HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Justice and Human Rights

JUST • NUMBER 010 • 1st SESSION • 41st PARLIAMENT

EVIDENCE

Thursday, November 3, 2011

Chair

Mr. Dave MacKenzie

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● (0855)

[*English*]

The Chair (Mr. Dave MacKenzie (Oxford, CPC)): We'll call the meeting to order. We're a little bit late. This is meeting number 10 of the Standing Committee on Justice and Human Rights, and we're studying Bill C-10.

I have spoken to the newest members of the panel. Some of you have already been here before and, as you know, there is an opportunity for an opening address. I will let you know when you have one minute left.

If you would prefer to start, go ahead.

[*Translation*]

Mr. Pierre Mallette (National President, Union of Canadian Correctional Officers): Good morning. My name is Pierre Mallette. I am national president of the Union of Canadian Correctional Officers.

We want to thank committee members for inviting us here today. We will be taking advantage of this opportunity to indicate to you the various aspects of Bill C-10 that are of concern to us.

The first aspect is the possibility of introducing measures that take into account an inmate's engagement. Paragraph (4)(*c*) proposed under clause 54 of Bill C-10, which concerns the Corrections and Conditional Release Act, eliminates the reference to the least restrictive measure and replaces it with the terms "necessary and proportionate". Paragraph (4)(*d*) proposed under clause 54 of the bill concerns elimination of the notion of privileges. Clause 61 concerns elimination of the notion of privileges in segregation. Clause 55 of the bill enables the commissioner to introduce incentives based on the inmate's level of engagement.

Taken together, these measures should permit a form of management of the inmate population more consistent with the objectives of the protection of society, staff members and inmates.

While these proposed amendments are welcome, they must nevertheless be introduced together with the necessary resources. A very small percentage of the inmate population currently has access to programs.

As for the incentives proposed under clause 55, we will have to see what they look like before offering an opinion on their effectiveness. However, we are prepared to work on this file with the commissioner of the Correctional Service of Canada because we feel this is an opportunity to better carry out the mandate the public has given us.

The second aspect concerns staff who are victims of crime and whose immediate families have been victims of crime. Clause 57 of the bill introduces new protections for crime victims.

However, staff who are victims of crime committed by inmates are excluded from the reasoning underlying these new provisions. Allow me to explain. There is currently nothing preventing an inmate from being incarcerated at the institution where his victim works. The bill also does not provide for staff members to be forewarned of the transfer of their attackers to their place of work. In actual fact, they often learn of such transfers when they come face to face with their attackers.

Consequently, we ask that the bill be amended so that inmates who have attacked staff members are automatically and immediately transferred to another penitentiary and are never transferred to the institution where their victims work, unless the latter consent to such a transfer. In addition, to really reflect the situation of correctional system staff, we would like these amendments to be extended to include staff whose immediate families have been victims of crime committed by CSC's clientele. For these situations, we believe it would be appropriate to ensure the protection of staff members.

The third aspect concerns the taking of blood samples. We welcome the proposed addition to section 40 of the Corrections and Conditional Release Act, which concerns disciplinary offences, of a paragraph concerning the throwing of bodily substances toward another person. However, we would have liked the bill to include an obligation for an inmate who does such a thing to provide a blood sample. It should be recalled that this was the gist of recommendation 11 of the Sampson Report.

The fourth aspect concerns an inmate's malicious accusation of a staff member. With regard to the proposed amendments to section 40 of the Corrections and Conditional Release Act, the Union of Canadian Correctional Officers proposes that false accusations against staff members be added to the list of disciplinary offences. This addition could help deter an inmate wishing to intimidate a staff member or take revenge on that staff member by undermining his reputation through malicious accusations.

Lastly, the fifth aspect concerns the double-bunking situation that already prevails at a number of our penitentiaries. CSC plans to add 3,700 inmates by 2014, in addition to the increase resulting from the proposed legislation. If one believes that forecast, there will be a shortage of approximately 1,400 cells. Despite the planned construction, it seems clear to us that the correctional system is headed toward an acute double-bunking situation.

However, in our view, double-bunking results in increased risk. Higher tension leads to greater risk of assault and suicide. There will be an increase in the victimization of certain inmates who are at the mercy of predatory cellmates. It will be more difficult to identify an offender who is making brew or moonshine or stocking drugs, weapons and contraband, and the result will be a decline in the efficiency of the disciplinary system.

The rise in the number of inmates that may result from passage of this bill is a serious concern for us. On this potentially tough issue, we believe it is essential to emphasize that it will be important to put the necessary resources in place in advance. Those measures may be sufficient programs, disciplinary systems, tight population management and the addition of necessary staff and infrastructure.

Thank you.

[*English*]

The Chair: Thank you. You had 10 seconds left.

The minister has 10 minutes because there's a difference in the number of witnesses for each side here.

Go ahead, Minister.

[*Translation*]

Hon. Marie-Claude Blais (Minister of Justice and Consumer Affairs and Attorney General, Government of New Brunswick): Thank you.

Good morning. I am pleased to be here in Ottawa today and honoured to have been invited to appear before the House of Commons Standing Committee on Justice and Human Rights to offer our government's official response to Bill C-10, Safe Streets and Communities Act.

Without hesitation, we support the efforts to strengthen these laws aimed at protecting the victims of crime, protecting our children and giving a voice to victims. I certainly want to speak about the fact that we need to better protect our children. As a mother, this legislation truly speaks to me. Our children should feel safe, but people need to realize that when we talk about sexual exploitation and predators of children who are using the Internet to find their victims, we are not even safe in our own homes. This bill will help to better protect our children.

We have heard a lot about declining crime, but let me tell you that these types of crimes are increasingly sophisticated and we need to get serious about it. However, I'd like to turn the spotlight for a moment to those who I believe should be the real focus of this bill, the victims. As the abbreviated name for the bill implies, the act is aimed at making citizens in the cities and communities of our great country affected by these crimes feel safer. More importantly, the intent of the bill is to help and support the individuals who are victims of these crimes.

It should not come as a surprise that victims often feel that they are lost in the criminal justice system. Last month, I hosted a town hall meeting on the topic of access to justice and invited citizens to come and share their experiences with me. We had a number of individuals come forward to share stories of dealings with the justice system, and many victims and their families said they were frustrated with feeling powerless and voiceless.

The process by tradition and design is most often focused on the prosecution of the accused, with the impact the crime has had on the victim taking a backseat or secondary role. When I use the term "victim", I am including those individuals that are directly touched by the crime, but also the community that bears witness to the crime perpetrated on their streets, impacting family, friends and neighbours alike.

We'd like to believe the crimes this bill is targeting only happen in the bigger urban centres, but that is not the case. As I told a reporter in my home province during an interview on this crime bill, it happens in our own backyards. In fact, New Brunswick places third highest in the country for child exploitation. I believe strongly that crimes against children deserve strong sentencing. We believe the changes proposed in this crime bill will make it possible to achieve that objective.

Moving forward, as the bill becomes law and its different components come into effect, we have some practical issues that New Brunswick will need to address with our federal counterparts. Given our sole jurisdiction over the administration of justice, we will continue our efforts to seek federal recognition of additional costs that may fall upon the provinces with some of these initiatives.

There will be impacts on courts, prosecutors and legal aid as a result of increased penalties contained within the legislation. As a practising lawyer in New Brunswick for over a dozen years, I have dealt with individuals on both sides of the legal process. I understand the frustration of victims who feel the system does not adequately take into account their perspective or point of view.

I have also met individuals accused of crimes that would have been better served and supported with an approach other than our traditional criminal justice system. I truly believe that our province understands the need for early intervention work with youth and families to divert them from the justice system.

Police, prosecutors, lawyers and judges are not social workers or caseworkers, so we need to work closely with the other departments to find interdepartmental approaches to these complicated cases.

● (0900)

We need health, social development and justice working with community-based support groups to find solutions. Solutions are not always in the courtroom. I believe some solutions can be found through early intervention. The use of diversionary programs, which offer the right services to the right people at the right time, must be viewed as an option.

As for changes to the Youth Criminal Justice Act, our prosecution branch supports the changes and feels that this bill will give the tools required to effectively protect the public. As per the Nunn Commission of Inquiry in Nova Scotia, we feel that this goal of protection of the public is a must. To that point, I think from past experience and speaking with justice partners, there has been an inability to deal adequately with extremely dangerous behaviour. Police and prosecutors require tools to protect the public and this act provides them with those tools.

As a past member of the board of Portage Atlantic, I have seen the effects of drugs and the cost of this plague on society and our government. If some feel that there is no harm in casual consumption of drugs, I have seen quite the contrary. This has resulted in the destruction of families. Drugs have led to crimes being committed to feed their habit, and in some cases suicide. Yes there are dire consequences.

We support Bill C-10 as it relates to imposing mandatory minimum sentencing in circumstances where it involves the selling of drugs to the youth, in or near a school or in areas frequented by youth. We also support the willingness of the federal government to permit exemptions for drug treatment.

In closing, I wish to reiterate our support for this bill. We truly appreciate the opportunity to appear today before the committee to speak to this important piece of legislation.

Thank you.

● (0905)

[*English*]

The Chair: Thank you, Minister.

Mr. Jackson.

Mr. Michael Jackson (Member, Committee on Imprisonment and Release, National Criminal Justice Section, Canadian Bar Association): Chairman, thank you for inviting the Canadian Bar Association back to speak to you again about part 3 of the bill dealing with the CCRA amendments.

The CBA is a national association of over 37,000 lawyers, notaries, law students, and academics, and our mandate includes seeking improvement in the law and the administration of justice.

The CBA national criminal justice section consists of a balance of prosecutors and defence lawyers from all parts of Canada. I'm a member of the committee on imprisonment and release. Our members have years of experience in practising within our prison walls.

The main theme of the CBA's recommendations on part 3 of the bill is the importance of protecting human rights as an integral part of correctional legislation. The overarching human right to dignity does not stop at the prison door and, as the Supreme Court has made clear, the charter applies with full force to those imprisoned.

Human rights are not something to balance against prison discipline and control or prison accountability. Rather, they are something through which prison discipline and control must be exercised in a professional manner. Promoting and respecting human rights is not about being soft—it is about being decent. It is also about how best to achieve public safety both inside and outside prison walls.

The modern recognition of the importance of respect for human rights in prisons can be traced to a 1977 report of this House in its inquiry into the penitentiary system in Canada. It was the violence that erupted deep from inside Canada's maximum security penitentiaries in riots and hostage-takings that led to the work of the committee.

It was the documentation of abuse of power and the inhumane conditions of confinement that gave rise to that House committee's clarion call that the rule of law must run inside Canadian penitentiaries and that justice was a personal human right and an essential precondition for reformation for offenders.

It is these principles, reinforced by the charter and the Supreme Court, that underpin the legal obligations of CSC to respect human rights found in the current CCRA.

In these few minutes I can't touch on more than just one of our many recommendations in our written submission.

Broadly, our concerns are that the amendments undermine the protective umbrella of law to prevent abuse of authority; distort the respective responsibilities of the judiciary and the correctional authorities; and legitimate, under the language of benign words, more oppressive regimes.

I'm just going to deal with the one point, which I think this committee can come to grips with.

Bill C-10 would exorcize all references to the constitutional standard of the “least restrictive measures” in the CCRA.

For example, paragraph 4(d), one of the principles, now reads “that the Service use the least restrictive measures consistent with” public safety and the safety of staff and offenders. This standard traces its judicial heritage to the pre-charter Supreme Court decision in Solosky and, as many of you know, the post-charter decisions reflected in the Oakes case, which sets out the test for providing reasonable limits to a Charter right.

The proposed amendment to section 4 would read that “the Service uses measures that are consistent with the protection of society, staff members and offenders and that are limited to only what is necessary and proportionate to...the purposes of this Act”.

Not bad, but not good enough as a constitutional standard. The Oakes test and the Supreme Court have made it clear that in limiting rights what must be done is that the limitation must impair the right as little as possible, consistent with the purposes. The amendment, by taking out the words “least restrictive measures”, takes out that vital component of the constitutional standard.

It's just three words: “least restrictive measures”. The CBA proposed amendment is that you reinstate those three words. So using the existing language of the amendment, it would read that “the Service uses the least restrictive measures that are consistent with the protection of society, staff members and offenders and that are limited to only what is necessary and proportionate to...the purposes of this Act”.

Giving the waning respect for human rights in prisons, it is vital that these words be reinstated and that the constitutional standard of restraint be reinvigorated.

● (0910)

This committee is very busy, but you do not have to work mightily to make this amendment. It just requires adding “the least restrictive measures”, a standard, well-respected, and well-rehearsed part of other federal and provincial legislation and, for the last 20 years, part of the correctional landscape of this country.

Thank you.

The Chair: Thank you.

Mr. Harris, you have five minutes.

Mr. Jack Harris (St. John's East, NDP): Thank you, Mr. Chair.

I want to thank our witnesses for their presentations this morning.

Thank you, Mr. Jackson, for your presentation. Perhaps I'll take that to our other witnesses from the Correctional Service.

I thank you for your presentation, Mr. Mallette. I know you have a very difficult job to do, and I think that if this legislation passes, your job will become even more difficult.

Perhaps I can put to you what Mr. Jackson just said as a professor who has studied this issue for many, many years and is seeking to ensure a balance between the rights of offenders and, as he said, the protection of the public and the safety of people like yourself who do your job.

We've seen reports by the Correctional Investigator about the consequences of segregation, for example, and some of the very difficult issues you face daily. You face the issue of the safety of your officers as an important matter that concerns your members, and rightly so.

Why would you...? I think you did support the notion of removing “least restrictive measures” as a part of the standard. Why is that necessary? It does clearly state now that whatever measures are taken, whatever they are, they must be consistent with the safety of your members, with the safety of officers. I just wonder whether you feel that it's really necessary to change that balance. I mean, if the balance is there for good constitutional reasons that seem to me.... You know, I've been practising law for 30 years, but I'll put on my common sense hat for a moment and ask, what's wrong with saying, okay, you don't put someone in a chokehold if holding him by the arm will work?

I'm not saying that you do that, but if you say “let's remove the standard” so that it doesn't matter what you do, if you leave that out, instead of saying as we say right now that we want to do something that's least restrictive, that's consistent with public safety, that's consistent with the protection and safety of officers, and consistent with the safety of the offender...is there something really wrong with that?

I say this as a union supporter and a guy who represented unions for many years. I'm appealing to common sense, I guess, or looking for a reason why you'd want to do that.

● (0915)

[*Translation*]

Mr. Pierre Mallette: Thank you for the question.

First it must be understood that we of the Union of Canadian Correctional Officers have to work with inmate populations every day. When we agree on the proposed amendment to paragraph 4(*d*)... There are programs called operational regimes that we've been trying to introduce since 2002. In those programs, there are some inmates who engage in their correctional plans and others who don't.

We have been trying to introduce programs for 10 years because the public's safety also depends on inmates' safety. We sincerely believe that a large number of inmates have a chance of rehabilitating, a chance to return to society. At the same time, however, some inmates are not prepared to rehabilitate immediately. Here I'm talking about criminal gangs, people who don't help other inmates rehabilitate, who put pressure on them, people who take control of the institution.

Under the current wording of the act, we have to take the least restrictive measure. Consequently, we have to treat all inmates equally.

Let's consider the commissioner's directive and the following example. There are inmate committees in the penitentiaries to represent inmates. Some inmates handle inmate grievances. I believe these are important work instruments for inmates. I believe they have a right to be represented in order to assert their rights. However, do all inmates have the same vision of rehabilitation? No. Are all inmates prepared to engage in their correctional program? No. Some inmates don't help other inmates. Some inmates, through their actions, undermine the rehabilitation of certain other inmates. Here I'm talking about criminal gangs, people who aren't prepared to get involved in the programs provided.

The tools that inmates have to defend themselves are the inmate committees, the inmate grievance officers. There's currently another scourge. Unfortunately, these positions of trust are often occupied by inmates who aren't the most legalistic, who don't want to take care of other inmates. These are privileged positions. Despite Commissioner's Directive 568-3, the inmates who occupy these positions often come from criminal backgrounds.

So when we say that the amendment will enable us to come up with programs, operational regimes, it must be understood that some inmates engage in their plans and others do not. All inmates are currently entitled to receive all the services without having to make the effort to obtain them. I would like to be living in an ideal world and tell you today that all inmates are prepared to rehabilitate now. No. Some inmates currently undermine the rehabilitation of other inmates.

[*English*]

The Chair: Thank you.

Mr. Goguen.

[*Translation*]

Mr. Robert Goguen (Moncton—Riverview—Dieppe, CPC): Thank you, Mr. Chairman.

First of all, I want to thank the witnesses for being here today. I know you all have busy schedules. So we very much appreciate your being here.

[*English*]

It's critically important to the process.

[*Translation*]

My question is for Minister Blais.

With regard to the Youth Criminal Justice Act, Quebec's justice minister, Jean-Marc Fournier, testified before us last Tuesday. He said that the amendments proposed in Bill C-10 are based on the punishment rather than the rehabilitation of young offenders.

Our government has heard from victims groups and from Canadians who have confirmed that these amendments are necessary in order to address the problem of violent young offenders and repeat offenders. These offenders represent approximately 5% of young offenders in the judicial system and pose a genuine threat to public safety.

What is your position on this matter? Do you believe that Bill C-10 will have a negative effect on the rehabilitation and reintegration of young offenders?

Hon. Marie-Claude Blais: I know that young offenders are a very hot topic in this bill. There has to be a change of culture, of mentality. We mustn't believe that our law courts will be a source of solutions for mental health problems, behavioural problems related to health problems, educational problems or social status problems.

For us in New Brunswick, Bill C-10 won't mean that we do less rehabilitation with young offenders or that we put less energy into our programs. I believe we have to work hand in hand. Our departments have to decompartmentalize and work together to ensure early identification of youths who have problems. We have to seek out these youths when they are young and identify them in order to lead them along a very different path from the one we still see.

There is a lot of talk about prosecuting young offenders. Some behaviour shouldn't lead to court. Before it goes to court, some behaviour should be identified, and those youths should get a chance to change their behaviour in society. We mustn't believe that prosecutors and judges will find solutions for young offenders. I believe we have to change the culture. We have to look for solutions on the outside; we have to identify youths at an early age.

I remember a time when there was a community that supported youths. There were community police officers, whose presence was more widespread, to support young people. In my riding, for example, we work with boys and girls clubs to try to guide certain youths along another path. So I think it's important to put some energy into this aspect.

I can tell you that I have heard our prosecutors say that we need the tools to deal with certain youths who unfortunately are violent in our society and that the new bill will give them those tools.

● (0920)

Mr. Robert Goguen: Thank you.

Minister, there is a kind of health court in New Brunswick. Do you believe that court could play a role in this kind of triage system, or should the sorting first be done by provincial government authorities?

Hon. Marie-Claude Blais: New Brunswick is currently developing a whole series of mental health services. It's a series of services that are at the grassroots level. We want to go and find the young people concerned. The Department of Justice is working with the Department of Social Development and with the Department of Health to establish committee in which our deputy ministers work together to identify services that will help address these kinds of problems directly. We hope to be able to divert from the criminal system so that we can deal with those who have mental health problems. Our government has invested money and energy in this really different approach, in which we must all try to work together to breakdown the silos.

Having personally acted as defence counsel for young offenders, I know that some 15 individuals are meeting around a table, and the department of justice does not know what the department of education or the department of health have done. We have to talk to each other. There has to be a change in culture. We've started, and I hope we're successful.

[*English*]

The Chair: Thank you.

Mr. Cotler.

Hon. Irwin Cotler (Mount Royal, Lib.): Thank you, Mr. Chair.

Mr. Goguen has put the question I would have put to the minister, so I'll just add a question now for Mr. Jackson.

You mentioned in your presentation that the CCRA “exorcizes” the term “least restrictive measures”. My questions are, why do you think the term has been exorcized and does this have anything to do with the CSC independent review panel and their roadmap report?

The final thing I would ask is, does the elimination of this term make the legislation constitutionally suspect? Or can one argue that the legislation still maintains the principle of proportionality and that this principle of proportionality may be said to incorporate, perhaps, the notion of least restrictive measures?

Mr. Michael Jackson: Thank you for that question.

The change in wording has everything to do with "A Roadmap to Strengthening Public Safety", the report of the panel that was given to the minister in 2007. I was very blunt last time I was here: I described the document as being "legally illiterate", by which I meant that in its 200 pages it never once referred to any legal analysis, or to any reference to any decision of the Supreme Court of Canada or any other court, in all the years of the interpretation of the CCRA.

What the roadmap did say was that this principle of the least restrictive measures has been given too much space by CSC and by the courts and that what they recommended was that the standard in the CCRA should be amended so that, instead of "the least restrictive measures", the wording would be "all appropriate measures", and I pointed out in a critique of this, as did others, that this is not a standard. That's not a constitutional restraint on the exercise of coercive authority. It's a management tool.

"Appropriate measures": who can best judge that except a correctional administrator? It's not a standard to be used by legislators, by courts, or by the Correctional Investigator when they inquire as to whether or not correctional authority—the very difficult job of exercising correctional authority, and I make no mistake, it's a very difficult job—is done in accordance with the rule of law and all least restrictive measures.

Now, to their credit, the Department of Justice, when they saw that recommendation, recognized that you can't change the language to that, so what they came up with was the language you have in the bill, "necessary and proportionate". That is constitutional language. It's two parts of the tri-part Oakes test, and what we're recommending.... And it's true, Mr. Cotler, I think a court likely would...certainly I would argue at a court that "least restrictive measures" is an integral part of proportionality, but why remove it when it's already there in the legislation?

The recommendation we have made of combining that language with the proposed amendment is all three parts of the constitutional standard. It would be a model for human rights legislation everywhere and that's why we are recommending the reinstatement of those words.

But the final point, if I may, is that already—and this is very alarming to me and to others—the commissioner of corrections and other senior officials are telling CSC staff that this bill, in removing the least restrictive measures principle, is in fact in its place incorporating appropriate measures. That's not what the bill does, but it's the message that correctional staff are being given. It's alarming because it completely removes any sense of restraint on the exercise of authority. That's why we recommend that these three words be in fact reinstated into the legislation.

● (0925)

The Chair: You have just over 30 seconds, Mr. Cotler.

Hon. Irwin Cotler: Could you speak for 30 seconds on prison overcrowding in B.C., on the extent of overcrowding in prisons in British Columbia?

Mr. Michael Jackson: At the provincial level, it's reaching alarming proportions, particularly in remand. At the federal level, double-bunking is increasing. I think the Correctional Investigator is going to talk to you about this. It's predicted that double-bunking will go up to 30%. There is double-bunking, as the Correctional Investigator reported in his annual report, in some segregation cells, as anomalous as that may appear.

That's one of the great concerns that those of us who work inside prisons have. It's difficult enough—and my colleague from UCCO made that point—to manage existing prison populations with all these demands. To increase the burden by adding more prisoners without a lot more resources in programming—and only 1.8% of the multi-billion-dollar budget goes to programs—without massive increases, the problem will be aggravated.

The Chair: Sorry, but we're out of time.

We'll go to Ms. Findlay.

Ms. Kerry-Lynne D. Findlay (Delta—Richmond East, CPC): Thank you.

Thanks to all of you for being here today and for your vigorous testimony. This helps us very much in what we're trying to do.

My question is for Ms. Blais.

I was intrigued by the town hall meeting you were talking about and the experience of victims you were interacting with and how powerless they felt. In other words, they were trying to expose the true impact of having to navigate their way through what is often a very complex justice system. I applaud your outreach in that regard. It echoes what we've been hearing from our constituents and from people across Canada as to the very real cost to them. This is some of what we're trying to address, although the opposition members have criticized the need to do so.

As with any new initiative, there is a cost. Our estimates have identified $78.6 million as the cost to implement Bill C-10. Of course, it's primarily aimed and targeted at those who would exploit our children and at drug traffickers.

I note that your confrère in Manitoba, Attorney General Andrew Swan, has said: "...public safety has a cost. We'll meet that cost."

I am wondering what New Brunswick's position is on this.

● (0930)

Hon. Marie-Claude Blais: As you know, justice in our province is in charge of court administration, and the Department of Public Safety is in charge of the provincial side of imprisonment.

We're surely aware of the impact it is going to have financially. We don't deny that it will have an impact. We'll need to bring forward our problems if there are some. We'll need to sit down. We'll need to look at how we can be effective in the way we budget.

We've been doing that since we took power. We have been trying to do things differently, certainly, and we will continue to talk to the federal government about our needs and what this bill will cost us. We are not naive and will not pretend that this will not have an impact. We believe that it will have an impact.

We have been talking with the federal government about legal aid at various meetings. We will continue to talk to the federal government about the need to make sure that we succeed for victims in regard to this bill. Also, we see that, if need be, we will sit down at the table. It isn't different from how we do things right now. We certainly know that when legislation comes from the federal government, which we can't control, we sit down and talk to officials about what the needs are in New Brunswick.

We need to be cognizant of the fact that even though we're a small province, we have major issues. Child exploitation in our province is a major issue. I'm pretty sure that you've seen the news lately. In our small province, we have some of the worst cases of child exploitation. When you think about New Brunswick, you don't think about these things. For me, when our children are no longer safe in our own homes, we need to be serious about this. We need to act on this, and we intend to do so.

The Chair: You have a minute and a half.

Ms. Kerry-Lynne D. Findlay: Am I correct, then—I think this is what you're saying, and I just want to make sure I understand—that there will be many opportunities, as you go along, for both provincial and territorial governments to dialogue with your federal counterparts on issues of the administration of justice?

Hon. Marie-Claude Blais: Absolutely. I always thought there was an openness to discuss our challenges. I'm here for New Brunswick. I'm here to discuss our challenges as New Brunswickers. They can be very different from other provinces. But surely, the fact that we support this bill won't stop us from bringing forward to the federal government the financial challenges we are having. It's quite the contrary. We intend to be very vocal about some of the challenges, as we have been in many other cases. This is not only about justice.

Ms. Kerry-Lynne D. Findlay: This may not be a happy commonality, but the fact that we face these issues in every province across Canada I think shows the need for some national strategies.

You also made some thoughtful comments about youth in the criminal justice system and ways to intervene in their life path at an early age to try to get them on a different path. Do you see anything in Bill C-10 that prevents the rehabilitation and reinsertion measures you've already adopted and hope to adopt in your province?

The Chair: We're out of time, Minister. Maybe we can have that later.

Mr. Jacob.

[*Translation*]

Mr. Pierre Jacob (Brome—Missisquoi, NDP): My first question is for Mr. Mallette.

Yesterday, you may have read the very interesting article by Manon Cornellier, entitled "The human cost of prison," in which she reports that the clientele consists of increasingly serious cases and is growing. It consists of marginalised individuals, including socially disadvantaged persons such as aboriginals, seniors, and so on. There's also more promiscuity. Prisons have double cells. The number of double-bunking cells has jumped sharply. In addition, less than 2% of Correctional Service Canada's budget is allocated to inmate programs. The article also states that very few inmates are prepared for safe release on a timely basis. So there's not much hope.

What are the actual effects on your correctional officers of these harmful conditions that Bill C-10 will not improve and will even make worse? What are the "safest" conditions for your officers? Officers want inmates to rehabilitate. They want that to happen in a safe environment, for both officers and inmates. What do you recommend to improve the situation?

● (0935)

Mr. Pierre Mallette: That's a good question, sir.

First, I would like to tell you that we at the Union of Canadian Correctional Officers believe in rehabilitation. We believe in programs. We believe that the majority of inmates can be rehabilitated. Every possible effort has to be made.

Double-bunking is definitely one of the problems that the act will raise. We are opposed to double-bunking, and we don't believe it will do anything good for inmates.

On the other hand, to help inmates, we sometimes have to put forward measures to supervise them and help them move forward in their rehabilitation. I'll give you the example of a school class. If you have two or three students in the class who intimidate the other 30, you also have to take care of the two or three students who are doing the intimidation. Similarly, you have to have programs to help inmates move forward and make institutional progress.

Currently, the climate of tension among inmates is one of the aspects that considerably undermines their rehabilitation. You have criminal gangs; you have people who don't want to be rehabilitated. They want to make money on the backs of other inmates by selling them their canteen, by selling them drugs, by offering protection for their family on the outside.

You have to draw a distinction between "engaged" and "unengaged". We believe in inmate programs. We have to have them. We hope the necessary funding will be provided for in the act. It isn't enough to open the door, push the inmate in, close the door and tell him we'll see you in five years. If we do that, we'll fail in our efforts. To avoid failing, we need tools.

Disciplinary systems are one of the tools that we need and that no one has mentioned. Currently, 40% of offence reports that inmates incur for assaulting staff or other inmates or for breaking government equipment are dismissed because the offenders aren't heard. What is an institutional disciplinary court? It's a court where an independent judge examines the offence reports and where there is a lawyer to represent inmate rights, which is fine. In addition, a staff member acts as a hearing advisor. Then a hearing of the report results in a disciplinary regime.

Unfortunately, this system doesn't work, and yet it's the cornerstone of rehabilitation and inmate management.

Mr. Pierre Jacob: If I understand correctly, you are in favour of more rehabilitation programs. You are in favour of making prison more humane, among other things by creating a safer environment. Ultimately, considering that inmates will be returning to society sooner or later, you are in favour of their being better prepared for it. However, Bill C-10 did not provide for those measures.

Mr. Pierre Mallette: As I said in my opening address, Bill C-10 provides for one thing: the proposed paragraph 4(*c*), which refers to "proportionate and necessary measures". However, to arrive at what you're saying, we also have to take care of inmates who harm other inmates. There is no campaign urging inmates to fight intimidation among inmates or to realize that it isn't right to steal another inmate's canteen. I see no one doing promotion and telling inmates not to tolerate that. We need tools to manage inmates and the things that are part of rehabilitation.

Mr. Pierre Jacob: My second question is for Marie-Claude Blais.

[*English*]

The Chair: I'm sorry. We are out of time, Mr. Jacob.

Could you clarify something for me? When you say “double-bunking”, that's not two people in the same bunk, like in the military where they have to share a bunk...?

Mr. Pierre Mallette: “Double-bunking” means two inmates in the same cell.

The Chair: Thank you.

Mr. Woodworth.

[*Translation*]

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

I want to welcome our witnesses and thank them for being with us today.

Ms. Blais, the Quebec minister said he was concerned about young offenders and that the publication of young offenders' names is a particularly big problem.

You said you were concerned about victims. Consequently, do you believe there are any circumstances in which it would be necessary to publish the name of a young offender?

● (0940)

Hon. Marie-Claude Blais: That's always a difficult question when we're talking about young people because, at the same time, we want to give them a chance to return to society once they've served their sentence.

At the same time, having spoken with the prosecution branch of our province, I know they want tools to protect the public. So we view this aspect as a tool such that, if the need is felt and a request is made, prosecutors will have a protocol to follow. They will follow it, but there are serious cases of violence. It's a small number. That request is not made in youth court every day.

However, it is a tool. The prosecution branch told us that what is important for them is to ensure that they have the tools to protect the public.

There must be protection for the public, and it is important. It does not prevent us from continuing to return young offenders to society, to work with them and with the various caseworkers and to put in place the services that will bring about their reintegration.

Everyone wants to promote the reintegration of young offenders, regardless of the positions people adopt. However, there is nevertheless a reality, and we must be able to equip people to deal with that reality.

Mr. Stephen Woodworth: I believe that's exactly the approach of this bill.

Bill C-10 also enables judges to suspend a mandatory minimum sentence where an offender agrees to take and successfully complete a substance abuse treatment program.

You said you support this approach. Why?

Hon. Marie-Claude Blais: We didn't discuss that approach, which is very positive and takes into account certain situations in which the people who appear in court often have a major substance abuse problem.

I must tell you I fully support this measure. I'll give you an example of that. In New Brunswick's youth court, we're lucky in that we have the Portage substance abuse program, which has had a lot of success.

In the past—and I don't believe that will change because this is a reiteration of our position—our judges have been able, based on what the lawyers and social workers told them, to determine that, if there was a substance abuse problem, the young offender in question had to take the program.

Without realizing it at first, we told young offenders that we thought their best chance was to take part in the program, to change their lives. People don't realize that these programs are often tougher than being incarcerated, for a certain period of time.

It isn't easy for a young offender to leave his family and friends, to be required to do a self-examination, to deal with life and to go into a treatment centre where he will have to stay for eight, nine or 10 months. The entry date is guaranteed, but not the exit date because all the program stages have to be completed.

I have a lot of respect for the youths and adults who go this road because they take charge of their own lives. They're often dealing with a situation even more difficult than in a correctional setting.

There is also this entire issue of the family taking part in the treatment. The families are allowed to express their views, and I believe it works for the benefit of the community to ensure that these individuals can find a road that leads them toward a more productive life.

● (0945)

Mr. Stephen Woodworth: That's good—

[*English*]

The Chair: Sorry, Mr. Woodworth, but our time is up for this panel. We started a minute or so late and we do have an announcement for the committee.

I'd like to thank the panel for being here today. Time is always short in these situations. We wish we could spend more time with you. It has been most interesting and you've added a great deal to our discussions. Thank you very much.

We'll take a couple of minutes to bring the other panel into play.

● (0945)

(Pause)

● (0950)

The Chair: I call the meeting back to order.

Before we begin, there is a matter of important committee business. It's important to ensure that the legislative counsel receives your written instructions for amendments as early as possible during this process. In order to facilitate requirements during the clause-by-clause consideration of the bill, I would ask the members to submit their amendments, if any, to the clerk by Wednesday, November 9, at 4 p.m..

It seems a little tight, but don't forget that Friday is a holiday, and certainly the clerk needs time to go through those amendments.

Mr. Jack Harris: That's a request, I take it, not a deadline. We may or may not be able to have all of our amendments done by then. There has been no discussion about this.

The Chair: I would be surprised if you even had any amendments, Mr. Harris.

Mr. Jack Harris: Well, you may be surprised, but I don't know why you'd be surprised. That's rather short notice for that work. We will endeavour to provide whatever we can by then. However, I don't want to agree to that as a deadline.

The Chair: The clerk says that's fine.

For this second panel, we have Mr. Sapers and Ms. Roy here in the room, and Ms. Derksen and Mayor Katz in video conference from Winnipeg.

As with everyone else, you may have a five-minute opening address. I will give you notice when you have one minute remaining.

We'll start with Mr. Sapers.

Please give us your opening comments, if you would.

Mr. Howard Sapers (Correctional Investigator, Office of the Correctional Investigator): Thank you very much, Mr. Chairman.

First and foremost, I want to thank you and the clerk of the committee for accommodating our requirements to maintain our independence. It's not usual for us to participate as part of a panel before these committees. I understand that timing necessitated this and that there were some last-minute adjustments to help meet our needs. I do appreciate it.

In my capacity as the Correctional Investigator of Canada, I am always pleased to appear before this committee. In the interests of time, I will focus my remarks only on those elements of Bill C-10 that will impact directly on federal corrections. I will further restrict my remarks to only three concerns at this point.

I'm going to begin with the proposed amendments to the principles of the Corrections and Conditional Release Act. Secondly, I will speak to the issue of the capacity of the federal correctional system to safely manage a growing offender population. I will conclude by sharing my concerns regarding the bill's proposal to further reduce access to pardons.

Let me first very quickly remind members of the committee of the role and mandate of my office. The office was established in 1973 to function as an independent ombudsman for federally sentenced offenders. The office is an oversight body, not an advocacy body. My staff does not take sides when resolving complaints against the Correctional Service.

My office contributes to public safety by ensuring that the rule of law is upheld behind prison walls and that the Correctional Service of Canada is accountable, open, and transparent while fulfilling its very important public safety mandate. Although we are not always in agreement with the Correctional Service, both organizations serve a larger public safety interest by assisting offenders to lead a responsible and law-abiding life upon release.

With respect to my first concern, I am not convinced that section 4 and section 101 of the CCRA need to be amended. The language of "least restrictive measures" that currently underlines the principles of the CCRA is one of the golden rules of corrections.

The least restrictive principle dictates that other less intrusive and restrictive alternatives must be assessed and considered when correctional authorities take a decision that restricts the life and liberty interests of offenders. My staff uses the least restrictive principle on a daily basis to review and investigate some of the most invasive practices in corrections, including involuntary transfer, placement into segregation, security classification, and the use of physical restraints.

It is also a standard by which my office assesses whether the Correctional Service used an appropriate and lawful degree of force when managing a security incident. Some aspects of Bill C-10—for example, expanding the use of mandatory minimum penalties, tightening of parole eligibility, and the elimination of house arrest for certain offences—will invariably lead to more people behind bars serving longer sentences.

As I documented in my latest annual report, which was tabled only two days ago, the Correctional Service of Canada is already challenged to meet accommodation needs. Today, approximately 13% of the male inmate population is double-bunked, meaning that these inmates are housed in cells built for one. According to the Correctional Service, this number will increase to 30% before planned new construction is able to provide relief.

Prison crowding undermines nearly everything that can be positive or useful about a correctional environment. It is linked to increased levels of institutional violence. Prison crowding is a contributing factor to the spread of infectious disease. It reduces already limited access to correctional programming.

Some of the amendments will almost certainly have disproportionate impacts on Canada's more marginalized populations, including aboriginal peoples, visible minorities, those struggling with addictions and substance abuse problems, and the mentally ill. Indeed, nearly all of the growth in the correctional population over the past decade can be accounted for by these groups.

Correctional authorities are responsible for the care and humane custody of offenders and for actively assisting those offenders in their safe reintegration, while paroling authorities should render impartial decisions on whether offenders can be safely released into the community. These responsibilities are to be discharged recognizing that offenders have retained rights, and sentences are to be administered accordingly.

For this reason, I am unsure of the intent of proposed sections 4 and 101 requiring that sentences be managed with due regard for "the nature and gravity of the offence". I am certain that Parliament would not want to be seen to be directing the Correctional Service of Canada or the Parole Board of Canada to add additional punishment to the order of the sentencing court.

● (0955)

This brings me to my final point on extending the ineligibility period for a pardon application and the proposal to make some ex-offenders ineligible for a pardon based on the offence or the number of offences committed. It's worth noting that the vast majority of individuals who receive a pardon do not reoffend.

The current system is based on a case-by-case analysis of all relevant risk assessment information. The system appears to work well. It's my view that we need to assist offenders to make a successful transition to a law-abiding life—not create additional obstacles. The government's commendable commitment to enhance access to vocational training in federal corrections would be self-defeating if those newly trained offenders were to face additional barriers in securing legitimate employment.

Thank you very much, Mr. Chairman. I'd be pleased to respond to any questions.

The Chair: Thank you very much.

Ms. Roy.

[*Translation*]

Mr. Joëlle Roy (President and Representative, Laurentides-Lanaudière, Association québécoise des avocats et avocates de la défense): Good morning, everyone. Thank you very much for the invitation.

Allow me to introduce myself. My name is Joëlle Roy, president of the Association québécoise des avocats et avocates de la défense, which comprises slightly more than 800 members. Our members are criminal defence lawyers. I have been practising criminal defence law for slightly more than 18 years and therefore appear in court every day. I'm on the ground, I plead, I see things, and I hear things as well.

I know that it's not up to me to ask questions here, but I do have one. And I think it's a fundamental one. Bill C-10 constitutes a major turnaround. It is a combination of a number of bills. Some of those bills were not passed, such as the former Bill C-15, which concerned drug trafficking and possession, and which is coming back into fashion.

Why introduce this bill? We have a judicial system that works. I know that. I practise it and I live it. Why are we introducing minimum sentences? Why are we increasing the minimum sentences that have already been introduced? What is motivating the government to introduce such a draconian bill?

The AQAAD is requesting that Bill C-10 be completely withdrawn because it is irrelevant. It is not supported by statistics or figures. It is utterly pointless. It will have devastating effects on the Canadian public. What I'm hearing this morning is a false debate. The bill is said to be about safety. Look, Canada is an absolutely safe country. If people don't feel safe in Canada, they may have a problem. Of course, the security of communities is indeed a concept that sells well. Our country is very safe.

The victim issue is also a somewhat pernicious argument, but it does sell well.

The minister of justice of New Brunswick talked about sex offenders. They're out there, and they always will be. Do we need such a major reform? We'll never eliminate sexual predation. The point is not to be in favour of or opposed to sexual predation. She says we need tools to assist crown prosecutors. I'm a bit surprised and even stunned to hear that because she forgets that the tool is the Canadian judicial system.

We're there every day. Sentences are rendered. Every situation has to be handled on a case-by-case basis. Moreover, section 718 of the Criminal Code provides for that. What this bill does—and this is what has been going on for a number of years, since this government has been in power—is impose a kind of gag on the Canadian judicial system, nothing more or less. They're gagging the judges, crown counsel and defence attorneys, social workers and probation officers. That's what we're seeing. If someone needs a heavier sentence, if we're dealing with a multiple reoffender, it's the judge's duty to impose that sentence.

In the AQAAD's view, repression pure and simple does not work. Rehabilitation works. Quebec is a province that has always relied on rehabilitation, and it works. Rehabilitation aims for the long term. What kind of society do we want in the long term? We want a just society where we feel safe, but we won't get there through repression. Enacting large numbers of minimum sentences is tantamount to totalitarianism. The case-by-case approach, the offender, is being forgotten. The offender has indeed committed an offence, but will receive a sentence as a result. That's something.

● (1000)

Bringing victims into this debate distorts the debate, even though the intention is good. Taking care of victims is one thing, but that's not the role of the judicial system. The purpose of the judicial system is to impose a sentence on an individual who must face the law and the principles of law. That individual will receive a sentence for the crime he has committed. Victims, of course, may be heard and the impact on the victim will be taken into account, and so on. We can't do more than that. The point is to punish an individual under the law and the rules of law. We must not falsify the debate or lead it into inappropriate areas.

Thank you.

[*English*]

The Chair: Thank you very much.

I'd like to thank the individuals who are taking part in this video conference. I know that it's probably been boring sitting in a room by yourselves waiting for us, but I would ask, Ms. Derksen, if you have a five-minute opening for us, to go ahead.

Ms. Wilma Derksen (Victims' Voice Program Founder and Past Coordinator, Mennonite Central Committee Canada): Thank you very much.

Thank you, Mr. Chair.

I am pleased to have this opportunity to address you and the rest of the committee.

I am here on behalf of the Mennonite Central Committee, often referred to simply as MCC, which is a worldwide ministry of Anabaptist churches that endeavour to share God's love and compassion for all in the name of Christ by responding to basic human needs and working for peace and justice.

However, I will be speaking to you as a parent of a murdered child. I am also here because the issues you are addressing are extremely important to me and my family.

My daughter Candace was 13 years old when she was abducted and found murdered six weeks later. We lived for two decades without knowing the details of what happened. I not only know the horror of murder, but I am also intimately acquainted with the aftermath of violence. From the beginning, I began working with other victims, and I learned that the emotional aftermath can be as threatening as the crime itself. It does and it can destroy us.

The attention focused on this bill reminds me very much of the time when Candace first disappeared. All I could think of was the murder and the need for justice and safety. It was very difficult for me to think or talk about anything else, but I had to learn. I had two other children who were alive and I had a husband who needed a loving wife. If I had waited for justice and safety, I would have had to wait for a very long time—life would have passed me by.

I am still involved with other victims of crime. Two weeks ago, I was with a group that spent most of the evening analyzing the problems of our justice system. We were wallowing in our pain, not always being politically correct, as one member put it, but allowing each other to speak freely.

At the end of the evening, I asked them what they would do to create justice in the country. To be honest, I expected that they would suggest changes to our criminal justice system similar to the bill that we have before us today. I thought they would prioritize safety at all costs, propose stiffer sentences, and advocate for victims' rights.

They didn't. As we went around the circle, they all agreed that the answer to crime is to put more emphasis on the school system and other social programs. While not denying that we have to maintain prisons, they insisted that we as a society need to put our energy and creative thinking into giving our young people a better education and a better life.

I could share equally compelling stories from my work with offenders. My experience in the way my family and I chose to respond opened up opportunities to visit many of the prisons across Canada, from William Head Institution in B.C. to Dorchester Penitentiary in New Brunswick.

I am thrilled to report that this last February we saw our own case finally brought to justice. For the first time, we actually heard the story of what had happened to our daughter, but the sentencing of the man who murdered our daughter did not satisfy our deep longing for justice. In some ways, we had already found justice in the joy of the good things that had come out of Candace's death and in the support of our community of friends.

The trial brought out the truth, and it was the truth that healed us and set us free, not the sentencing. I still find no satisfaction in thinking that the man will be sitting in prison for the next 25 years. There is nothing life-giving about that. It's just sad. And it's going to cost us probably $2.5 million.

In this short time I can't begin to give you a comprehensive critique of the bill, but I do want to register my concerns with the potential for unintended consequences. For example, even though it sounds wonderful to enshrine the victim's voice at Parole Board hearings, I also worry about this. Are we going to be putting pressure on victims? Could we be locking some victims and offenders together in a dysfunctional dialogue for the rest of their lives?

Perhaps we need to include the victims at the beginning of the process, mapping out their healing journey at the same time as we are sentencing the guilty. Perhaps this should be at the discretion of the judge. We can think about these things creatively.

Furthermore, I wonder if we can afford to focus so many of our scarce resources on mopping up the past so that there are only crumbs left for the living, who are struggling to find hope for the future. As the Minister of Justice rightly noted earlier this week, the Government of Canada is funding many creative community-based justice initiatives that address the root causes of crime, support victims of crime, and help ex-offenders reintegrate into the community. I would ask that you assign a greater proportion of your attention to this good work.

This is the month my daughter was abducted 27 years ago. People often ask how we survived the impact of murder as a family, how we are still together, and how we eluded the grip of violence, held onto our joy, and did not become negative. The winning formula for us was love first, justice second.

● (1005)

I do thank you for your wonderful hard work in governing our country. I wish you much wisdom as you deliberate on this bill.

The Chair: Thank you, Ms. Derksen.

Mayor Katz, thank you for your indulgence in waiting for us. You have five minutes.

Mr. Sam Katz (Mayor, City of Winnipeg): Good morning to all members of Parliament.

First of all, let me thank you for inviting me today to speak to this important bill.

I am the mayor of a city that has a lot to be excited about: a fantastic new airport, increasing residential development in our downtown, the Canadian Museum for Human Rights, and the return of the Winnipeg Jets.

As optimistic as I am about our city's future, I need to be realistic as well.

I'm also the mayor of a city that has seen 34 murders this year. You may be shocked to face the grim reality that out of those 34 homicides, 11 youths—children—have been charged in these crimes.

As you know, violent crimes like homicide are the most difficult to predict and prevent, especially when we are dealing with matters involving alcohol and drug substances or young offenders.

We're living in a society right now where individuals believe they can get away with violent crime. What's worse, as a result of the laws currently in place, they technically are.

The safety of all citizens of Winnipeg will remain a priority for my council and me. We've worked diligently to invest in and provide tools to the Winnipeg Police Service to reduce crime in our city, but significant change requires more than simple police enforcement.

That is why I am encouraged by the bold steps in Bill C-10 to change the status quo and start taking real responsibility for our citizens' safety. The revolving doors of justice need to close, and we need to change the Youth Criminal Justice Act so repeat offenders stay behind bars instead of escalating the nature of their crimes out in society.

The rights of our citizens need to trump the rights of the criminals in our country. There is so much in this legislation that is vital to preserving the safety of our citizens.

Yes, violent and repeat young offenders need to be held accountable for their actions. The word “consequences” need not be seen as a dirty word. Yes, we need to end house arrest and conditional sentences for serious and violent crimes. Guess what? It doesn't work for rapists, murderers, and thieves.

Yes, we need to restore victims' rights so they can participate in parole hearings and address inmate accountability, responsibility, and management. The criminal justice system needs more focus on justice than on criminals.

Yes, we need to provide mandatory minimum penalties for serious drug offences when such offences are carried out for organized crime purposes and involve targeting our youth. As mentioned, Canadians and people everywhere are entitled to live their lives in peace, freedom, and security.

I understand the need to provide programming to our youth to deter them from a life of crime. We've invested in programming at every level of government to combat this problem, nut guess what? Actions minus consequences equal nothing.

This bill will assist in a multi-pronged approach to solve our crime problem. The naysayers will kick and scream but will be content to sit in silence and accept the status quo while more people die on our city streets.

Something has to change. As mayor of a city that is on the front lines in dealing with the effects of this broken system, I say that the time for change is now. I encourage all of you to pass this bill and take action now.

Thanks very much to all of you for your time.

● (1010)

The Chair: Thank you, Mr. Katz.

The bells are ringing. I'm just going to check on what's happening.

I think everybody has just received word from their whips' offices that a vote is taking place. The bells are ringing and the rules—

Mr. Jack Harris: Can we just have one round for each party?

The Chair: I don't think that will work. We're—

Mr. Jack Harris: We'll then have 15 minutes to get to the vote.

The Chair: Well, the rule we've heard is that when the bells ring, the committees are to adjourn.

The clerk says we would need unanimous consent for 15 minutes.

Mr. Stephen Woodworth: Mr. Chair, I want to express the concern that we're all the way over at Queen Street, so the timeframes are a little different here.

The Chair: Is there unanimous consent?

Mr. Robert Goguen: There is for one round.

Some hon. members: Agreed.

The Chair: But we'll have to cut it and keep it tight to four minutes.

Mr. Robert Goguen: Four is good.

● (1015)

Mr. Jack Harris: Thank you, Chair.

Thanks to all of you for your obviously differing views on this whole issue.

Ms. Derksen, I do want to thank you, offer my condolences on your own personal circumstances, and say that your approach to this is somewhat different from what we've heard from other victims. I want to say that your views echo those of Professor Bala, the law professor who spoke to us the other day. He said:

> It must be appreciated that the youth justice system plays only a limited role in preventing youth crime or creating a safer society. Our pre-school programs, education, child welfare and mental health systems, and our families, faith organizations, community groups and recreation programs do much more to address the causes of youth crime and prevent future offending than the youth justice system. Further, as identified by Justice Nunn, to the extent that our youth justice system is failing to meet its objectives, many of the problems relate to lack of resources and inadequate training rather than to the legislation.

So thank you for giving us your perspective as well as that of other victims you've worked with over the years.

Mr. Sapers, one issue that hasn't been talked about very much—and perhaps Madam Roy can also comment on it based on her experience in dealing with offenders—is the change in wording from “pardon” to, I think, “record suspension”. It seems like a wording change, but to me it may represent a more profound change in our pardon system.

If I'm wrong, let me know, but my sense is that if someone says they've received a pardon, that means a lot. That they've gone through a process of being investigated, being rehabilitated, and being recognized by the parole board as having been rehabilitated. I think that means something to an individual, and it may affect their future life.

Saying that you have a "record suspension" almost sounds, in layperson's terms, like saying you have a suspended sentence. It's not as though you have received a pardon, which seems to mean something.

Mr. Sapers and Madam Roy, would you care to comment on that very briefly? Obviously we have only a couple of minutes.

Mr. Howard Sapers: Sure, and I'll try to be very quick. Legal language is very important. It has to be clear, so simple is better, and words have deep meanings to people when they're involved with the criminal justice system.

So whether we're talking about the language around pardons or least restrictive measures in corrections or anything else, it's very important that rules be clear so that systems can be held accountable.

"Pardon" does have a particular meaning, and there would have to be a lot of education to support the change.

Mr. Jack Harris: Madam Roy.

[*Translation*]

Mr. Joëlle Roy: There too, I'll say the same thing. I agree with Mr. Sapers. What does the suspension of criminal records entail? That means that we're not granting a full pardon. What do we do in a case in which an individual has served his sentence, has repaid his debt to society? I believe that, in a democratic society like the one Canada wants to be, when an individual obtains a pardon, that means something, in particular that he can move forward, find a job. What effect does a record suspension have? It's an ambiguous situation. We don't know what it is.

And why abolish the pardon? Why? Why add five or 10 years in the case of summary conviction offences or criminal offences? What's the justification for that? We have to ask ourselves who requests a pardon and who obtains it. Do you have any statistics on the subject? Do multiple repeat offenders request a pardon? No, those who do so are people who commit one offence in their life and who ultimately decide to make that request. So why withdraw a measure that is already... Look, it's a screen—

[*English*]

The Chair: I'm sorry. Your time is up.

Mr. Seeback.

Mr. Kyle Seeback (Brampton West, CPC): Thank you, Mr. Chair.

Mr. Katz, thank you for being here today. I want to ask you a couple of questions.

B.C. Premier Christy Clark recently said she supports much of Bill C-10. We heard today from the New Brunswick Attorney General that she is supportive of Bill C-10. Your own NDP Attorney General has come out saying that he strongly supports Bill C-10 and added that when young offenders are released on bail, he pushed for tougher drug penalties aimed at curbing gangs and organized crime.

I take it from your testimony today that you're also very supportive of these measures.

Mr. Sam Katz: You are 100% correct. Actually, I came to Ottawa to lobby for these changes many years ago, and I certainly hope that in this go-round these changes will be made. We are definitely in sync with the Attorney General right now, as well as the previous Attorney General, plus the premier of the province.

● (1020)

Mr. Kyle Seeback: I also had the opportunity to read an article about an unfortunate incident that took place. Linda Kozlowski's son was just murdered. She said she had a message to send to judges and politicians. She said that it's time for change in our criminal justice system. Do you think Bill C-10 has the kinds of changes that are going to help in situations like that?

Mr. Sam Katz: There's very little doubt in my mind that it is time for change, and this change will have a very positive impact for the citizens of our city and our country. We've had way too many situations where either repeat offenders or people on parole have been involved in a murder. You explain that to the family who just lost a loved one.

Mr. Kyle Seeback: What would you say to those who claim Canada already has enough laws to deal with our criminal problem, and specifically youth crime and violent crime?

Mr. Sam Katz: Well, the scenario is quite simple. It's obviously a two-pronged approach. Number one, I think Bill C-10 is definitely part of the solution. The other side of the equation is that we still need to address the root problems. There is no doubt we need to invest more in having programming and facilities for our children to participate in and stay away from gangs. There is no doubt about that. We need to work with poverty to try to address that—mental illness, etc. It's a two-pronged approach, and Bill C-10 addresses one very important side of it.

I can tell you the naysayers will always make their comments, but in the meantime innocent, hard-working people are being murdered. I think that has to be addressed. The rights of citizens should be every bit as important as the rights of people who commit crimes.

Mr. Kyle Seeback: Mr. Katz, I understand from your testimony today and from other sources that Winnipeg has been experiencing some problems with street gangs. Can you tell us how Bill C-10 would specifically help your city in that regard?

Mr. Sam Katz: Well, here's the scenario. I believe this probably happens in every major city in the country. We have gangs, as does every other major city, and the facts of life are that they know how to play the system. They recruit juveniles—youth—to commit the crimes and to do the dirty work, because they know they get a slap on the wrist. They are arrested on a Tuesday and they are back out on a Thursday.

That's the sad reality. Imagine how frustrating it is for the men and women of every police department in every city to arrest them knowing they'll be out right away. It's hard to do your job when you know that they're going to be out right away and that these people are going to be used by gangs over and over again. A strong message has to be sent.

The Chair: Thank you.

Mr. Cotler.

Hon. Irwin Cotler: Thank you, Mr. Chairman. Because of time, I'm going to limit my question to Mr. Sapers.

You mentioned that you would be restricting your remarks on the impact of Bill C-10 to the federal correction system, but you have spoken elsewhere with respect to crowding in the provincial correction system. We have a situation here where you can't artificially divide these situations, because Bill C-10 has impacts on both.

My question is on some of those considerations that you've related about prison crowding result in greater institutional violence or greater risk of infectious diseases. If you have a 200% capacity, as you now have in some provinces, would those same considerations that you addressed regarding the federal prisons also apply in regard to the provincial prisons and perhaps be even worse because of the greater crowding in the provincial system?

Mr. Howard Sapers: Well, my mandate and authority are for federal corrections, but I do have the experience of visiting some provincial institutions, and I'm familiar with the literature on prison crowding.

Collectively I think it's fairly well understood that crowding prevents the best correctional practice from happening. No matter what the environment, a crowded jail leads to delays in programming access, treatment interventions, and assessments, and to increases in violence, dangerous environments for staff to work in, and the risk of the spread of infectious disease.

Really, those findings would apply to provincial jails as equally as they would apply to federal penitentiaries.

● (1025)

[*Translation*]

Hon. Irwin Cotler: I would like Ms. Roy to tell us about the consequences of mandatory minimum sentences.

Mr. Joëlle Roy: I'll give you an example. I don't have the text of the bill to hand, and I don't know it off by heart, but let's suppose that an 18-year-old youth gives someone an ecstasy pill at a rave one Saturday evening. Here I'm referring to the previous Bill C-15, which I believe has been included in full. You can agree or disagree with that. I'm not talking here about a youth who has previously committed crimes or who belongs to a street gang, but rather an ordinary youth. But giving is trafficking. I believe that, under the bill, ecstasy is now in another schedule. What is the minimum sentence imposed for that act? At the time, I believe it was two years for trafficking in a pill. Does that act deserve that sentence? No.

The point here isn't about being in favour of drug trafficking: I'm talking about the actual situation we're experiencing. Let the courts in which these individuals are prosecuted act; let them do so on a case-by-case basis. They usually impose the appropriate sentence. It also has to be said that there are already prison overpopulation problems and that all this will lead to judicial injustices. That's obvious. There will be no room to manoeuvre. A judge will have to impose the relevant minimum sentences, and that will lead to legal aberrations; that's obvious.

For acts that deserve a heavier sentence, a judge may impose a harsher penalty: his discretionary authority enables him to do so, just as a crown prosecutor may suggest a much stiffer sentence in a robbery case if it involves a multiple reoffender and not an individual who has committed his first offence and did so under influence. The minister of justice of New Brunswick mentioned tools, and I believe we definitely must have the necessary tools. However, Bill C-10 takes them all away from us, and that will result in clear and obvious injustices. If heavier sentences are required, it is a judge's duty to impose them.

[*English*]

The Chair: Thank you. The time is up.

I appreciate the witnesses being with us today. I apologize for the bells.

I will just remind everybody that a week tomorrow is Remembrance Day. Please take a minute to remember those who sacrificed to give us this opportunity to be here today.

The meeting is adjourned.

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