yourself, although you can certainly explain which organizations you're affiliated with.

We'll begin with the Canadian Centre for Abuse Awareness. Please start, Ms. Campbell.

Ms. Ellen Campbell (President, Chief Executive Officer and Founder, Canadian Centre for Abuse Awareness): First of all, thank you so much for inviting us here today. Secondly, I can't take my hat off: I have hat head.

I'm here first of all as a victim of sexual abuse. I'm the product of what happens to children who are sexually abused. It's always overwhelming that you are doing something finally about this.

I was sexually abused as a child. It destroyed my life. About 20 years ago, I was going to take my life. By the grace of God, I'm here today. Out of that, I founded an agency called the Canadian Centre for Abuse Awareness. I never expected it to grow, but I think the reason it has grown to what it is today is that it's so prevalent in our society. The statistics are so high, even the statistics that are quoted: one in three girls, one in six boys—those are the reported children.

I see the damage. So out of this, I started the agency. We now service 200,000 people a year and 130 agencies. We don't get any government funding. We do it just through donations and events.

Eight years ago we got a grant from the justice fund to do round table discussions for laws to protect children. Out of that, we developed "Martin's Hope" report. There are sixty recommendations in it. The number one recommendation for all the agencies, and we mean police, crown attorneys, children's aid societies—every one that was there—was minimum sentencing. It is absolutely critical that we give minimum sentences to pedophiles. Out of that report, as a matter of fact, the age of consent was one of our recommendations adopted by the present government. Word for word, it is the legislation that went through two years ago. So I thank you for that as well.

Minimum sentencing is something for which people don't understand the need. I understand, and I think most people do, that pedophilia is not curable—I don't believe—so we need to protect children. I think the word that has to get out is that we take it seriously. In Florida, for instance, if anyone perpetrates abuse on a child under 11 years of age, they get 25 years minimum sentencing and then electronic monitoring; we give them house arrest.

This is so critical. As I say, I see the damage. It costs our health care \$4 billion a year just for women. I'm also an ordained minister; I go into the prisons, and I minister to the women. Eighty-five percent of the women in our prisons have been sexually abused. It's even higher for men. And it's cyclical. We have to start to really take it seriously. I see the damage. I have two messages today from people who are suicidal. I am very encouraged that finally you are doing something about.

It can't be a couple of months. In our report, the minimum sentencing recommendation for child pimping was five years. For child pornography, I believe it was minimum of two years. I encourage you to please not make it a couple of months or a couple of years.

They need, and I would encourage that they get, help when they're in there. We know that not every man or woman who has been sexually abused goes out and abuses, but every abuser has been sexually abused. It is something we need to take very seriously. The minimum sentencing is absolutely necessary—and again, for every crime.

I'm noticing too that it's not getting better. Ever since child pornography has become so rampant, it incites people to commit crime. A good example is the Holly Jones case. It was a crime of opportunity, but he was watching pornography and he acted out. It's inciting someone to go out and commit a crime against a child. Even for possession of child pornography, again there should be minimum sentencing.

I'm so encouraged by this government: that you are doing something about it. We offer our support. We have a national TV show, which I offer to you. With age of consent we did the same thing; we are very big about awareness. We will support you in any way we can: with our TV show; we have a magazine, an e-zine. We are already working on this. We have 12,000 names already in a campaign.

• (1535)

I know that the public are really anxious and are watching what you are going to do. I encourage you, please, on behalf of all the victims, to take this seriously. Make them tougher sentences: not just a month, not just a year, but a couple of years, please, as a minimum.

The Chair: Thank you.

Mr. Layng, did you have anything to add? No?

We'll move on to Detective Inspector Scott Naylor.

Detective Inspector Scott Naylor (Child Sexual Exploitation Investigations, Ontario Provincial Police): Thank you. Just by way of introduction, my name is Scott Naylor, and I'm the manager of the child sexual exploitation section with the Ontario Provincial Police.

I will be reading from some notes here. Mr. Chair, Madam Clerk, and justice sector colleagues, good afternoon. Thank you for the opportunity to speak on Bill C-54, the Protecting Children from Sexual Predators Act.

From the perspective of the Ontario Provincial Police and members of the provincial strategy to protect children from sexual abuse and exploitation on the Internet, this bill has the potential to add to the legislative tools we've been provided to keep our communities and our citizens safe, particularly the most vulnerable section of our population, our children. I'll say more about the provincial strategy in a moment.

Investigating child sexual abuse is what I consider to be one of the toughest and most heartbreaking, yet one of the most rewarding assignments a police officer can ever experience. The members of the OPP Child Sexual Exploitation section and our municipal and provincial government partners who investigate child luring, sexual abuse, and exploitation on the Internet work exceedingly hard to protect children and to identify victims from the most heinous activities imaginable. There is no greater satisfaction than to be able to secure the safety of our children and remove them from the harm, abuse, and exploitation they face through Internet predators.

Child luring, sexual exploitation, and sexual abuse on the Internet is organized crime, plain and simple. The provincial strategy to protect children from sexual abuse and exploitation on the Internet was created in response to the Government of Ontario's request that police develop a coordinated, province-wide approach to combat

Internet crimes against children. The goal of the provincial strategy was for the province to respond to this growing issue as a cohesive, united team, rather than having municipal police services develop different approaches to deal with child pornography, luring, and sexual abuse on the Internet.

Police services in Ontario, through the OACP—the Ontario Association of Chiefs of Police—and the OPP, subsequently developed a systematic, victim-driven, all-encompassing approach to the prevention of child sexual abuse and exploitation on the Internet. The provincial strategy aims to effectively address the complete picture of child sexual abuse and exploitation, from the onset of the investigation to offender apprehension and management, effective prosecution and sentencing, victim identification support, and prevention and awareness.

Prior to the provincial strategy, there was no mechanism in place for the vital coordination of intelligence and for investigative support and information sharing. The OPP child sexual exploitation section administers the provincial strategy. The strategy consists of 54 officers from the OPP and 18 municipal police services, with representatives from the Ontario Ministry of Community Safety and Correctional Services and the Ministry of the Attorney General, including two designated crown attorneys and a victim services coordinator. Other municipal police services in Ontario have also been involved in assisting with investigations and in making arrests in their respective communities as well.

I can state without question that the investigators assigned to this duty are among the most committed and professional police officers you will find anywhere. They are united by a single purpose: to protect children from being lured into dangerous situations by Internet predators.

Our investigations have also required recent interaction and participation from law enforcement agencies in Canada, and abroad from such agencies as Interpol and including jurisdictions in Europe, Asia, and South America. This global activity matches the way legitimate commercial business is done today in Ontario and in Canada. The exception is that the commodity being traded among these borderless criminals is living, breathing human beings—children in Ontario, Canada, and around the world, children of our communities.

The Internet-based dangers of child luring, sexual exploitation, and abuse are so pervasive that it takes excellence in police work and multi-jurisdictional partnerships to ensure successful investigations. It also takes collaboration with our broader justice-sector partners to bring these criminals to justice. It also takes strong partners who are united by a single goal, to ensure that the victims are brought to safer environments and get the help and services they need and deserve.

Our relationships with our partner agencies are stronger than ever. I want to note our appreciation for the support of senior levels of government in providing us with the legislative tools and resources that we need. We could always use more, but your support is vital to our success. But we are not there yet.

● (1540)

Our caseloads from the past year are testament to that fact. From August 2006 to December 2010, members of the provincial strategy completed 11,537 investigations and laid 3,897 charges against 1,303 individuals. The age of those accused of these vile acts, predominantly male, range from mid-teens to those well past 60 years of age. As staggering as those numbers are, I am also able to report that through our investigations in 2010 and early this year, 121 victims have been identified and rescued. That means more children have been saved and are removed from dangerous situations.

Given the background from an investigative perspective, I'm here to support Bill C-54. The bill provides additional offences that can be laid by police officers that relate to the provision of sexually explicit material to children and the use of telecommunications like the Internet to facilitate the commission of sexual offences against children. These two offences are generally already known to investigators as contributing factors in most of the sexual abuse cases involving children that are already being investigated. However, these have only been considered as aggravating factors in a prosecution until now. While the new offences may have some implications in terms of increasing investigative time or processing charges, this legislation is very much needed and the OPP believes it will serve to better protect those who are most vulnerable, our children. The new offence with respect to providing sexually explicit material transforms what has been considered an aggravating factor in sentencing into an offence, which is also associated with mandatory minimum sentencing. The OPP supports the creation of this offence, given that pornographic materials are often one of the most commonly used methods in grooming children.

On the second new offence, with the evolution of technology the Internet is becoming one of the most commonly used means of luring children for the sole purpose of sexually abusing them. These factors are already part of many sexual abuse investigations, so only a minimal increase in terms of investigative time is likely to be required. While this offence may lead to new investigations where allegations of sexual abuse have not yet been made, this is not anticipated to be significant, and the offence offers increased protection to our children and our youth. The OPP supports increased minimum sentencing for child-specific offences, which eliminates conditional sentencing.

Strong deterrents are necessary as a first step to deter perpetrators from preying on our children, particularly those who are in a parental role or are responsible for children through kinship. The OPP welcomes the proposed new measures, which would require judges to consider conditions that would prohibit suspected, charged, or convicted child sexual offenders from having unsupervised contact with children, as well as unsupervised use of the Internet, when issuing a recognizance to such persons. This legislative change allows charges to be laid if there was an identified breach of this condition. It also puts the onus on the court to impose conditions that restrict Internet use or unsupervised contact with children upon

receiving information. Not that long ago, a somewhat similar directive was made that required family court judges to consider past domestic violence prior to making any determination regarding custody and access.

Laws alone won't solve this problem, and we acknowledge that. In Ontario, the Ontario Provincial Police, our police community, and media partners have also taken advantage of many opportunities to continue with the other sometimes forgotten prong of this initiative: education and raising awareness of our kids, their parents, guardians, and caregivers. We unashamedly use the media's help to reach them, and we've had great success in doing this over the last four years. Our private sector partners to keep children safe from harm include traditional media: YTV for one on the educational side with their interactive Internet safety games and promotional announcements. YTV's animated educational and Internet safety public service announcements have been viewed by over 8.75 million people. An initial Internet safety game was played by over 54,000 players, all young people. A second Internet safety game will be launched through YTV's website next week as we observe Safer Internet Day on February 8.

● (1545)

Our partners also include avenues of social media. Facebook Canada helped us with a recent enhancement of the Ontario amber alert so that it would reach even more people when a child is abducted.

Ladies and gentlemen, we're all committed to preventing abuse against children, from our skilled investigators to our technical support staff to front-line officers who execute warrants to the investigators who are called upon to view literally thousands and thousands of horrific images. We also count on our investigators and community service officers to be there to offer hope through greater education and greater awareness.

Members of the committee, thank you again for the opportunity to express our thoughts and suggestions from the front lines in the battle against Internet predators and for providing the opportunity to comment on potential new tools to make our children and our communities safer. I wish you every success in your deliberations on Bill C-54.

I'll leave you with this one quote: "Every child matters, everywhere."

Thank you.

● (1550)

The Chair: Thank you.

We'll move to Mr. Rushfeldt. You have ten minutes.

Mr. Brian Rushfeldt (President, Canada Family Action Coalition): Thank you, Mr. Chair and members of the committee. Thanks for the opportunity to share some information today that I hope is going to be helpful in your study of Bill C-54.

Over the past ten years, Canada Family Action has been working hard to ask for better protection of children from pedophiles. And we were highly involved in the age-of-consent lobby.

I'd like to commend the government, and that means all parties, for the work they're doing and for the recognition that the child pornography law in Canada, as it's called in the Criminal Code, must be updated and changed. However, I do have to say that we're disappointed with some of the things in Bill C-54. The first one, and my focus, is basically section 163.1 of the Criminal Code.

The first major issue is a concern about a total lack of the mention of or the dealing with the term "child pornography". That term frames for us, for you as lawmakers, for courts, for judges, and for everybody else how we view the horrific crimes of child sex abuse against defenceless children.

Child pornography is an extremely meaningless and in fact misleading term in reference to this kind of crime. As one law enforcement officer said to me, these are not pornographic images we view; these are rape and abuse images that we view. They are images of sexual exploitation and sex abuse.

Research indicates that of those arrested with these materials in their possession, 39% had images of children from ages three to five. Eighty-three percent of these people had images of children age six to twelve. And perhaps the most horrific crime of all, 80% of the images possessed by the people charged, arrested, and convicted were of actual penetration of either a boy or a girl.

Let me quote from an article published by CIRCAMP, which is a European Commission funded network of law enforcement agencies across Europe, including Europol.

A sexual image of a child is "abuse" or "exploitation" and should never be described as "pornography". Pornography is a term used for adults engaging in consensual sexual acts distributed legally to the general public for their sexual pleasure. Child abuse images are not. They involve children who cannot and would not consent and who are victims of a crime.

I've given the clerk a couple of documents—

The Chair: Mr. Rushfeldt, could I just ask you to slow down a little bit so that our interpreters can keep up with you?

Mr. Brian Rushfeldt: All right.

I've given the clerk for translation two documents supporting the idea, including the CIRCAMP paper. I also included for your study, which you will receive at some point if you choose, a paper written by INHOPE, which is a European body similar to Cybertip in Canada. I encourage you to look at the first three pages of that report, which deal with the naming, description, and definition of child sex abuse materials.

In Canada, the federal ombudsman just a year ago released a report called *Every Image, Every Child*, which I hope you will take advantage of, because it is Canadian and it's current. In that 50-page report, the number one recommendation was to change the terminology in the Criminal Code from "child pornography". Unfortunately, Bill C-54 neglects the issue. And there's no doubt in my mind that this bill actually is probably a bill that really should deal with that particular one, because it does deal with some of the other things from section 163.1 of the Criminal Code.

I now want to address what we consider another problem with Bill C-54, in that it fails to address at all the most grievous of crimes under section 163.1, and that is the making of child pornography. The minimum sentence now in section 163.1 and the subsections for making child pornography, which are in force, are a mere one year on an indictable offence and an appalling 90 days for raping, abusing a child, making pornography, or making sex abuse images if it's a summary conviction.

Recently this committee, the House, and the Senate recognized the need to act with respect to the trafficking problem of under-age persons. As you know, Bill C-268 has passed, with a five-year mandatory sentence for those who traffic minors. I think if we can agree that trafficking of a minor is an outrageous crime that requires five years, then it's disturbing to me that we would think or allow the potential of a 90-day sentence for someone who sexually assaults, rapes, or abuses a child to produce these vile materials.

Failing to address the "making" section of 163.1 is a major injustice, I believe, to Canadians and certainly to the victims. It's known that when perpetrators are brought to justice, if justice is applied, it can often bring healing to the victims. Unfortunately, with the kind of sentence we currently have, and in fact I think even the ones suggested in Bill C-54, I don't think justice is being served well in Canada under those terms.

If we compare Canadian sentences to some other countries', it's not much wonder that the RCMP say that Canada has become a destination for pedophiles. In the United States those convicted of producing—producing—child pornography are given a mandatory sentence of 15 years, with a maximum of 30. For possession of child pornography, the minimum is five years, with a maximum of 20. Compare that to the 14-day minimum sentence in Canada for possession. I hope in your study of this bill you'll look at whether in fact judges in our country have ever imposed maximum sentences for child sex crimes under section 163.

My third point relates to the mandatory sentencing that is dealt with in Bill C-54 regarding the two subsections of 163.1 on possession and distribution. There are many examples that I could quote to you of unjust sentences in Canada, particularly when it comes to possession and distribution, where criminals have received as little as 14 days, sometimes slightly longer sentences, often to be served on weekends, or other meaningless conditions.

Some statistical research reports say that as much as 85% of people who possess and view pornography will at some point sexually assault a minor. Another report suggests it is 40%. If we use that lower figure of 40%, we still place an unacceptably large number of children at risk. While our current maximums are comparable to places like Australia and the U.K., our minimums remain shamefully weak.

• (1555)

While we appreciate the strengthening of the sentences in Bill C-54 and the addition of some of the new clauses, our major concern is that the mandatory minimum portions are still fairly weak. We don't believe that is going to provide appropriate safety for children.

Bill C-54 also doesn't really increase the minimum sentence for distribution. The current minimum is one year, and it will continue to be one year on the distribution issue.

Clearly, there must be changes made to Bill C-54 to accomplish meaningful protection and true justice for these defenceless children. We do, however, recognize that this is a great start, and I want to commend the government for bringing this forward. I believe this is the first amendment in a number of years to this section of the Criminal Code. I believe the Criminal Code is far behind the technology.

I'd like to close by saying that our first recommendation is to consider better terminology in the Criminal Code—something rather than “child pornography”. We might suggest “child sex abuse materials”, as has been made and suggested in some other districts around the world.

The second recommendation is to legislate mandatory sentences. We would like to see a three-year mandatory sentence for accessing or possession, a five-year sentence for distribution, and seven to ten years for those criminals who make child sex materials. The making of this stuff is similar and analogous to the concept we use in first-degree murder. These are deliberate, planned, and executed acts against children. They don't happen by chance. What these people are doing is very deliberate.

We believe that incarceration is critical. I know there are people—possibly in this room—who don't agree with mandatory sentences. But in all the discussions I've had with people across Canada, no one has suggested any better method than incarceration for people who commit these crimes. We simply cannot protect children as long as these people are out wandering the streets in our communities.

It has become clear in our assessment of a whole number of Canadian cases that sentences are failing to protect children from sex criminals. So I appeal to you as the lawmakers to take the actions necessary to ensure that the removal of predators from society is for a period appropriate to the crime committed.

I would add, as a former social worker who did some work in some areas of addictions, etc., that a 90-day sentence is not long enough to do remedial training and help a child sex offender. You cannot treat that individual properly in 90 days.

I speak on behalf of the 84,500 Canadians who in the last four months have signed a petition that the House will be receiving within the next couple of weeks. All of those people are pleading with you

as lawmakers to act decisively and expeditiously to correct the part of the Criminal Code that's outdated and inadequate, due to Internet technology and the crisis of escalating sex crimes against children in Canada and around the world.

We ask that you do this expeditiously, as I just heard in the House in question period some rumblings again about an election. I hope this bill can get back to the House and put through before an election, because I think our children are clearly more important—and important enough. I know you passed the pardon bill for the Homolka case within two days, so surely within two to five weeks something like this is capable of getting through the House. I ask that all parties work together on that.

Thank you for receiving our comments, the brief we presented, and the reference documents.

• (1600)

The Chair: Thank you.

We'll move to Catherine Dawson for ten minutes.

Ms. Catherine Dawson (As an Individual): Thank you.

By way of introduction, my name is Catherine Dawson, and I've been engaged in the training of police officers and have worked in the field of criminology for over a decade. My research field is offences committed over the Internet, particularly those involving children. I am a member of the Canadian Police Sector Council and the Society for the Policing of Cyberspace, and I am a research associate with the University of the Fraser Valley. I also sit on the advocacy committee of the Canadian Federation of University Women, and I volunteer at the Abbotsford Police Department as a victims service worker. So I thank you very much for inviting me here today.

I would like to start with some facts. In 2010 I completed a pan-Canadian research project that examined the exponential increase of crimes of exploitation committed on or facilitated by the Internet against children in Canada and globally. Accessing images of child abuse—somewhat understated by the use of the term “child pornography”—child luring, trafficking, and travelling for the purpose of sexual offending are crimes increasingly facilitated by modern, ubiquitous technologies, especially the Internet, around the globe. In part, my research concluded that Canadian criminal law and the sentencing guidelines that follow have not advanced sufficiently to address the investigation, the prevention, and the impact of these crimes or to deal with the offenders who commit them. At the conclusion of that study, I made a number of recommendations related to changing both policy and practice, and I shall do so again today.

The crime: It has been found that approximately five million images of child abuse are in circulation on the Internet, featuring some 400,000 children. Cybertip Canada research indicates that nearly sixty percent of those images that they examine are of children under the age of eight and nearly ten percent are babies and toddlers. Many of these images, which I have seen, reflect torture and bondage. As just one recent example of the scope of the problem, a man arrested in British Columbia last month was found to have upwards of one million sexually explicit images of children on a broad variety of communications devices, including his computer.

How do offenders use the Internet? My research indicates that there are four main ways in which offenders use the Internet to exploit and abuse children. First, they traffic—distribute—images and videos of sexual abuse also known as child pornography. Second, they locate children for the purpose of sexual abuse, to plan their foreign travel, to sexually offend. This is known collectively as “sex tourism”. Or they lure children to real meetings closer to home. Third, they engage in inappropriate sexual communication with children, including what occurs on social networking sites. And fourth, they communicate with like-minded individuals.

Evidence shows that offenders join like-minded individuals in their online communities in an attempt to normalize their behaviour and of course to gain access to the collections of others. They also learn new methods, such as encryption, to avoid detection.

Controversial but thought-provoking research conducted by Rodriguez indicated that a high percentage of viewers of child pornography are or will become contact offenders. Other researchers argue that at least 80% of those who purchase child pornography are contact offenders and child molesters. And much research claims that viewing any pornography can become addictive.

I believe offenders acting in cyber communities of pedophiles must be removed from the immediate and somewhat anonymous gratification that high-speed access and peer-to-peer transfer of files provides. To prevent the ever-increasing numbers of crime, offenders must be disconnected from social networking sites through which they lurk and stalk.

Canadian research finds that three-quarters of a million pedophiles are online at any given time, and evidence shows that sexual offenders often have multiple victims. Those offenders who view images of child abuse often have thousands of images in their collections that date back years and originate from many sources.

• (1605)

In addition to the initial sexual assault, whenever a violent crime is recorded or shown through webcam or video streaming, each time that image is downloaded or viewed, another crime is committed and the victim is exploited again and is re-victimized.

These are my comments on sentencing. Sentences should reflect a reasoned, informed approach that includes respect for the victim, appreciation for the gravity of the impact of the crime, and a recognition of our ever-changing technological and social landscape. Minimum sentencing, as it stands today in Canada, does not achieve this goal. I would argue it does not consider the real and often lifelong impact that offences have on the victims.

Data shows that contact sexual offenders, those who use the Internet to produce images and video, are most often not strangers. The impact on children raised in a home where they have been sexually attacked and exploited is an understudied phenomenon. But Ethel Quayle, one of the world's pre-eminent researchers in the field, states that the process of producing child pornography is a learning instrument in the grooming process whereby a child is de-sensitized to sexual demands and is encouraged to normalize inappropriate activities.

Health Canada has identified over a dozen observable effects of child abuse, including unusually high levels of anger and aggression. These effects have long-ranging implications for the children, their families, and their communities.

Sentence guidelines must integrate realistic societal standards. With the current minimum guidelines, criminals who have committed child pornography offences thousands of times may in fact receive a minimum sentence of 14 days. At present, the minimum sentence guidelines for the sexual touching of a child under 14 are the same. This sentence, in my opinion, serves no realistic intent or purpose, and I would argue that no reasonable person in Canada would think this is an acceptable penalty for the possession and viewing of images of sexual crimes committed against children.

Minimum sentences at present also fail to provide a modicum of rehabilitative potential. Indeed, sentences should offer some reasonable chance for offender change. The statistical data of convicted persons with addictions or addictive personalities is well documented elsewhere. Minimum sentences provide no time for recovery or cognitive treatment. Longer sentences could mean longer community-based programming and denying access to computers and the Internet as a condition of parole or probation.

In British Columbia today, with a minimum sentence of 18 months, day parole could be available under many conditions at three months and full parole at six, but the remainder of the sentence would be served in the community under supervision until warrant expiry. This, I believe, would be a more effective way in which to exercise better supervision and programming options.

This brings me to my recommendations. My recommendations are in support of the new minimum sentence guidelines and they are rooted in the belief that the new guidelines will better serve victims, offenders, and the public.

Victim recognition and respect are enhanced by longer sentences and greater penalties. In fact, Canadian research is being conducted now on child pornography victim impacts. It's being conducted in Canada, and that research should be out soon.

The offender's potential for rehabilitation is increased by serving longer sentences requiring abstinence as a condition of parole or probation. A community, be it the real one or the cyber world, where children learn and play is made safer when offenders are denied access.

•(1610)

I believe public confidence in the justice system is greatly enriched when the Criminal Code and the sentence guidelines reflect the reality of today's world.

Thank you.

The Chair: Thank you.

We're going to move to questions from our members. We'll begin with Mr. Murphy, for seven minutes.

Mr. Brian Murphy (Moncton—Riverview—Dieppe, Lib.): Thank you, Chair.

Witnesses, I want to thank you for coming today.

I want to state that on this side we're very happy to see a piece of legislation like this. There's substantial agreement with the legislation. We've been here...we just passed our fifth anniversary, and we haven't seen this legislation before. There was a precursor in Bill C-46, which talked about some of the investigative powers that Mr. Naylor was talking about, but by and large we haven't seen a lot in this area. So we're five years down the road and we're tackling this issue.

By way of history, you know that previous Liberal governments brought in I think it was nine offences, mandatory minimums. So this ought not to be a political thing. It ought to be something where we realize that society has grown more in exponential fashion.... Criminals have become more sophisticated and there's a plethora of crime out there that the code is way behind on. I think we can agree with that, at least.

I'm very interested in some of the concepts. There won't be enough time to cover them. One is the definition of child sexual abuse materials. The definition this legislation hinges on is sexually explicit material for the two new offences, and I applaud the Department of Justice, I suspect, for the two new offences and how they're crafted. Normally we have the minister here first and the Department of Justice officials, but we'll get into that on Wednesday. I guess what I'm getting at, my first question, would be do you foresee, Mr. Rushfeldt, that child sexual abuse materials could be combined with sexually explicit material? That would be a question.

I know how these things run—we usually run out of time—so I'll get both of my questions on the floor.

On a different topic, Ms. Dawson, what you argue all made sense to me, frankly, but some of what you say might argue in favour of retaining conditional sentences. We've heard over the years that conditional sentences, as they stand now, allow judges to craft a sentence service that frankly has more conditions on the offender with a view toward rehabilitation or treatment than even a parole situation, and certainly more than at the end of a sentence situation, where a person serves 90 days and is done.

So once we're finished with Mr. Rushfeldt, would you give me your opinion on whether conditional sentences should be omitted entirely or what vehicle you see, other than longer sentences, for the conditions in the community, in treatment, to put into effect the very wise things you said to the effect that you're warehousing an offender with a problem for 90 days—I think a number of people said that—and he's back out on the street without really taking the danger away from himself and from the community.

So perhaps we could hear from Mr. Rushfeldt for a couple of minutes and then Ms. Dawson after.

•(1615)

Mr. Brian Rushfeldt: I think in response to whether the definition as such could include sexually explicit material, some of what is referenced, some of the new stuff, and changes in Bill C-54, I think it could. Changing the terminology really doesn't change the definition per se. It is a terminology change that I think is key, but the definition that comes in section 163.1 I think could be broadened at the beginning. I think it's somewhat outdated, perhaps, or minimal, and I think it can be an all-in-one definition, which could then capture perhaps some of the things you're suggesting, yes.

Ms. Catherine Dawson: I'm sorry, I haven't studied conditional sentencing, so I wouldn't really feel informed to comment, but I would say that when I think about the law and particularly this law, there has to be that balance, and I believe that victims and offenders have to see there's that balance.

Mr. Brian Murphy: I want to ask Mr. Naylor something.

Inspector Naylor, I was specifically interested in your comments where you talked about the use of telecommunications to make arrangements to commit a sexual offence. I was drawn to the memory of Bill C-46 and some of the investigative powers that were in there. Of course that was killed by prorogation and politics and so on, but I think your phrase was that we could always use more.

I think we're interested in this committee, as most of us have been here a while, in what more we could do to help police forces. I suppose you're going to go down routes of telecommunication warrants and access, Internet service provider duties to provide information, which is also handled in another bill we've had. What did you mean by that? Do you remember saying that we could always use more?

Det Insp Scott Naylor: That's exactly what I meant. With the Internet service providers we deal with right now, we are handcuffed in the work we do—getting law enforcement requests, warrants, and things like that—to find out who is actually perpetrating these offences, or behind these offences. Some changes to the legislation and support for police in these investigative techniques would make our job that much easier, without violating people's rights. If we had the legislative changes behind us to help us do that it would make our job that much easier.

Mr. Brian Murphy: Do you know what I'm talking about when I refer to Bill C-46? Do you remember that? Did that include everything in the basket of what you would need in terms of tools?

Det Insp Scott Naylor: It was good legislation, in my opinion. Yes.

Mr. Brian Murphy: Okay. Those are my questions. Thanks.

The Chair: Thank you.

We'll move on to Monsieur Ménard for seven minutes.

[Translation]

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

Our witnesses are here today to speak to us about an issue with many facets. You all seem to be extremely well-prepared. I wish I were. Had I received your documents ahead of time, I could have gone over them. You gave a lot of statistics that I did not have time to jot down. Perhaps you were not told, but the committee members appreciate receiving documentation ahead of time. That has often been the practice of the RCMP when appearing before the committee. Their officials send their documents to the committee ahead of time. That gives us an opportunity to read them and to ask more specific and informed questions.

A few things struck me. Ms. Campbell, if I understand correctly, you have a list of 12,000 names. I am not sure whose names you were talking about. The names of abusers?

[English]

Ms. Ellen Campbell: No, they are people who want to see a change. When we worked on the age of consent we did a lot of awareness work with the public. That's what we do. So we have been reaching out through our community to get names.

[Translation]

Mr. Serge Ménard: Very well. So your list is a sort of petition.

• (1620)

[English]

Ms. Ellen Campbell: Yes. It's not signed. We have votes, but we've just started.

[Translation]

Mr. Serge Ménard: I would like to hear everyone's opinion on this.

What age range does child pornography cover? In French, we say *pornographie infantile*. From what age to what age is it considered child pornography?

[English]

Mr. Brian Rushfeldt: Perhaps I can answer.

First, I apologize for not having our document for you in French. I was out of the country when I got the call to appear and just got in late Saturday morning. So I presented it, and I apologize for not having it available today.

Right now the Criminal Code talks about child pornography as being under the age of 18. I'm sure the detective will have a comment about this. We've talked to a number of police forces that simply say that trying to handle all the cases of those under the age of 18 is problematic because there are too many. Sometimes you can't tell if someone is 16 years old. Are they 18, 19, or 16? But certainly prepubescent children are recognizable to investigators. I

think our country and other countries will benefit if we at least make sure we are protecting any prepubescent child. Of course that might eliminate some of the older children we wouldn't protect, so I'm torn about that. But if there is a question legally about whether they are of age, of course that puts the courts in a tough spot.

[Translation]

Mr. Serge Ménard: That is also the most horrifying aspect of child pornography and usually the most upsetting in the public's eyes. When children reach puberty, especially young girls, they often want to become adults. It is considered more normal when someone is attracted to a young girl with the physical attributes of a woman than when they are aroused by a prepubescent child, as you said.

[English]

Mr. Brian Rushfeldt: I would agree with you partially on that, I think. However, from a lot of the people we've talked with, clearly there is a decrease in the age of children pedophiles are going after. In fact, we're seeing huge increases in very young children. I think somebody mentioned that even babies are on the Internet and are the prized collection of some of these people.

It's always questionable. But I think part of it is putting the onus back on the perpetrator. If the perpetrator says, "Oh, well, I believed that she was 14" or "I believed he was 15", that's not a good enough defence. I think there is a defence already in the Criminal Code that's fairly good on that. Maybe that's an area that even needs to be looked at again so that we simply cannot allow that kind of argued defence by any perpetrator.

[Translation]

Mr. Serge Ménard: You all seem to be quite convinced that minimum sentencing plays an important role in deterring individuals with pedophilic tendencies from acting on those tendencies.

You mentioned comparisons between Canada and other countries. The Department of Justice conducted a study showing that none of those countries saw any effect on crime, in general, when minimum sentences were imposed. I saw the study, but I do not recall whether it even mentioned sex crimes.

Do you have any documentation or meaningful research to show that minimum sentences are indeed effective? I always come back to one question: Once the individual has served their minimum sentence, what happens to them when they are released from prison, with no job or prospects?

With conditional sentencing, as my colleague mentioned, the judge does not impose the sentence he could. However, he informs the accused of the sentence he is allowed to hand down. The judge imposes conditions, and in less serious cases, he can impose conditions that ensure that the individual will be able to reintegrate into society, while continuing to hold a job and taking care of his family.

By taking away someone's job for a year or a year and a half, you completely disrupt their life, and it seems to me that the person would then be more likely to cling to their vice rather than pursue something else.

With suspended sentencing, the judge states that if the individual does not respect the conditions imposed, they will have to return to court, where the judge can then hand down the stiff sentence authorized under the law.

We have seen over time that this has been an effective way of dealing with many other crimes. Do you not think this could also be an effective way of dealing with offenders who are not yet very involved in pornographic activities?

• (1625)

[English]

The Chair: Unfortunately, we're already over time for that set of questions. Maybe in the second round you can come back to that.

I'll go to Mr. Comartin, for seven minutes.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Thank you, Mr. Chair.

And thank you, witnesses, for being here.

Mr. Rushfeldt, if I could start with you, on this concept of trying to change the terminology, you mentioned that there were some draft proposals on that. Has any jurisdiction adopted that as their main thrust in terms of dealing with this type of material?

Mr. Brian Rushfeldt: There is a segment of Australia that has actually passed that legislation. I'll just see if I have that here. If not, I definitely will get my assistant, Nathan Cooper, who is sitting in the back corner, to...

Mr. Joe Comartin: Is this one of the states of Australia?

Mr. Brian Rushfeldt: Yes, it is one of the states of Australia that has done that. There was certainly mention of that in the document from Europe, as well.

Mr. Joe Comartin: Do you know if there are any countries in Europe that have adopted it?

Mr. Brian Rushfeldt: I'm not sure that Europe has gone to that. I'm not aware of anything specific at this time.

Mr. Joe Comartin: With regard to the state in Australia that's adopted it, have you seen any studies on whether it's been effective? And I mean that from two vantage points. One, has it been challenged in the courts? In addition to that, if it hasn't been, has it been effective, as opposed to the type of terminology we've used around child porn?

Mr. Brian Rushfeldt: I can't answer that. I haven't seen data. I'm not sure when that was changed. I think it was fairly recently, so there may not be data on that yet.

Mr. Joe Comartin: Okay.

In terms of this type of approach, have you had any discussions with the Department of Justice on taking that approach, rather than the terminology they've used in Bill C-54?

Mr. Brian Rushfeldt: We did present a brief to the Department of Justice over a year ago, which included that as one of the suggestions on the terminology.

In that report that came out, *Every Image, Every Child*, which was from the ombudsman, that was his number one recommendation. We've talked to a number of law enforcement people on that as well,

and felt that the changing of the terminology sets a tone. The terminology of "pornography", which we generally accept in Canadian society, North American society, and probably around the world, sets the tone. People tend to think, because the term "pornography" is in it, that it's not that bad. I've talked to people, well-meaning people, in some of my meetings across Canada, who said "Pornography is legal, isn't it?" I look at them, probably with a blank look on my face to the first few people who raise that, thinking, "How did you not know?"

I think that's what we're up against. The law really sets a tone for how Canadians view certain things. And that term "pornography" I think really does an injustice to the victims as well. Clearly, it won't change the Criminal Code per se, and the definition and the sentencing, and all those things, but it changes how we as a society look upon that kind of act against defenceless children. I think that's important.

Mr. Joe Comartin: The essential difference is the focus on the abusive nature of the conduct, whether it's in material or in the actual physical conduct. That's the concept behind it, as opposed to the allure that pornography has in our society more generally.

Mr. Brian Rushfeldt: I think that's it, yes. It takes it back to what really happens in the crime, not somebody's perception of something else. But this is what's going on in the crime.

I think if we did that, and certainly if you folks as lawmakers did that, the Canadian public would say "Good, we now see that something is being done to really deal with this horrendous crime in a positive way". I think Canadians are really looking for that.

• (1630)

Mr. Joe Comartin: This would be along the same lines as when we moved away from the use of the sexual term "rape", as it was seen as a sexual term, to creating sexual offences, assault, and treating them all as sexual assaults. It's the same kind of concept, right?

Mr. Brian Rushfeldt: I think it is. I think to some degree it is, although I know sometimes these pedophiles, who do commit a sexual crime against a child, get charged with a sexual offence, which is good. Because if they were just charged with a pornography offence right now, the sentences would be meaningless. That whole section would be meaningless in some ways. So I think the fact that we can bring the pornography section to a higher or better level—I'm not sure what terminology—would be helpful.

Mr. Joe Comartin: To Inspector Naylor, like Mr. Murphy, I think it was about six years ago that the justice committee worked on legislation. I think there were representatives both from the RCMP and the OPP. The vast majority of this material and the victims of this material—that is, not the way it's used, but the children who are abused in the material—tend to be from outside the country. In fact, I think the RCMP officer said at that time that in the previous year they had only one case they were able to identify in Canada where the material had been produced in Canada. Since then—and I think part of it is because of that legislation we passed, and quite frankly the kind of work that you're doing, the OPP, and other police forces are doing to be more active in this area—there's been on average, in my assessment, four or five cases a year now that I'm seeing.

I've recited those facts. I'm just wondering if you can give me a sense: am I accurate on that? Our sense was that about 50% of it was coming from the United States, was being produced in the United States, and somewhere around 35% to 40% of it was being produced mostly in the old Iron Curtain countries—central and eastern Europe—all the way into Asia, with the Russian mafia playing a fairly significant role. Those seem to be the numbers, with a small smattering here in Canada, and then miscellaneous around the world. Is that basically still the situation?

Det Insp Scott Naylor: No, I'd have to disagree with that. With the advent of the Internet, and with social networking and portable devices that are out there now, the making of child pornography in Canada is on the increase, hugely on the increase.

Mr. Joe Comartin: In terms of the responsibilities we have in terms of protecting our own children to start with, I'm just trying to get a sense of how many of the victims of this material are here resident in Canada versus elsewhere. That's not to say we aren't to do things to protect those children elsewhere, but I just wanted to get that feeling for how many are here and how many are elsewhere.

Det Insp Scott Naylor: I've heard some statistics from my friend here. Just in the provincial strategy alone in Ontario, in the last year and a half we've rescued 121 child victims. That would be 121 child victims of child pornography—of being a victim of having child pornography made of them.

Mr. Joe Comartin: All in Ontario?

Det Insp Scott Naylor: All in Ontario.

The Chair: Thank you.

We'll now go on to Mr. Dechert for seven minutes.

Mr. Bob Dechert (Mississauga—Erindale, CPC): Thank you, Mr. Chair.

Ladies and gentlemen, thank you very much for being here today and sharing your very important testimony with us on this critical legislation that we're studying. The expertise you bring is I think very significant. In my tenure with this committee, I think what I've heard today is one of the most insightful, varied, and expert testimonies I've heard on any of the legislation we've been recently studying, so I really want to thank you for that.

I'd like to start with Ms. Campbell.

First of all, I would like to thank you for sharing your brave story with us today. I know that it must be very difficult for you to be here. I think I can say on behalf of everyone here that we have greatest sympathy for what you've gone through in your life and we hope that no other children have to suffer the way you did.

I want to thank you for the organization you've created to assist other child sex abuse victims. I know that you and your colleagues there are doing great work to protect children in Canada and elsewhere around the world. I just can't thank you enough for that.

Ms. Ellen Campbell: Thank you.

Mr. Bob Dechert: I'd like to ask you, through your experience working with sexually abused children, do you believe the passage of Bill C-54 would help to protect children? Secondly, could you give us perhaps some examples—obviously without names of cases

that you know about—where you could tell us whether you think children who were abused would have been prevented from being abused had these provisions been in place previously?

• (1635)

Ms. Ellen Campbell: Okay. One of the things that I guess I should really clarify, too, is that a lot of the work we do is with the adult survivors. We do work with Children's Aid and a lot of agencies that work with children, and I guess one of the things I neglected to say is one of the things I think is really important: we're talking about prevention here, which is critical, but the other really important piece is the value for the victims themselves.

A good example is Martin Kruze. I don't know, but I think most of you would remember that Martin Kruze came forward at Maple Leaf Gardens. He was the first one to come forward to say that he had been sexually abused there. He was one of over a hundred men who came forward, who we are still helping; they are still coming forward 13 years later.

Martin's perpetrator, Gordon Stuckless, got two years less a day, if you recall, and Martin committed suicide. He said: "Is that all my life is worth? Two years less a day?"

So what I'm also imploring this committee to do is to think of the message you're giving to the victims, and that's a lot of who we see as the victims, the children themselves. Can I give you a specific case that I'm working on personally? No. We don't do front-line work, but the agencies we work with could absolutely give you case after case, I'm sure. I see the damage that's done with the adults. I hope.... I can't be more specific.

But the other part that I guess I've neglected to say—and to your question—is about when these people get out. I know it's not part of we're talking about today, but we need electronic monitoring then, because.... Your concern is about them getting out afterward. We need to control them afterwards, because they do reoffend. If we let them out with conditional sentencing, you can put conditions on them, but we know statistically that they reoffend.

So for us, that's why, I guess, minimum sentencing first of all gives a strong message, but secondly gives a strong message to the victims that their lives are worth something. I hope this answers that for you.

Mr. Bob Dechert: Thank you very much. I appreciate that answer.

I'd like to ask Mr. Rushfeldt a question.

Mr. Rushfeldt, as you probably know, this government is frequently criticized by the opposition and other people on the basis that mandatory minimum penalties we provide in various pieces of criminal justice legislation increase the cost of prisons and incarcerating people in Canada. What is your view on the increased costs of incarcerating offenders resulting from mandatory minimum penalties as proposed in this Bill C-54?

Mr. Brian Rushfeldt: I've not done any work on the amounts, per se, but I have looked at some things and read some things. Social science research is not always provable, but clearly I think it was mentioned how much the crime costs the public purse in a sense through health care, counselling, lost production, suicides. I think if we could do a balance on that, sort of a cost-benefit analysis, if you will, we'd find that the cost of actually incarcerating some of these folks for a longer period would not outweigh what it's costing society by not keeping them in and their reoffending.

And of course it was raised, and I think this is a good point, that incarcerating them for a long enough period of time to hopefully get some help, hopefully re-establish themselves is a problem—and I know Mr. Ménard raised the issue that then they're potentially out of the workforce, etc. On the other hand, if we don't have them incarcerated long enough to try to do something with them, then they are back out and potentially—and I think a lot of the stats do say—many of them reoffend. There is a huge cost to the public in those offences because of what it does to the victims or the survivors.

So I don't know that we could put a dollar figure on it, but I—

• (1640)

Mr. Bob Dechert: I'm not asking you to say how much it would cost, but assuming there is an increased cost, what do you think of the value of that? Do you think it's money worth spending?

Mr. Brian Rushfeldt: I think it's very worth spending, because when I talk to a number of victims, especially the Internet pornography victims, I hear that the crime doesn't stop when the guy is caught. Those images, as we just heard, are out there circulating for years. In fact there are some quotes in this report from the ombudsman in Canada: 19-year-olds who were victims at six saying they're still victims because they can't walk down the street without thinking, "Did this man see my pictures?" Because they're still out on the Internet.

I think it's money well spent. If we can prevent one more child from being abused, we have made that investment worth while.

The Chair: Now we'll move to Mr. Lee for five minutes.

Mr. Derek Lee (Scarborough—Rouge River, Lib.): Thank you.

I wanted to ask Inspector Naylor about the means. Well, I know that you will have good experience in the means that are used to investigate, charge, try, and convict individuals who are either persistent offenders or who are—how do I describe it?—people who are just users, conveyors, traffickers of child pornography. And there have been many successes over the past few years. I read the newspapers. But have you had a chance to take a close look at proposed section 172.2 of the bill? That's the section that looks like a framework for investigation. I'll just use the word "entrapment", because, as I read it, it's possible. Do you recall that section?

Det Insp Scott Naylor: No, I don't.

Mr. Derek Lee: Okay. I don't want to put you on the hot seat here on the technicalities of it, but it imposes a presumption about the age of the victim. It removes the defence where the accused would say that he or she didn't know the age of the victim. Then it says—and this is put in here for the police—it is not a defence to a charge under the above sections that "if the person with whom the accused agreed or made an arrangement was a peace officer or a person acting under

the direction of a peace officer"...that the person referred to above didn't even exist.

This has to do with luring, communicating, making an arrangement with a young person. We all agree we want to stop that. We want to make it impossible for that to happen. But this seems to set up a scenario where there was no victim or potential victim, and there can be no defence about the knowledge of age of the non-existent victim. And there are pretty clear tools and immunity to police officers to go ahead and do something like that—in other words, to lie to somebody over the phone, lie to somebody over the Internet. Even if the person didn't exist, it's not a defence to the charge to say that there was no person.

Have you in your work ever used that type of mechanism, where there wasn't a victim, there wasn't a real criminal offence that took place at all—the setting up of an arrangement, nothing ever happens, talk on the phone?

Det Insp Scott Naylor: What I can tell you from an investigative perspective is that is an undercover technique that is used on a daily basis. There are online undercover police officers posing as fictitious eight-, nine-, ten-, eleven-year-old girls and boys on a daily basis, trying to trap and lure those like-minded individuals who are in certain areas trying to lure these children—whether it be an undercover police officer or a child on the outside—into committing sexual offences with them.

What I can tell you is that there is absolutely no question, no question whatsoever, that the person on the other end, the unknown person who is chatting with the undercover police officer, knows the age and sex of this individual.

• (1645)

Mr. Derek Lee: You're clear beyond all doubt that no one could stumble into one of these scenarios?

Det Insp Scott Naylor: I'm 100% sure.

Mr. Derek Lee: Okay, thank you.

Thank you, Mr. Chair.

The Chair: Thank you.

Monsieur Ménard, do you have another question? Do you want another round?

Monsieur Ménard, for five minutes.

[*Translation*]

Mr. Serge Ménard: I would like to know whether you fully understood the last part of the question I asked you regarding suspended sentences. Unfortunately, it is no longer called that. The Criminal Code talks about "parole".

The term "suspended sentence" explained the idea so clearly. The judge could choose not to hand down the sentence authorized under the law and to impose conditions on the accused. In these types of cases, that could mean requiring the person to undergo treatment, allowing them to keep their job, placing restrictions on their movements and so forth.

Indeed, there are a whole slew of conditions that may be effective in discouraging the individual from continuing to take part in the desired activity. If the person fails to respect those conditions, they are brought back before the judge, who can then impose the sentence that was initially suspended and explain what that decision means.

With this kind of offence, do you not agree that some cases are more serious than others, that some people are more active than others? In the least serious cases, this may actually be a better approach than imposing lengthy prison terms, since, as you say, the sentence has to be long in order to undergo treatment.

[English]

Ms. Catherine Dawson: May I respond?

I would suggest, although I don't have the facts, that the over 100 children who were rescued in Ontario were rescued from their homes. That's where the production would have occurred. They were sexually assaulted by people who were not strangers, who were uncles, babysitters—predominantly males, but there have been some female offenders of late. So this offence, this hurt, occurred in the home. This would be the home that the person on a conditional sentence may return to or may not return to as one of their conditions, and that has already caused chaos.

One of the things you do with a sentence is you remove the offender from the victim's home, where the offender and the victim were together. I think, if nothing else, for a sexual offence that's a minimum we can expect.

I don't know.... I'm sorry, I would not share the opinion on where there is some small offence and some large offence, and the reason I don't share that opinion is that my research indicates that viewing child pornography or any pornography is addictive. It's daytime, nighttime. It's so incredibly addictive that offenders are into it very quickly. Then they're spending most of their nights on the Internet and that sort of thing. So really, if there is a process of getting them early so that you can cut that addictive behaviour or redirect it, I would say that would be a positive outcome.

But I believe removing the offender from the victim's home is absolutely crucial.

Mr. Brian Rushfeldt: Mr. Chair, may I respond?

The Chair: Yes, you may.

Mr. Brian Rushfeldt: One of the concerns I think you're raising is part of why we recommended different levels of sentencing, whether it be for possession, distribution, or making, because there is some differentiation in what the guy or woman actually did. We recognize that in some cases a guy might be caught with 100 images, although I think the majority of guys that get caught have thousands, if not millions, of images. Our recommendation takes this into account.

You also asked about the deterrents. I don't know that we consider the mandatory sentencing issue from the perspective of deterrence. I'm not sure it does deter. I have no evidence to say whether it does or doesn't. You mentioned that some say it doesn't. I don't think it's a matter of deterrence as much as protection of the innocent. That has to be our prime consideration. We have an obligation, as a society, to protect those who can't protect themselves. Clearly, every child who is abused is totally defenceless, whether the perpetrator is an uncle, an aunt, or a stranger.

I agree that judges should have some latitude, but I think the latitude has to have a baseline. In fact, we have a case in Winnipeg, Manitoba, where the guy was sentenced to 30 months in jail by the first judge. He appealed, saying the sentence was much harsher than that imposed on most other people for committing his crime. He won the appeal and it was reduced to 18 months. This was based on a precedent. The precedent has been set that it shouldn't be this harsh. So I think we have to be careful on that front too. If we have a standard, it has to be met.

• (1650)

The Chair: Thank you.

Mr. Woodworth.

Mr. Stephen Woodworth (Kitchener Centre, CPC): Thank you.

And my thanks to all of the witnesses here today. The members of Parliament are here on an almost daily basis, and it's easy for us, but I much appreciate the effort and the care with which you've delivered your submissions today.

I want to urge you to keep making your voices heard. Time and again, we hear witnesses come to us with a totally different message. The message we often hear from witnesses is that crime rates are going down, so why do we have to do anything about crime? Your evidence today establishes that the government accurately perceives a need and that targeted and balanced improvements to our criminal justice system are necessary.

Mr. Rushfeldt mentioned appeal courts, and I want to quote from something that the Alberta Court of Appeal was reported to have said sometime in December. They said the vast sentencing discretion currently enjoyed by trial judges “makes the search for just sanctions at best a lottery, and at worst, a myth”. They also said that the present system “inevitably causes prosecutors and defence lawyers to ‘judge shop’ for jurists they hope will impose the sort of sentence they are seeking”.

So it's those kinds of challenges that the government is trying to meet when we deal with mandatory minimum sentences.

Ms. Campbell, does your organization have any members from the province of Quebec?

Ms. Ellen Campbell: No, we don't.

Mr. Stephen Woodworth: Does yours, Mr. Rushfeldt?

Mr. Brian Rushfeldt: Yes.

Mr. Stephen Woodworth: The reason I ask is that I have heard some members of Parliament say that the people of Quebec are different and that they don't think there should be mandatory minimum penalties, even for those who commit incest or for those who commit aggravated sexual assault on victims under the age of 16 years. I have a hard time believing that's what the people of Quebec think. If you have members in Quebec, do they express that to you, or do you get a different message from them?

Mr. Brian Rushfeldt: We haven't had a specific sorting of the members when we collected the roughly 85,000 names on petitions. They came from all over Canada. So I can't really say whether our Quebec members think differently than the rest of Canada, unfortunately.

If I can express my opinion, I know some of our Quebec members personally—a little. I would have a hard time believing that those members would agree that there shouldn't be mandatory sentences for people who are abusing defenceless kids. I don't think that's how they would look at it, but that's only my opinion.

• (1655)

Mr. Stephen Woodworth: It squares with mine as well.

I'll just ask one last question, and then if there's time I'll share my time with Mr. Norlock.

Ms. Campbell, earlier Mr. Rushfeldt was asked a question by my colleague about the cost of prisons. It's a fact that this is something we often hear: that it's too costly to put these people in jail; it doesn't matter if they have committed incest or aggravated sexual assault against victims under 16; mandatory minimum penalties just fill up our jails and we can't afford that. So I wonder if you would like a chance.... What would you say to that argument?

Ms. Ellen Campbell: I really agree also with my colleague here that I think it's going to balance out, because the medical cost.... I mean, I can't begin to tell you the people that I see who are in therapy, who are in depression, hospital care, loss of work—we do a lot in the workplace. So I think maybe one's going to offset the other, because the costs are so high.

But I still think we have to come back to what is the value of that child—how can you put a value? You have to protect the children. Somehow we've got to make that the priority here, the cost to protect children.

Again, these people.... I mean, I don't know exactly the statistics, my colleagues are much better at statistics than I am, but I know that when one pedophile is caught, how many times has he already perpetrated, twenty times or something? So you have to take him out of society and get him into protection. Please, if you let them out, put them on electronic monitoring.

The Chair: Thank you very much. Mr. Norlock will get a chance next round.

Ms. Mendes, you had a question. Then we'll move on to Mr. Lee.

Mrs. Alexandra Mendes (Brossard—La Prairie, Lib.): I just have one comment, Mr. Chair, and I'll pass on to my colleague Mr. Lee.

I'm wondering if any of you are aware of the book *The Kindness of Strangers*. Have you read it or have you heard of it? I definitely recommend it. It's one of the most disturbing books written on child pornography and child abuse by parents, and the recommendations thereof, and how it looks at the whole problem of abuse by family members or people the children know.

I think one of the biggest recommendations in that book is how the schools are and should be the best place to detect how children are being abused and to denounce it. We put a lot of emphasis on what the police have to do in terms of investigations, but often the front-line detectives in terms of what kids are going through will be the teachers. They would be the best ones and the most appropriate ones to start providing information on what's happening to the children and eventually get them to be sentenced and taken out.

That's my comment, and I will pass on to Mr. Lee.

Mr. Derek Lee: Thank you.

There is in this bill the section of the Criminal Code that deals with indecent acts. It doesn't have anything to do specifically with child pornography or luring or anything like that. It's the section that refers to anyone who willfully does an indecent act in a public place with an intent to insult or offend anyone.

To your knowledge or experience, is there any linkage between that and the child pornography envelope we're purportedly legislating on here? Does anyone have a thought on that? It just looked a little out of place to me, but I certainly wouldn't want to dispense with the section. I'm just wondering if there's a linkage.

Ms. Catherine Dawson: I think that any inappropriate sexual behaviour that children are exposed to changes their thinking about sexual behaviour. My research indicates that a lot of pedophiles use other children sexualized to show children having sex with other children in order for kids to think this is a normal thing to do.

I think what you're talking about is public masturbation. I think that what happens normally—I think that's what they are referring to here—if it's over a period of time, it will condition a child's thinking to think that's an okay thing or that's a normal thing.

I would be sort of dead against removing that portion from the bill.

The Chair: Mr. Norlock.

• (1700)

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

Thank you to the witnesses for appearing today.

I became a member of Parliament for three basic reasons. The second one was that I was exposed in my 30-year career in policing as a general police officer but also as a court officer in three jurisdictions to sentencing and laws that I thought needed improvement, and this is definitely one of them.

I'll start with an anecdotal story. It's probably the main impetus behind my decision to get involved with politics, and that was an incestuous relationship between a father and three of his four daughters, and the subsequent sentence. By the way, these girls ended up being married...it's a long story, and there were years and years of counselling. The sentence was six years in jail and six years probation. He received that "severe" a sentence, in the judge's words, because he was a police officer. In the United States, I believe he would have gotten sixty years. Now, I'm not saying sixty is the right number, but for sure—and I know that case—six wasn't.

I'm going to ask you some questions, and because of the time, I'm going to ask you not to just say yes or no—because you can't really always answer questions with a yes or no—but to try to keep your response short so that everyone has a chance to answer.

I don't believe a pedophile can be cured, but I want your opinion. Given all of your experience in the field of law enforcement or in child advocacy or victim counselling or criminological studies, do you believe that a person who is a pedophile can be cured?

We can start with Ms. Campbell and work across.

Ms. Ellen Campbell: I don't think so at all. I think there are what they call crimes of opportunity, which I still think are pedophilia. Once somebody offends.... Given all my experience, all my knowledge, I know of one instance, really quickly, in which there was a support group and the offenders had to be accountable. They came in every week for eight weeks, but as soon as the support group was over, they all went and reoffended. So no, I don't.

Det Insp Scott Naylor: No.

Mr. Brian Rushfeldt: I would say probably not, from my experience as a social worker and also from the research I've read, but I think we do owe every one of those individuals at least an opportunity, while they're incarcerated, to hopefully get their life together.

Ms. Catherine Dawson: I believe that if you're sexually attracted to children, that sexual attraction stays with you for life, but I also believe that through community intervention, such as circles of responsibility, that supervision and managing the sex offender can be conducted in the community, with varying degrees of success.

Mr. Rick Norlock: Thank you.

Starting with Ms. Dawson and working the other way, do you believe that pedophiles generally know that what they are doing is a crime? In your opinion, do they know it's illegal, and do you believe they feel it is immoral—in other words, socially unacceptable?

Ms. Catherine Dawson: A study that came out of the U.K. last year indicated that the average person who was distributing child pornographic material in the U.K. was 38 years old and was involved in the IT community or had the intelligence to conduct IT programming and software to encrypt his materials and hide his materials. So we're not talking about somebody who's neurologically impaired.

I believe that people do know that it's wrong, and I can't comment morally.

Mr. Brian Rushfeldt: I have no doubt they know it's illegal. That's why they try to cover their tracks in every aspect.

As far as whether they believe it's immoral, I certainly have heard comments that they don't believe Canada's all that bad, or that they believe this is a good place to be, because if you do get caught, sentences aren't too bad here. Don't go to Cambodia, where you'll probably get 15 years, or the United States, where you might get 50 or 60 years for multiple offences.

I still think in some ways there is some sense that it's immoral as well, but the sentence and how we treat it is a major portion of why we're seeing what we see in Canada.

Det Insp Scott Naylor: I can support that comment. As somebody who lives in that world by virtue of my occupation, I think these offenders are like-minded individuals, and as my colleague said, they try to normalize their behaviour.

Speaking on deterrence, I can also say that intercepting and chatting with these people, I know that once a law enforcement technique gets out there, it goes worldwide very quickly. If a sentence gets out there, or there is the possibility of a sentence being increased or minimum sentencing, that will get out there as well.

So I'm not speaking to the deterrence of the one person who is charged; I'm speaking to the deterrence of all the people who are communicating on perhaps that chat line or in that forum. That will get out there.

Whether or not they know that it's immoral, I can't really speak to that. They definitely know that it's illegal.

• (1705)

Ms. Ellen Campbell: I think I agree. They know it's illegal; they wouldn't do it in secret. There are books that actually support it, like "Men loving boys loving men", where they actually get support from one another and perhaps convince themselves it's all right. I think there is a segment where we've also dealt with perpetrators who want help. So there is a segment who wants to get better.

The Chair: Thank you.

We'll go to Monsieur Petit for five minutes.

[*Translation*]

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): I want to thank all of you for meeting with us this afternoon. Your presentations were quite impressive.

Ms. Campbell, I have a question for you, but I want to make a comment first.

When you hear the word "pedophile", it is usually people with mental health problems, as Ms. Dawson said, who come to mind. You can find actors, journalists, teachers and hockey coaches who have taken advantage of children. I am talking about cases I have heard about, cases we have all heard about, cases we will hear about in the future.

Right now, in Quebec, there are incest cases under way. An 18-month-old child was the victim of incest. That is one case going on right now. There are child pornography cases involving children's television actors.

I am from Quebec. Don't think we are all the same. We can still see a difference.

This is what I am getting at. You have seen the bill. It seeks to increase what are known as mandatory minimum penalties (MMPs) with respect to incest, bestiality, Internet luring, exposure, sexual assault against a person under 16 years of age, sexual assault with a weapon against a person under 16 years of age—we are still talking about children here, according to the code—and aggravated sexual assault against a person under 16 years of age.

When you look at these crimes, do you think it makes sense to increase or impose mandatory prison sentences in these cases? For the most part, we are talking about incest cases, the most common type.

Do you think we are on the right track? You were a victim, and as such, you know what goes on. Do you think we are doing the right thing by increasing prison sentences in these kinds of cases?

[English]

Ms. Ellen Campbell: Absolutely. Any crime perpetrated against a child, whether it's through child pornography or right to the extreme, I do believe we have to have a minimum sentence. It sends a message to the perpetrators and it also sends a wonderful message to the victims. That is the biggest cry for the people I deal with, and for me. There doesn't seem to be anybody caring about what happens to the victims. So absolutely there needs to be a minimum.

In my experience also, with all due respect to what you were commenting on, Mr. Norlock, when the judges do have discretion, they don't give maximum sentences. I don't know if I've ever seen a judge yet give a maximum sentence. So I like the fact that there's a minimum sentence and they don't have an option, because I just find that the judges are very, very soft on crime. That's been my experience, with all due respect here.

[Translation]

Mr. Daniel Petit: My other question is for Mr. Rushfeldt. I have a specific question for you.

Quebec is an expert in rehabilitation. And yet, you still see incest and child pornography cases reported in the papers every day. Our courts deal with these types of cases every day. Our lawyers earn quite the living handling these cases.

Once the case is over, we have an obligation to help the victims, who need lifelong support, as Ms. Campbell mentioned. They have problems with drugs, alcohol and suicide. We have to deal with those problems. Not the person in prison, but us.

In your opinion, is it worthwhile to increase mandatory minimum sentences, which will remove people from society and protect children, in the cases I mentioned earlier?

[English]

Mr. Brian Rushfeldt: Yes, I certainly support what's proposed here, in principle. As I said earlier, I don't believe it's strong enough on some of the sentences. But I do think that with the whole notion of how sex crimes against children are exploding—and I think the police officer has told us how it's exploding in the numbers—clearly we have to do something on stopping that.

We know that counselling treatment may help some of them. We also know that as long as they're out there, too many of them reoffend. They're multiple offenders and reoffenders too often.

I have thought about this and I have talked to a number of people about whether there's another solution besides incarcerating these people. I do not think there is another solution, simply because, in my opinion, we don't have another solution, another way. And, yes, it's going to cost us some money, but in the long run it also will save some of those children who will be abused from ever having to go through counselling, treatment, drug costs for depression and suicide, and all those things.

So to me it is a very, very wise investment to increase the sentences for these kinds of crimes.

• (1710)

The Chair: Thank you.

Normally, Mr. Rathgeber would go next.

Are you allowing...?

All right. Mr. Dechert will have five minutes.

Mr. Bob Dechert: Thank you, Mr. Chair.

Mr. Rushfeldt, you mentioned in your opening comments something about the timing of this legislation and why it is necessary and implored us to move quickly. We all have noticed in the media over the last few weeks the continual speculation about a possible spring election triggered by a defeat of the government on the budget.

Is it your recommendation that all parties work together as quickly as possible to make sure that this legislation passes through both the House of Commons and the Senate before any vote on the budget?

Mr. Brian Rushfeldt: I'm not sure about the process, whether it has to go through the Senate. I don't know that process.

Mr. Bob Dechert: It does.

Mr. Brian Rushfeldt: I would like to see it passed into law before there is an election, because I think it's too critical for the number of children who.... By the time there's an election—and whoever gets re-elected really doesn't matter to me, in one sense—

Mr. Bob Dechert: The process is that if there were an election, this would reset to zero, and we'd have to start all over again.

Mr. Brian Rushfeldt: Yes, this basically goes back to zero, and to restart it again will take a number of months and maybe years. I think one of the members mentioned that five years into the current government, this is just finally getting forward. We can't afford to let be abused the number of children who will be abused between now and another year, or two years, or another five years.

I wouldn't necessarily like to see it go forward into law the way it is, because I don't think it's tough enough, but I certainly would like to see something tougher, and see it passed before the election.

Mr. Bob Dechert: We need to move quickly.

Mr. Brian Rushfeldt: Yes.

Mr. Bob Dechert: Ms. Campbell, do you have any comment on the timing?

Ms. Ellen Campbell: Well, I agree. Just while we've been sitting here talking today, how many children have been tortured, raped? The number is high. So it's urgent. I really encourage you to hopefully.... And please use us, in any way we can support you, to get the public awareness out; we would do that.

Mr. Bob Dechert: Okay, thank you.

Inspector Naylor, as you know, this Bill C-54 creates two new offences dealing with the exploitation of children using the Internet. It creates an offence to provide sexually explicit material to a child for the purpose of facilitating the commission of a sexual offence against the child; and it makes it an offence to use telecommunications, including the Internet, to communicate with another person to agree or make arrangements to commit a sexual offence against a child.

First of all, do you think these offences are necessary? Will they help protect children, and can you give us some examples from your experience of how they'll protect children?

Det Insp Scott Naylor: Yes, I can, specifically on the first one—and I'll get back to the other member's comment about indecent acts. What I'm speaking to you about is very tame, because I live in a very ugly world. What happens in a practical application of what's going on is that in Internet luring offences with young people, it is a matter of seconds before someone is exposing themselves inappropriately in front of a webcam in front of people.

What we traditionally charge people with in these cases is committing an indecent act. The change in this legislation gives more teeth and gives the charge a specific identification as to what is going on. That helps law enforcement a lot, with a definition of what the specific offence was.

The second offence that's created is that these like-minded people are often offering up their children to do sexual things. Basically, what they're doing is prostituting their children out. Until such a time as the act is committed, that is not an offence. The creation of this legislation creates an offence just by virtue of the agreement that's going on between the two like-minded individuals. So it puts a lot more teeth, from an investigative perspective, in the legislation.

• (1715)

Mr. Bob Dechert: Okay, thank you.

Do you I still have time, Mr. Chair?

The Chair: You have one minute.

Mr. Bob Dechert: Thank you.

Ms. Dawson, you mentioned in your comments that when sentences don't fit the crime, essentially, the public's confidence in the justice system is undermined. I wonder if you could expand on that a little and tell us how you think the mandatory minimum penalties in this proposed legislation might improve the confidence of the public in our justice system.

Ms. Catherine Dawson: If you listen to or read anecdotal reports or work in a victims services office as I do as a volunteer, you hear stories that have coloured people's perspective on justice in Canada. When you search on the Internet and actually have contact with people who are luring children, they too know what's going on in Canada and that it's a safe haven.

I believe that sending the message—and sending it out viral—that Canada is toughening up its sentencing guidelines and that you will serve time in jail will send a very strong message to the offenders. It will recognize the victims, but will more assuredly improve the public confidence that we're taking this seriously.

Mr. Bob Dechert: Mr. Rushfeldt, do you have a comment on the confidence of the public in the justice system and how sentencing impacts it?

Mr. Brian Rushfeldt: Yes. Clearly, the more information that's out there on these issues.... And we hear about this every week. In fact, in January of this past year, 32 men were charged in Ontario;

months later, 28 were charged. The police are doing a phenomenal job across the country. So it's surfacing every day, almost, in Canada.

I've had so many people ask me what the government, not meaning the Conservatives, but what those guys down there are doing to stop this kind of thing, because look at the explosion; it's everywhere. As somebody mentioned, there are lawyers...there's the whole gamut; it's not exclusive to any segment of society. And it undermines what people think about government and certainly about justice, when they see that there's not a whole lot happening and yet we have this thing going on.

I got a little case just in January, two weeks ago. We have a man who was charged in Cambodia. He faces 13 years in jail, if he goes to Cambodia. He's in Canada. He has no restrictions on him at all while he's in Canada; the judge removed every restriction. So he is out here, avoiding going to Cambodia, because he knows he will go to jail. Here he has no sentence. There's no monitoring; there's nothing. Here he lives with his freedom, and he has abused we don't know how many children in Asia.

Mr. Bob Dechert: Thank you.

The Chair: We've come to the end of our time. I want to thank each one of our witnesses. This was a very informative panel. You've come from different perspectives, but you've delivered a pretty strong message. So thanks to all of you.

We'll excuse the witnesses.

Mr. Joe Comartin: I have a point of order, Mr. Chairman. With regard to the request I made of Mr. Rushfeldt about the state in Australia, if he could provide whatever specific information he has to the clerk, it could be then distributed.

The Chair: That's a good point.

Mr. Rushfeldt, just get in touch with Ms. Burke, the clerk.

Mr. Brian Rushfeldt: We'll definitely send that forward.

The Chair: Thank you. You're excused.

I just have a comment about where we go from here.

On Wednesday we have the minister and justice department officials scheduled on this bill. On the following Monday we have a number of witnesses on this bill; there are three. And then we are proposing to go to clause-by-clause.

After that we have nothing, so I'm proposing that we have a steering committee on the Thursday. I believe you might have already been contacted on that. We need to decide what bills we want to deal with next. We have Bill C-16; we have Bill C-4 still hanging out there; we also expect Bills-10 to be at committee very shortly. And we still have the organized crime study. At the steering committee I'll be looking to you for some direction in that regard.

We're adjourned.

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