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Chair

Mr. Mike Wallace

Standing Committee on Justice and Human Rights

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• (1530)

[English]

The Chair (Mr. Mike Wallace (Burlington, CPC)): Ladies and gentlemen, I will call the meeting to order. This is meeting number 60 of the Standing Committee on Justice and Human Rights.

Just before we go to the orders of the day, I will let you know that Bill C-55 is in the House today. It's going to come here quickly, so I thought we would have a subcommittee on agenda in the last half-hour of Wednesday's meeting. We'll put that aside so we can make some adjustments to what we had planned due to government legislation coming to this committee.

Today the orders of the day are pursuant to the order of reference of Wednesday, June 6: Bill C-273, An Act to amend the Criminal Code (cyberbullying). The author of that private member's bill is the Honourable Hedy Fry. The member is here to discuss her bill. We have her for the first hour.

The floor is yours, Ms. Fry.

Hon. Hedy Fry (Vancouver Centre, Lib.): Thank you very much, Mr. Chair and colleagues, for the opportunity to present to you Bill C-273, which is my private member's bill that seeks to clarify in the Criminal Code where cyberbullying is an offence.

I want to begin by thanking all of you, from every political party, who have supported my bill, as well as people like members of the Canadian Teachers' Federation and the Canadian Association of Police Boards, along with Jer's Vision and other groups that have supported the bill.

I want to clear this up right away. This bill does not add any new section to the Criminal Code. It asks that the sections of the Criminal Code be clarified to include communication by means of a computer under the areas of criminal harassment, false messages, and defamatory libel. Currently those three sections of the Criminal Code actually pertain to every single type of communication, whether newspapers, letters, telegrams, cable and television, telephones, or radio. All of those modes of communication fall under those three areas of the Criminal Code. The only one that doesn't—and that's because it's a new segment and the Criminal Code never brought itself up to speed on it—is using a computer as a means of communication.

All of these things are already there. I'm just asking that we add using a computer, because in theory the only thing that is actually protected, out of all of the communication means, is a computer. Every other means of communication was there.

I just wanted you to know that there have been a couple of misconceptions during the debates and so on about the bill, and I want to take those on right away. First and foremost, I was told that the reason this bill should not be considered was that the Senate was studying the issue of cyberbullying and therefore we should wait. We have seen the Senate report now. Actually the Senate report does not clarify anything. The Senate report actually only looks at talking about a task force, but it does mention certain areas that I'm trying to bring forward in my bill. I'll get to those in a minute.

The second misconception is that this bill is trying to criminalize children.

The third misconception—not misconception, but comment—is that more aspects of the Criminal Code than are currently there should be added, not simply those three areas: criminal harassment, false messages, and defamatory libel. In fact, it was the government, when it made its speech at the first reading, that suggested we should add other areas that currently do not include computers.

Lastly, I want to support anyone who has ever said that what we really need is an anti-bullying strategy that is comprehensive, that takes on all three levels of government, the private sector, NGOs, etc., and that deals with prevention and moves on to clarification under the Criminal Code and to assisting victims of bullying, etc.

I see cyberbullying as a public health issue, really, because it causes harm to others. It causes increased amounts of morbidity. People who do have depression are very prone to suicide under cyberbullying. So this strategy needs to be broadened eventually, but that doesn't mean the bill shouldn't be put in while we wait however many years it will take to come up with a conscientious strategy.

I just want to talk about the Senate's report. The Senate mentioned in its report that there is a need to study the issue further—which means, as we well know, that it will take another two or three years—and that we need to define what cyberbullying means. I thought the Senate would define cyberbullying, but it didn't.

Second, the Senate report highlighted witnesses' testimony stating that the sections of the Criminal Code dealing with harassment, which is what I'm talking about, effectively do not include electronic means of communication, which is what I'm asking for them to do.

The Senate report recommended that restorative justice initiatives be a key component of any coordinated strategy. I agree with that as we look down the road at developing a coordinated strategy. But the question is, as we wait to put all the i's and all the t's in place, while we dot them and cross them, how many people will be harassed? How many people would see their mental illnesses actually precipitated even further, and how many people could die? I am not being melodramatic here. We know that people have committed suicide as a result of cyberbullying. I think we should really take that into consideration in terms of timeliness of this issue.

• (1535)

Now, I've heard from a number of people that this bill will criminalize children, and that kids must be kids. Well, look, we all know the saying that "sticks and stones will break my bones but words will never hurt me", and we all know that words hurt. We've seen bullying in schools: you push and you shove, and you call names, etc.

One of the things that differentiates cyberbullying from that kind of bullying—and I have been told so by many people who have been cyberbullied—is that if you're being bullied somewhere, you can leave. You can go home. You can get away from it all. You can have your friends and your family and all kinds of people to support you. But this isn't true about cyberbullying; it follows you into your home. It follows you into your computer. It follows you wherever you go, so that you cannot get away from it.

The other thing we say about bullying is that the best revenge is to grow up and be successful, and that tells everybody that when they bullied you they were really being ridiculous. That doesn't happen with cyberbullying. The thing about cyberbullying is that it never stops. What was said about you when you were 10 or 16 or 20 or 30 remains there in cyberspace forever, to be Googled about you when you're 90. Even after you've died, it is there about you.

If it's a false message and if it's criminal harassment, then it really defames your character, to the extent that it can harm your ability to pursue your own career and your ability to be successful in whatever you do. It shames your family, and it creates the kind of harm that you can't run away from anymore, as you used to do when somebody said bad things about you.

The reason we have sections in the Criminal Code dealing with criminal harassment, false messages, and defamatory libel is that we know those things are harmful. What I'm saying is that adults are also victims of cyberbullying, not just children.

When bullying crosses the line from just having mean things said about you to become a criminal act, such as criminal harassment, false messages, and defamatory libel, then it becomes a criminal matter, and the court treats it that way. If you use a telephone to do it, if you use television to say it, if you use a telegram, if you print it in a letter to the newspaper, or if you send it to someone in the mail via a newspaper, the courts and the police are able to track who sent it and where they sent it. They're able to get the telephone companies, the stations, and the newspapers to say exactly who sent that letter.

You cannot do that with a computer. One of the things about the computer today, while it's a good thing and we all applaud the digital medium and how it has really changed the world...the point is that it

is anonymous. It's the anonymity that has allowed people to stray from simply saying nasty things to moving forward into sometimes crossing the line to criminal activity. This is where we're looking at dealing with it: when it crosses that line. Right now, you can't tell who's doing that and who is sending the message, but you could if they had used any other means of communication.

I want to talk a bit about this happening with adults. We need look no further than right here in Ottawa, where a woman, Ms. Katz—and this is open information, so I'm not giving you private information—was cyberbullied because she tweeted a bad review of a restaurant. The owner of the restaurant went on to impersonate Ms. Katz, so there is identity fraud involved there in e-mailing her boss and creating an online dating profile for this woman. Of course, she took it to court because she could, and it was obvious who was doing it; there was no anonymity there. It was the restaurant owner. The restaurant owner was convicted on two counts of defamatory libel and sentenced to two years in prison.

Justice Lahaie stated at the time that Ms. Simoes, who is the person who did the bullying, "was vindictive, vicious, and highly personal" in her "anonymous attacks against Elayna Katz" and that they were "akin to cyberbullying". The judge said, "Cyberbullying of this nature can drive people to more tragic consequences than what happened here." Justice Lahaie went on to say, "Unlike graffiti", cyberbullying "can never be fully washed away." I've heard this from a number of people, of whatever age. Young people have told us they cannot escape it. Young people have said this follows them through their lives as they get older.

We know that someone can cyberbully in the workplace. You and that other person are going up for some sort of promotion and competing against each other and suddenly there are anonymous things to the boss, with someone saying things about you that aren't necessarily true.

• (1540)

It not only happens in the workplace; it also happens in the House of Commons. We've seen it here, in the House of Commons, where someone decides it's okay to defame or to libel or to spread false messages causing harm.

We saw it in the case of Amanda Todd in British Columbia, where the actual bullying was not simply bullying but criminal harassment. It in fact affected her life, and she committed suicide.

Rebecca Marino of British Columbia was a very promising tennis player. She suffered with depression, and she was cyberbullied. People said that she should be killed, that we should get her. People said negative things about her. It increased her depression, and in fact she has now quit. She has closed down any computer and social media that she had. She has quit tennis. And she was carded; she was a seeded player in the world.

Now, at second reading of this bill, I heard the Parliamentary Secretary to the Minister of Justice say that we need to see more sections, not just the three, clarified. He named, for instance, section 264.1, uttering threats; section 266, assault; section 271, using the computer for sexual assault; section 346, extortion; section 403, identity fraud and impersonation with intent, as we saw with this other lady here; and section 423, intimidation.

This is an issue that goes beyond partisanship, and I hope we can all work together to make this happen.

Mr. Chair, if you can give me one more minute, I'd like to address the concerns around a comprehensive strategy. I agree with this; I think we need to talk about this as a secondary event that we should get on and look at in terms of a comprehensive ability to deal with other levels of government, NGOs, private sector workplaces, etc., to deal with the issue of cyberbullying. This bill was never intended to deal with any of those things; it was just to look at the issue immediately that was causing a lot of harm to people and costing them their jobs and their lives.

I just want to say that the anonymity of the Internet is a problem here in its ability to shield the identity of the person who is doing these criminal activities. It has led to a viciousness not normally seen in face-to-face bullying. Let's not forget that anyone can be a bully, especially if you have anonymity to hide behind.

Finally, this bill presents a logical and important step towards ensuring that bullies who pursue this brand of criminal activity and online cruelty and harm to individuals are appropriately punished and recognize the seriousness of what they do when they cross the line.

Thank you very much, Mr. Chair.

The Chair: Thank you, Madam Fry. That was an excellent presentation of your private member's bill. I have seen other members come forward, and you certainly know your bill very well, which I appreciate.

We'll go to questions now. Members have five minutes each.

Madame Boivin from the NDP will be the first to ask questions.

[Translation]

Ms. Françoise Boivin (Gatineau, NDP): Thank you, Mr. Chair.

I would like to thank our colleague, Ms. Fry, for presenting Bill C-273, which would amend the Criminal Code. It deals with cyberbullying.

I would like to publicly say that I appreciate the work you are doing. For our colleague, Dany Morin, from Chicoutimi—Le Fjord, the entire multi-faceted issue of cyberbullying is also extremely important. As you said in your presentation, it is not necessarily the easiest thing to resolve. I do not think that Bill C-273 will stop cyberbullying, but it is certainly a step in the right direction.

In the letter you distributed on January 30, 2013, to support your bill, you said that the bill was going to be studied by the committee. You alluded to comments made by our colleague, Mr. Goguen, the Parliamentary Secretary to the Minister of Justice. According to him, it was perhaps...

• (1545)

[English]

a little narrow in scope.

[Translation]

You claim you are quite ready to amend your bill. But with respect to the provisions you mentioned earlier, I would like to know if you

actually intend to amend it. Things are going to unfold quite quickly here. There is today's meeting and the one on Wednesday, during which we will meet with representatives from the department, and then we will start the clause-by-clause review. So I would like to take advantage of your being here as a witness to ask whether you intend to include section 423 of the Criminal Code, on bullying, in your bill, as well as sections 403, 264, 266, 271 and 346.

What do you intend to do?

[English]

Hon. Hedy Fry: I am very open to amendments.

What I'm trying to identify here is that there's a time when cyberbullying crosses that line from simply calling you names to moving into these areas that are identified in the Criminal Code as criminal activity and that apply to every other means of communication except the computer. I think this levels the playing field; it says all modes of communication are equal.

I would prefer if someone on the committee—and I understand that my colleague, Irwin Cotler from the Liberal Party, is going to bring forward amendments that would cover those areas that were suggested by the parliamentary secretary. I'm very open to that. I would prefer that the committee bring forward the amendments rather than me. If no one does, I will bring in those amendments.

Ms. Françoise Boivin: Have you verified if it is within the scope of your bill, so that we don't defer it? Either we adopt the bill without the amendments or... I wouldn't want to see it start

[Translation]

... "chirer", as we say in French, the fact that amendments were presented that then create problems.

Have you made any verification to determine whether it properly respected the scope of the bill?

[English]

Hon. Hedy Fry: Yes, I would suggest it is within the scope of the bill, as the parliamentary secretary said. After we heard his speech, we went to the Library of Parliament and asked them to clarify. The intent of the bill was to expand measures within the Criminal Code to cover computers and to clarify those measures, and then those measures will all fall within the scope of the bill. In theory, when cyberbullying crosses the line from bullying into criminal activity, we are applying and expanding this to this mode of communication that's been left out.

Ms. Françoise Boivin: May I ask why you didn't think of adding those when you created the bill? They seem pretty obvious to me.

Hon. Hedy Fry: This bill was brought forward about five years ago and kept falling off the table as we ran into different elections.

The point is that at that time I had worked with groups such as the Canadian Teachers' Federation, academics, and others. We looked at that point. We felt if we broadened it too much it might run the risk of not moving forward.

Again, the arguments have been made since my bill came out in the public eye that it would improve the bill. I'm glad to see it improved.

The Chair: Thank you very much.

Mr. Wilks, from the Conservative Party, you have five minutes.

Mr. David Wilks (Kootenay—Columbia, CPC): Thank you, Mr. Chair.

Thank you, Ms. Fry, for your testimony today.

I want to go over a couple of things under section 264 and then section 298, but more specifically section 299 of the code. I'd like your comments on that.

In paragraph 264(2)(b) it says “repeatedly communicating with, either directly or indirectly, the other person or anyone known to them”. There's no definition in the Criminal Code of communicating, so it's an open-ended definition. It could already mean that it could be a computer, the Internet, Twitter, Facebook, or whatever it is, because communicating is not defined.

Further to that, under section 299—and you referred to section 298, with regard to defamatory libel, but section 299 is publishing—it says:

A person publishes a libel when he

That probably needs to be amended to be “he or she”.

- (a) exhibits it in public;
- (b) causes it to be read or seen; or
- (c) shows or delivers it, or causes it to be shown or delivered, with intent that it should be read or seen by the person whom it defames or by any other person.

Without the definition of communication, to me it would imply that this does mean the Internet, Facebook, or Twitter, because there is no definition of communication.

Can I get your response to that?

● (1550)

Hon. Hedy Fry: Yes. Currently under the Criminal Code, police and other people investigating any criminal libel, defamation, or criminal harassment, etc., are able to go to a telephone company—because there is a section that discusses other methods of communication—and ask them to disclose where it came from, even if the person doing it has no listed number, and they're bound to do that.

Newspapers can say exactly who wrote the letter and sent it to the newspaper. There are ways of tracking it.

This has not been very successful. In the case of Amanda Todd, for instance, even though the police were trying to track the criminal harassment and the person who criminally harassed, they didn't have all the powers to do it. That's why the police boards are supporting my bill. They feel they don't have the correct tools. While the law is vague in mentioning what it means by communications here, it is also quite specific in certain areas of communications. But it's not specific with regard to the computer. Therefore, you have to go to ISPs and ask them to disclose, and this has been very difficult to do.

Mr. David Wilks: Furthermore, with regard to section 2 of the charter, and specific to paragraph 2(b)—and for those who have a code, it is on page 1806—it refers to *Regina v. Keegstra*, in 1990. The ruling at the time was:

...the level of protection to which expression may be entitled will vary with the nature of the expression. The further that expression is from the core values of this right [as with the offence of defamation] the greater will be the ability to justify the state's restrictive action.

That was also followed with *Regina v. Lucas*.

Is there a concern by you, or have you thought about the possibility, that the Canadian constitutional perspective with regard to paragraph 2(b) may be prone to being overreached?

Hon. Hedy Fry: No. We've seen very clearly how the courts have interpreted the difference between freedom of speech that crosses the line to hate and that causes harm. Right now, if you print an article in the newspaper that is libellous to me, I can seek justice in the courts because there is a limit to freedom of speech in a free and democratic society.

In fact, I have just come back from Vienna, where the Organization for Security and Cooperation in Europe was defending the right to freedom of speech. But it did add that when freedom of speech crosses into hate or becomes libellous, etc., there are ways in which courts can define this so that it will not cause harm. It was very clear that everyone was concerned that every other method of communication in many western European countries and democracies is clearly defined, but under the digital world it isn't. People were talking about finding a way to look at how we define that kind of extraordinary freedom within the digital world because of its very anonymity.

That was a very interesting discussion; it took a whole half day for people to get around it. We had huge media experts and legal experts there who were talking about freedom of speech in a democratic society and about its absolutism, when it reaches a point where it crosses a particular line.

I would hate to see freedom of speech and freedom of expression in any way curtailed in our society, but I do think that when people commit suicide as a result of it or it spreads into these criminal areas, which you cannot now do using normal means of communication....

We have one area of communication that's brand new and that no one has really defined and sewn down and tacked onto.... Basically, the digital world is working in a free and open environment.

The Chair: Thank you, Ms. Fry.

Thank you, Mr. Wilks, and welcome to a permanent position on this committee. Thank you for your contribution.

Now, Mr. Casey from the Liberal Party.

● (1555)

Mr. Sean Casey (Charlottetown, Lib.): Thank you, Mr. Chairman.

Welcome, Dr. Fry.

My first question relates to your motivation behind the bill. I haven't been around here very long, but the private members' legislation that's been introduced in my time generally is motivated by a desire to make some sort of a public statement or to create public awareness, or by a desire to plug a loophole. If that's your motivation, would you anticipate more prosecutions or convictions as a result of this bill?

The third category would be a response to a specific incident. I suppose in this case it could be the Amanda Todd case.

Could you expand a bit on your motivation and whether it falls under one of those categories, or is the grand goal actually something else?

Hon. Hedy Fry: Actually, I'm hoping we won't see more prosecution as a result of this bill. I'm hoping that in some ways it can be a deterrent. If people believe there is a line they can cross from bullying into criminal activity, they might stop to think.

This came to my attention way back when I was a physician and I saw people who were depressed or who had been harassed through the computer. It's happening more and more now that we have social media. I had to help them with suicidal ideation and the decision that they wanted to die because they couldn't stand it anymore. This particular type of harassment followed them wherever they went and they could never escape it. I think that is one of the things that prompted me to do it.

Then, of course, the Canadian Teachers' Federation came to me and talked about the extreme rise in cyberbullying and the inability of the schools to even deal with this issue because they can't pinpoint who it is. Then there was the Canadian police board and the many academics I asked about this question—psychologists, etc., and people who are criminal lawyers and who deal with the Criminal Code—who felt there was this grey area that covered the issue of digital media and that did not clarify certain things. So I'm seeking to clarify, really, with my bill.

Mr. Sean Casey: You said in your opening remarks that you see this as necessary, but it shouldn't be seen as a strategy, and that a strategy is needed. What, in your view, would be the key elements of a bullying/cyberbullying/anti-bullying strategy?

Hon. Hedy Fry: The first key element of a strategy would be prevention. So it would be public awareness. It would be all of those things that we see people currently beginning to do. It has to be coordinated, in that various levels of government have various jurisdictions over certain of the pieces that are needed to put this puzzle together. So it has to be pan-Canadian, pan-governmental, and there have to be NGOs and academics and schools, etc., that will move into this so that it isn't one jurisdiction only. But I'd like to see, first and foremost, public awareness of the problem and the danger that bullying as a whole carries with it, as well as the sort of grey area of cyberbullying.

Secondly, I'd like to see preventative programs move forward and become real, in society and within schools, etc., based on the jurisdiction under which it falls.

Thirdly, I would like to see us look at how we could deal with the victims of this kind of bullying, or of bullying of any kind. I'm going to think that the victims have a two-pronged hat. Many studies and psychologists and academics have found that in fact people who bully are themselves victims. In other words, they began to be bullies because of a sense of powerlessness, because at some point in their life they were bullied, were made to feel small, made to feel inferior, made to feel that they were powerless. Bullying is about power, so they tried to take power over others whom they saw to be weaker than they were. We need to deal with that component of it.

Then, of course, there is the problem of victims who are prone to suicidal ideation or who are prone to harm as a result. So there would be civil areas that we would look at, as well as criminal areas. In any

strategy, I'd like to see a way of enforcing the strategy and a way of prosecuting those who have crossed the line into criminal activity, and some sort of way of getting society to be rehabilitated with regard to understanding how we use tools of communication in a totally different way.

The Chair: Sorry, Mr. Casey, that is your time, but thank you very much.

Our next questioner from the Conservative Party is Mr. Goguen.

• (1600)

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

You touched on the question of freedom of speech, and that's what I'd like to deal with.

I note that your bill is going to address cyberbullying by amending three offences, and of course you know them well: criminal harassment, section 264; defamatory libel, section 298; and false messages, section 372, as well as indecent phone calls, of course, covered by section 372. The criminal harassment and defamatory libel provisions would be amended by clarifying that these sections apply to conduct engaged in through the use of a computer. You've heard Mr. Wilks' questions. It's probably already covered in the Criminal Code, but, in any event, the Internet would be included. Of course, there's a more substantive change in section 372, to the extent that the scope of enumerated offences would include, by definition, computer system use or electronic communications.

There are a couple of learned professors who take issue with the criminalization of cyberbullying. They're Professor Lyriisa Lidsky and Andrea Pinzon Garcia of the University of Florida, Levin College of Law. They argue that criminalization of cyberbullying poses a threat to freedom of speech. I'm wondering if you could expand on your ideas on this. From a Canadian perspective, do you think that criminal cyberbullying laws are overreaching in such a way that they offend the charter?

Hon. Hedy Fry: No. I answered that question from Mr. Wilks earlier about the charter. I think in every democratic society we have to find that balance between having freedom of speech or freedom of expression and inflicting serious and severe harm. That's where the Criminal Code has defined certain elements on which freedom of speech infringes, things like hate speech. We know clearly that there's a definition of hate speech, and we know clearly that there is a definition of criminal activity using speech or communications within which to exercise that. So no one, especially people like me.... I'm a Liberal, and I very much believe in the charter, and I very much believe in and agree with freedom of speech and freedom of expression.

As I said earlier on, I like to think that if you ask 10 doctors for a diagnosis, you'll probably get 14. I like to think that if you ask 20 academics for an opinion on anything, you will probably get about 40 opinions. So we all know that it's something in which an opinion is an opinion is an opinion. I have consulted with many academics who have given me another opinion.

I notice on your list of people who are going to be witnesses that in fact a couple of them will tell you why. The police are also saying that they need tools, and that it's very unclear under the law, because the law isn't clarifying this issue with regard to what tools they have and do not have. Nobody is suggesting that police should have the freedom to investigate anything or everything, but they really wanted clarification themselves, because they need to have certain tools in certain areas. The case of Amanda Todd was one example in which they didn't have the tools they needed to deal with the issue of criminal harassment. It wasn't bullying; it wasn't the people who were saying things about her; it was a person criminally harassing her, and they were not able to get to the bottom of that.

Mr. Robert Goguen: You'd agree, I trust, that we guard our constitutional rights very jealously, and we obviously wouldn't wade into uncharted waters and erode our constitutional rights if there were other methods to do this.

You'd agree with that, I would take it.

Hon. Hedy Fry: Yes, but I would like to point out to you that the same charter would apply not only to a computer, or a computer as a means of communication, but also to a newspaper. It would apply to a television. It would apply to a telegram, a personal letter, a telephone call.

It does clarify those things, very clearly, without infringing on the charter, as you've seen before, on any of those means of communication. The one that is not clarified is a computer.

Mr. Robert Goguen: When I was recently in my riding, I was talking to Constable Butler, an RCMP officer who is dedicated to the high schools. He deals day in, day out with cyberbullying, and I talked to him about your bill. He reviewed it and said, listen, a lot of this stuff is already covered in the Criminal Code, and quite frankly this is overkill. If anyone took and read the fine print of the Internet agreements.... If it were determined that anyone was bullying by the Internet, it would be very, very simple to cut off the service of the person who was bullying. And you can well imagine in the world of a young person, whose life revolves completely around the Internet, how their world would be crushed.

Wouldn't that be a more effective way of stopping cyberbullying, where most of these elements are already in the Criminal Code, without infringing on the right of freedom?

Hon. Hedy Fry: Well, you'd have to know whose Internet privileges you're cutting off. The point is that you don't know.

At the moment—

Mr. Robert Goguen: How could you prosecute them without knowing—

The Chair: Mr. Goguen, let her finish her answer.

Hon. Hedy Fry: The point is that you don't know, at the moment, and this is where the question arises: you don't know.

You have the ability to get the telephone company to tell you who's been making those calls. You have the ability, even if that person has an unlisted number. Even if they're using a cellphone, you do have that ability currently to do this. You do not have that ability to ensure that ISPs can tell you who is using their service to do this. You don't.

So I think your RCMP officer must have had a nice way of getting around some of these. I have heard from the police themselves that they haven't and that they need this tool.

•(1605)

The Chair: Thank you, Ms. Fry.

Thank you, Monsieur Goguen.

The next questioner from the NDP is Monsieur Morin.

Welcome.

[*Translation*]

Mr. Dany Morin (Chicoutimi—Le Fjord, NDP): Thank you, Mr. Chair.

I don't have much of a voice, but I will still do a good job.

Dr. Fry, I would first like to thank you for supporting a coordinated strategy aimed at preventing bullying. Regardless of the final strategy, I think that betting on prevention to protect our youths is a winner for the country. A number of times in your presentation, you said you wanted to prevent as many cases of bullying or cyberbullying as possible, since it can have a negative impact on the lives of young people. I also note that you have chosen concrete and quick action—in this case, your bill.

With respect to your bill, I would like to know if you think amending the Criminal Code will discourage bullies or cyberbullies from bullying their victims. Although this bill aims to reinforce the criminalization of these actions, do you think prevention will have a place there? The experts I have consulted were more alarmed than reassured. That is how I feel as well. That is why I would like to hear what you think.

[*English*]

Hon. Hedy Fry: I'm going to go back and say again that I'm not asking that we add new pieces to the Criminal Code that will create criminal offences that are not already there. These are criminal offences that are already there.

I would like to read to you subsection 372(1) of the code, which says:

Every one who, with intent to injure or alarm any person, conveys or causes or procures to be conveyed by letter, telegram, telephone, cable, radio or otherwise information that he knows is false is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years.

We're not just talking about simple cyberbullying. There is a place when cyberbullying crosses to become "false messages", which is the section I'm reading from. The point is that if it's been clearly stated what are the modes of communication....

It says "or otherwise", and some people are interpreting it to not mean computers, while others may say, yes, it does mean computers. The point is that it's not clear, and my bill is to clarify those criminal elements.

I'm not talking about, you know, saying that Dany Morin has a sore throat and can't speak, and putting that on social media.

Mr. Dany Morin: Dr. Fry, I have another question.

Do you make a difference between...or do you think your law should apply to young offenders, minors, as well as adults? We all know that young children and teenagers can be stupid and not realize the full impact of their actions. Do you think it is wise to put forward such a bill, which could potentially open a Pandora's box and make a dangerous precedent of criminalizing young children?

Hon. Hedy Fry: No, because as I said earlier on, I wasn't talking about bullying through young children alone. I've given you examples of adult cyberbullying that went on to create problems for people, including the young tennis player I talked about.

The point here is that we have laws under which minors and young children have committed offences. No one is trying to change that. There is a question of when a person is or isn't young enough to be looking at what they're doing. But if young people understand the difference between some of the things they use the Internet for and some things that are in fact crossing over... It's like saying to a young child that it's one thing for you to run around and call names at somebody, but if you take a baseball bat and beat that kid in the parking lot, you have just committed murder.

What young people need to know is that there is a line that they can or cannot cross, which most young people, I believe, wouldn't want to cross.

•(1610)

[Translation]

Mr. Dany Morin: Right.

I would like to ask you one last question, Dr. Fry.

My colleague, Mr. Goguen, spoke about...

[English]

academics who argue that prevention is the way to go, rather than criminalization.

You said you've consulted with people. But most academics that I've also consulted with said that prevention is the way to go.

Who have you consulted with?

Hon. Hedy Fry: I've consulted with academics, but not every academic in Canada, obviously, Mr. Morin.

Mr. Dany Morin: True.

[Translation]

However, did most of the academics you consulted tell you to go with criminalization or prevention?

[English]

Hon. Hedy Fry: No, because most people recognize that in any strategy to deal with a problem—and I believe this is a public health problem because it creates morbidity and death—there is no one silver bullet. You have to look at a series of things that are going to deal with the issue. Prevention alone will not do it.

I'm a physician, and I can tell you that there is absolutely no disease or public health illness that can be cured by prevention alone. There are many that can't. So you have to deal with looking at prevention as one of the obvious core elements of the strategy, but

then you have to move on to areas in which they are unable to do prevention, and you have to then deal with enforcement.

I think one has to look at the issue of addiction as one of these things. You create an awareness of addiction, you create ways of preventing addiction, but when people are addicted you have to actually deal with the issue as a public health issue. And those who exploit people who are addicted, such as criminal elements who sell drugs and people who have international cartels that sell drugs, have to have enforcement attached to them.

There is no one bullet in any sort of strategy. It has to be a series of things that you use. This is only one of them.

The Chair: Thank you, Dr. Fry.

Thank you, Mr. Morin.

Our next questioner from the Conservative Party is Mr. Seeback.

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

Ms. Fry, I'm trying to understand a couple of things that you've said to this committee. You seem to be suggesting that in a number of cases in the Criminal Code, for example, where it says "or otherwise" and in section 264 where it talks about "repeatedly communicating with, either directly or indirectly"... Do you have evidence that you can present to this committee that a crime has not been prosecuted or police haven't investigated because it says "or otherwise", or in this way, communicating directly or indirectly?

In essence, why do you think we need this clarification? Is there a single case you know of where police said the Criminal Code is unclear, that the person is doing this bullying, but they're not investigating because it doesn't say "computer" in that section?

Hon. Hedy Fry: Yes, that's why I brought it forward.

Mr. Kyle Seeback: What's the case?

Hon. Hedy Fry: I can give you one case, the Amanda Todd case, which has now been dropped because they are unable to get the information about the person who was criminally harassing the late Amanda Todd, who had been harassed directly and indirectly.

Mr. Kyle Seeback: So how would this legislation enable police to get the information? I don't see anything that suggests that police can go to an ISP and compel them to give information. That's not what any of the sections you've amended here would do.

What additional powers does this give the police to investigate?

Hon. Hedy Fry: It gives the police the same powers they have to investigate any of these three offences that I'm bringing forward when a telephone is used, when cable is used—cable meaning television in the broad sense of cable—when a newspaper is being used, when a letter is being used, when a telegram is being used, when radio is being used. When any of those things are being used, the police have the powers. They do not have the powers to do this currently when a computer has been used, through social media and other means.

Sometimes it's easy. The ISP group may decide to come up and say they know who this is. But in many instances they do not have the ability that they have with those other modes of communication to get the information they need.

Mr. Kyle Seeback: On your suggestion of putting in, as you describe it, “a computer or a group of interconnected or related computers”, that’s going to give them the powers to do that investigation?

Hon. Hedy Fry: Well, it adds it to the current list that is there now of what is defined as communications means that they can investigate. It will add that specifically, so it will clarify what the word “other” means.

Mr. Kyle Seeback: I think there’s a difference between “clarify” and “give new powers”. You seem to suggest that this is going to give new powers.

I find it hard to believe that when a police officer who’s investigating someone for engaging in an extreme form of bullying asks for information, an ISP is going to say, “Sorry, but the Criminal Code doesn’t say ‘computer’ and I’m not going to give you any information.” That’s what you’re suggesting.

Hon. Hedy Fry: You may find that hard to believe, sir, but in fact it does happen, and that’s why the police can’t use this.

I’m not saying this is going to give powers to the police. I’m saying that this levels the playing field with regard to communications and means of communications, i.e., with every other thing listed, but with computers left out.

Computers and the digital age are new since the Criminal Code was written, just as my colleague has mentioned that it says “he” in every area and we may need to say “he and she”, if we want to look at that area. I’m just saying that what we’re trying to do here is clarify what the term “other” means.

•(1615)

Mr. Kyle Seeback: Actually, “computer” is defined in the Criminal Code. Section 342.1 talks about “a computer system” and gives a number of definitions. Why didn’t you use that definition in the Criminal Code, which has been established by case law and is understood? Why did you make up your own? It creates inconsistency in the Criminal Code.

Hon. Hedy Fry: I’m sorry, but I didn’t make up my own. This went—

Mr. Kyle Seeback: Well, it’s your bill.

Hon. Hedy Fry: The bill went through the Library of Parliament. The Library of Parliament agreed that this was a valid bill.

I have talked to academics. I have talked to a whole lot of people who believe that this is a valid bill, that what it is doing is clarifying what is meant by the word “other”, and that in fact it is making sure that all means of communications today, in the 21st century, are able to be accessed, if necessary, to find out who is using this anonymous means of spreading either false messages or messages of criminal harassment, etc.

Mr. Kyle Seeback: Were you aware that there’s a definition of “computer system” under section 342.1?

Hon. Hedy Fry: Yes, I was aware. What we found is that it is not equally applied every time, and that it is left to interpretation in many instances.

Mr. Kyle Seeback: So you think your definition—

Hon. Hedy Fry: We’re just clarifying. Again, if it’s left to interpretation, the word “clarify” applies. I’m clarifying because we don’t want it to be left to anyone else’s interpretation anymore. We’ll be as clear as it is in the Criminal Code when it mentions the other means of using communiqués.

Mr. Kyle Seeback: Do you think the definition of “a computer system” means as follows? It means:

...a device...or a group of interconnected or related devices one...of which

(a) contains computer programs or other data, and

(b) pursuant to computer programs,

(i) performs logic and control, and

(ii) may perform any other function....

You think your definition, which is much more succinct, is better than that Criminal Code definition.

The Chair: A short answer, please.

Hon. Hedy Fry: No. I’m not arguing that Criminal Code definition; I’m saying that in these sections of the Criminal Code, there seems to be ambiguity, and it does not apply. Two of your colleagues talked about the very ambiguity that I’m talking about now. I’m just trying to clarify. It’s as simple as that.

The Chair: Thank you, Dr. Fry.

Thank you, Mr. Seeback.

Our next questioner is Mr. Mai from the NDP.

Mr. Hoang Mai (Brossard—La Prairie, NDP): Thank you, Mr. Chair.

Thank you, Dr. Fry.

I’d like to, if I may, follow up on Mr. Seeback’s comments. You’ve said that you met with different organizations. Have you met with law enforcement officials who say this would be something that would be clarifying in supporting your bill?

Hon. Hedy Fry: Well, the police boards are supporting this.

Mr. Hoang Mai: Okay.

Can we back up a bit? I understand that cyberbullying has been here for a long time. Can you tell me the story of the bill? You mentioned that it was brought forth before and then there were elections. When did you start pushing that forward?

Hon. Hedy Fry: Gosh, I can’t remember now. I think it was 2007.

Mr. Hoang Mai: It was 2007. What has the government done on that front?

We’ve heard from the Conservatives that it’s a concern for them, but for some reason nothing has come from the government. Can you explain why nothing has been done?

Hon. Hedy Fry: No, I can’t explain that. I think the government would have to explain that.

Mr. Hoang Mai: Why was nothing done by Liberals before that, while the Liberals were in power? We know that cyberbullying has been around for a long time and has been a big issue for a long time.

Hon. Hedy Fry: Well, actually, that’s not quite true. The social media did not take off to the extent that it has until about 2009. We had begun to look at it being used in schools as early as...

Brian, when was my bill first brought forward?

A voice: It was 2007.

Hon. Hedy Fry: Yes. We had only just begun to hear about it at that time, and we were seeking to deal with it this way. But before that, there was no rampant Internet. There was no social media to the extent that there is now.

What we have seen is an escalation of the use of social media because of its anonymity, and whether the person intended or didn't intend it, it has resulted in harm. In fact, it has resulted in deaths in some instances. Again, as I've said, we left government in 2006. This was not something that was a major issue for me at the time.

• (1620)

Mr. Hoang Mai: You've mentioned the case of Amanda Todd. Are there any other cases this bill would clarify and where it would be used? Do you feel it would be something that would actually make sure that we don't have any cyberbullying?

Hon. Hedy Fry: There are many cases, and I don't have them all in front of me to tell you. I think one of the issues is, for instance, this young woman who is a tennis player and has just quit. She is depressed.

The point is, when you bully someone or you cyberbully them, it carries on no matter where they are, and they cannot escape from it. That is the insidious nature of cyberbullying.

As I said before, you can have people call you names in school. They can take you and lock you in the men's washroom or in the girls' washroom and do whatever they want to you. You can go home and you can have your family and other friends to protect you and you can grow up and you can prove, by being successful like Bill Gates, that it doesn't matter that people called you names when you were in school because, as we see, success is the biggest revenge that anybody who has been bullied can have.

The point is that this is insidious and it never goes away. You cannot escape it; it is everywhere. That is one of the things that, as I said, Rebecca Marino said. There was no way she could escape it, and she gave up her career. She did have a mitigating factor; she was depressed. She was a person who was fighting depression, and this just put the lid on it for her.

I have seen that ordinary bullying, never mind cyberbullying, has caused people who have a tendency to be depressed and who have very low self-esteem to move into suicidal ideation, where it's very difficult to stop them.

Mr. Hoang Mai: Just to understand, was that case not covered or it has not gone through because cyberbullying wasn't defined as per your bill?

Hon. Hedy Fry: No, she chose not to take this to court. She chose to just quit her tennis career.

Mr. Hoang Mai: So technically the bill wouldn't change much, but I understand where you're trying to come from or to cover.

Just quickly, have you had any consultation with the provinces on their actions and what this would entail?

Hon. Hedy Fry: No, because this is a federal jurisdiction in the Criminal Code.

Mr. Hoang Mai: I understand, but they'll have to apply it in terms of how provinces—

Hon. Hedy Fry: I have actually spoken in British Columbia, and they seem to feel this would be part of a good strategy. They had no comment because the Criminal Code is federal jurisdiction.

Mr. Hoang Mai: Thanks.

The Chair: Thank you, Mr. Mai.

Our next questioner, from the Conservative Party, is Mr. Albas.

Mr. Dan Albas (Okanagan—Coquihalla, CPC): Thank you, Mr. Chair.

I'd like to welcome a fellow British Columbian and colleague, and I thank her for her presence today.

Ms. Fry, the intent of your bill is certainly laudable, to ensure that existing offences apply to bullying conduct that is criminal in nature when it is communicated through the use of the Internet. However, its approaches, in my view, raise significant criminal policy concerns, and I'll just quickly go through those.

Offences generally apply to specific conduct, so even though the means used, such as the Internet, are not necessarily specified—for example, murder is murder regardless of a weapon or a means used to commit such a murder—amending some of the offences that could apply to bullying, and then excluding others, for example, section 264.1, uttering threats, could become problematic. An example of that would be that the inclusion of a reference to the use of a computer or the Internet in some offences could be interpreted to mean that its exclusion from others is intentional, such that other offences might not be interpreted to apply to conduct carried out with the use of a computer or the Internet.

Also, its proposed terminology, “computer or a group of interconnected or related computers, including the Internet, or any similar means of communication”, is inconsistent with the provisions throughout the Criminal Code, such as my colleague, Mr. Seeback, mentioned earlier.

I would say that having two terms relating to the same medium could cause issues or confusion.

In short, my view is that Bill C-273's proposed amendments to section 264 and section 298 do not enhance the Criminal Code's existing treatment of bullying that constitute criminal conduct and could even impede its current ability to effectively address such conduct.

How would you respond to these concerns?

Hon. Hedy Fry: I think I already did, but I will respond to it again.

I think it is still unclear in certain segments of the Criminal Code what the “other” means, and in many instances it has been found not to be adequately defined. As you read in the front part of my bill, it says, “to clarify”. So I am seeking to clarify exactly what is meant by “other”, because there are lists here that define exactly who the groups are and what the communications medium is, and it isn't necessarily defined.

If, in fact, this were true, then the Senate report, which also mentions that there needs to be clarification in certain elements of the Criminal Code, would not have mentioned it. But they heard from many witnesses who said that there needed to be clarification.

At the end of the day, no one is seeking to criminalize anyone. What I'm seeking to do is level the playing field in terms of what clearly are means of communication in the 21st—

• (1625)

Mr. Dan Albas: I'm not speaking about criminalizing anyone, per se. I'm saying there are inconsistencies in the mechanism you have produced as a private member's bill. Certainly the goal is laudable, but the inconsistencies that this is creating, even within the code itself, to me, do not necessarily add to that clarity.

Earlier in your testimony you mentioned that this bill gives new tools to those in law enforcement. I would just challenge that simply, for example, by saying that we have before the house Bill C-55, which gives tools to law enforcement in extenuating circumstances, where someone is about to commit a crime that would cause significant harm to public safety, or perhaps someone is suicidal and is about to hurt themselves. Law enforcement can then access that. I certainly hope you'll be supporting that legislation, because that will actually give law enforcement tools they need in order to maintain public safety and to save lives.

Lastly, I would just ask for your response, because you've given the impression, at least in my view, that this would help law enforcement deal with ISPs. You mentioned the Amanda Todd case, which was very tragic. I would like your response on the ISP provisions, because I don't see anything in here that would actually help with that.

Hon. Hedy Fry: Currently, I will read it again, subsection 372(1) of the Criminal Code states—and I'm talking about false messages—

Every one who, with intent to injure or alarm any person, conveys or causes or procures to be conveyed by letter, telegram, telephone, cable, radio

One of the things that allows people to do is to get into cellphone records, to get into telephone records, and to find out exactly who made the calls that spread the false messages.

People are not always able to do that with ISPs at the moment. The piece left out that I'd like to put in there with a little thing that says “add this” would be “using a computer”. It isn't there. I have heard from enough people, from academics and others, to suggest that in fact it is necessary. This is one of the reasons the police boards are supporting this.

Mr. Chair, I would also like to make one comment. I said I brought in my bill in 2007, but that was another bill. This bill was introduced in 2009.

The Chair: Thank you for your questions. That's your time, Mr. Albas.

I want to thank you, Madam Fry, for your hour. Your hour is up. You did an excellent job defending your bill. As I've said before, I've been there for other private members' bills, which have been defended by the member's staff and not by the member. So I do appreciate your efforts.

We will take a two-minute break while we set up for the next hour.

Just for the information of the committee, if you are going to move amendments to this bill, it would be appreciated if they were in by 5 o'clock tomorrow. That's not required, but it would be appreciated.

With that, we will suspend for two minutes. Thank you.

• (1625)

(Pause)

• (1630)

The Chair: Ladies and gentlemen, I call this meeting back to order. This is meeting number 60 and we are dealing with private member's Bill C-273, An Act to amend the Criminal Code (cyberbullying).

We are fortunate to have Professor Shariff with us, an associate professor from McGill University on integrated studies in education. She is here as an individual.

From PREVNet, we have Professor Craig, who is the professor of psychology at Queen's University.

Joining us by video conference, representing the Canadian Association of Police Boards, is Ms. Cathryn Palmer, vice-president.

We will go one at a time for presentations and we'll do them in the order you were introduced. You have a maximum of 10 minutes, and then we'll go to a question and answer period.

To start, Professor Shariff, you have the floor.

• (1635)

Professor Shaheen Shariff (Associate Professor, Department of Integrated Studies in Education, McGill University, As an Individual): Thank you for inviting my submission today.

I'm an academic and researcher at McGill University and I have studied legal and policy-related issues regarding cyberbullying for approximately 10 years. I currently hold a five-year grant from the Social Sciences and Humanities Research Council of Canada and an inaugural digital citizenship grant from Facebook.

Although cyberbullying is not specifically mentioned in Bill C-273, I have concerns about some of the inconsistencies in the bill, as we heard in the questions posed to MP Hedy Fry.

Cyberbullying can involve such acts as criminal harassment, threat of sexual assault, defamatory libel, extortion, identity fraud, impersonation with intent, intimidation, as well as sexting, many of which can currently be addressed under the Criminal Code.

My concern is also that there is no mention of smart phones, digital media.... I'm skipping over my notes because I know I don't have a lot of time.

My biggest concern is that the code applies to everyone. It talks about everyone. I'm worried that this amendment is in response, as Ms. Fry said, to a lot of media reports related to cyberbullying and related suicides.

The problem here is that we should be looking at two sets of audiences. One is adults, who are mature enough to be held culpable for some of these crimes. They're old enough to know what they're doing. What we're finding in our research, though, is that young people, digital natives—these are children growing up immersed in digital technologies—quite often don't realize what they're doing.

The norms and perceptions of harm by digital natives have changed. These kids, as young as eight, are on Facebook, even though it's illegal to be on Facebook under age 13. There is a higher tolerance for insults, jokes, and pranks. There's less consideration of impact on others. There's less recognition of boundaries between public and private spaces online. There's less awareness of legal risks, which is where I would argue for improved education on legal literacy.

Perpetrators of cyberbullying are often victims as well as perpetrators. This would place them in an awkward position if this code were amended and they were ultimately charged. We might be overreacting. We might be putting the wrong kids in jail.

A lot of kids are dealing with mental health issues. We've seen that putting young people in jail when they have mental health issues is a problem. We've repeatedly seen coverage of Ashley Smith when she was incarcerated, and the problems she had.

An Austrian study found that anger and fun are at the top of youth motivations to cyberbully. In question time I can cover some of the cases, should anyone have questions regarding exactly what I mean.

In light of these shifting social norms, amending the code might result in charges for the wrong reasons.

The other thing is that adults.... When you talk about the different audiences, adults are the worst models of behaviour, and yet so much of the focus has been on youth because of the media spotlight on youth. I fear that this amendment is being brought about just to calm the public's fears, that something is being done.

We need to do a lot more research. We need to look at how much the legal community knows and understands about how digital natives are using the Internet.

Our five-year research with SSHRC is looking at the assumptions that underlie judicial reasoning when it's listening to cases of cyberbullying. Cyberbullying is extremely complex. There are so many facets to it. We really need to make sure we're targeting the right kinds of issues.

• (1640)

There's defamation. There's sexting, which as many of you know the police here and in the U.S. have been using child pornography laws to address.

Kids are posting things online without really thinking about it, and repeatedly we see patterns in our research where the kids are saying they were just having fun: "It was just a competition between friends." They forgot about the victim. They weren't even thinking about the person they were teasing. It was just trying to have their voices heard over the din of the Internet. These were kids who were wanting attention.

Now, I'm not suggesting that there should be no consequences. I'm very much a supporter of discipline for young people, and I think that can be done through education. We need to have relevant consequences. I don't think these sorts of piecemeal amendments to the code will have a lot of impact.

With regard to the implications of this bill for youth, digital natives who are unaware of legal risks may end up with criminal records when they cannot differentiate the impact of their jokes and pranks from serious criminal liability. Although they should be disciplined, they also need to be educated in legal literacy. Criminal records or jail terms would reduce their chances of being accepted into good post-secondary educational institutions and limit their ability to find jobs in an already difficult market, resulting in increased burdens on social assistance. Ultimately, this could cost the government substantial resources and cost some children their potential to succeed.

A more thoughtful alternative would be to invest in education, support for teen mental health, increased sensitivity awareness, and legal literacy. Last year we gave evidence at the Standing Senate Committee on Human Rights that looked at Canada's responsibility to protect children from cyberbullying under article 19 of the international Convention on the Rights of the Child. I'm sure many of you are aware of that report. That report brings together a very comprehensive range of issues that were raised by experts and researchers across Canada, and I think this committee ought to consider what was raised in that report.

One thing that was suggested was a children's commissioner. The other was a national strategy. I know that motion was defeated last year because it was controversial. But I think we need something, such as a task force that involves experts, to look at these issues and determine what legislation needs to be amended. How do we amend this legislation? What is the role of the law? Do we really want big-stick sanctions? A scholar at Harvard University, John Palfrey, made the same kind of plea to Congress, and he did this in 2009 when they wanted to amend their legislation.

My Australian colleagues, Kift, Campbell et al, are the ones who coined the term "big-stick sanctions", because they don't really work given this context. Given that kids don't understand...they're not even differentiating between public and private spaces.

I have submitted a 25-page brief, as academics do, and I would urge you to read it or skim through it by tomorrow, before you make your comments. I really think this issue needs to have further consideration.

I have here—I can pass some of these around—my basic...almost my logo. For the last 10 years, as I've been studying cyberbullying, this is the reactive stance the schools and a number of provincial governments have taken to deal with these kinds of issues. I'm suggesting a much more proactive stance that addresses education.

We're talking about substantive law versus a positivist or more punitive law. Let's look at the pillars of our Constitution, our human rights laws, and let's see how we can help young people understand why they should not be engaging in this. The challenge is in bringing these kids to their own understanding. Engage the kids. They are the digital experts. Engage the kids in contributing to changes in legislation.

● (1645)

This is what we're doing.

Part of our research, if I may explain it quickly, with our grant from Facebook and SSHRC is doing surveys and focus groups with young people from the ages of nine to 17. We're asking them how they define the line between joking and teasing and criminal offences. How do they tell the difference when they're crossing the line to committing a crime? How do they define the difference between public and private spaces? In the third phase we will get the kids to develop online interactive projects. We'll engage the kids to do this, and that will get them thinking about how they're defining the line.

We've already piloted this in Vancouver, and we got some amazing responses. My website is www.definetheline.ca, and we've had a lot of responses to that. What we do is inform educators and policy-makers about the various legal—

The Chair: Professor, I'm going to have to cut you off there. I enjoy cutting professors off.

I'm assuming there will be questions to ask you about your research during the question and answer period.

Thank you very much for that excellent presentation.

Our next presenter is Professor Craig.

Professor Wendy Craig (Scientific Co-Director, Professor of Psychology, Queen's University, PREVNet (Promoting Relationships and Eliminating Violence Network)): I'm Professor Craig. I'm from Queen's University. I'm a child clinical developmental psychologist.

Much of what I'm going to say is to reinforce what's been said by my colleague.

I will start by saying that I primarily think about children and youth, and when we think about laws, there is a difference between children and youth and adults. One of the most important things I can send to you as a message is that children are a process in development. Think of your own children. Children need to learn how to behave differently. They need to learn those skills. They need to be coached by adults. They need scaffolding; they need education.

Punitive measures aren't going to provide that learning context that's going to give them the strategies to be different. I think we need to think about a different response for children and youth than we have for adults because of many of the developmental things that have been raised.

I also do research in the area of cyberbullying, and there are a couple of things in that area that make this legislation a bit problematic. We currently have no universally agreed upon definition in the area, although there has been work by the centre

for disease control. I've been part of a task force to define it. There is no universally accepted definition. Part of the current definition uses intent to harm. That's a very hard and difficult thing to measure under a legal context. The current definitions are intent to harm, that there is a power imbalance, that an individual is repeatedly targeted. The more elements we have in a definition, the more the burden of proof is on the individuals who have to prosecute them to make that change.

We need a universal definition. We need to define each of the elements of that definition, such as intention to harm and harm. And we need to know when intimidation and humiliation cross the line into becoming a criminal behaviour problem. Those, I think, are very grey areas without a lot of information.

I want to talk a bit about the problem so that you understand what we're dealing with when we're building laws to address it. Let's look at the health behaviour survey—I'm part of the team—which surveys about 27,000 children. It is an across-the-country survey funded by the Public Health Agency of Canada, and it is nationally representative. If we look at the prevalence of cyber victimization—that is, what proportion of children report being cyber victimized—by grade 10, so at age 15, it's about 18% of children who report it, and 99% of those children who are victimized also are victimized in face-to-face bullying.

For me, the message there is that we need a comprehensive national strategy. That has been raised before in the House of Commons, and it is absolutely essential if we're to have an integrated approach to deal with it.

Approximately one in five children report being victimized by it, but it's one type of many types of victimization that they're experiencing, so we need to deal with it.

The other thing is, if you look at the research about what happens to kids online, about 43% of them say that in the last 30 days they've received an e-mail that upset them, they've received an instant message that upset them, they've been made fun of, they've had something posted on a website, they've had something posted online that they didn't want others to see, or they've been afraid to go to the computer. They don't define any of these acts as bullying, so how can we begin to define it when the kids themselves aren't clear on the definition? That's an educative process that requires a public health campaign through a national strategy.

We've done research looking at the perceived harmfulness of cyberbullying and electronic bullying. What did they say? Girls report it as being more harmful than boys do, and incidentally, girls are much more likely to perpetrate it than are boys. They do report it as being more harmful than physical bullying, but as harmful as verbal bullying as well.

So bullying in general is harmful. Cyberbullying is one form that is harmful, but then they don't report it to adults.

When you ask children what happens to them online, the majority of things that happen to them online are about threats and name calling. Very rarely is it the more extreme cases, such as inappropriate sexual behaviour or people pretending to be somebody different.

We also know that online and offline behaviours overlap. Both behaviours happen in social relationships. Both types of kids are involved in both. With cyberbullying, we have children who are also more likely to aggress and be victimized. That puts us in a dilemma, because if we think about a criminal perspective on these children, we're actually revictimizing them when they've actually found a way, although inappropriate, to try to establish some power in themselves.

• (1650)

We do know, however, that the psychological harm of cyber victimization is over and above the effects of cyberbullying. That is, it's more significant and more severe in terms of the severity of the depression or the severity of the anxiety they experience.

The other thing that's important is that we've also looked at who's doing the cyberbullying. Who's doing it to you? What we find is, no matter what type it is, whether it's name calling, threats, rumour, pictures, or even sexual things, it's most likely to be friends. It's happening to them by known identities. There's a very low prevalence that it's happening by strangers or someone they don't know. That's the least likely to be who's doing it. That says to me that it's a problematic way in which the kids are interacting, and we have to provide them with the support they need.

That's my other last point in terms of what we know from the research. We've also done research looking at the roles that kids play in cyberspace, how they contribute to cyberbullying. Kids report that the number one role they play is to go online and defend each other in some context. Girls are more likely to do that, although I should very clearly state that about 20% of them say they also go online and are similarly aggressive. That might also be an educational point. Children, as mentioned in the earlier testimony, are not aware, or do not define what they do as aggressive or behaviour with a criminal intent, with possible criminal consequences.

I have a couple of messages for you. One is that if we proceed with this, we need to have a legal definition of bullying and standards that can be supported when we enact that law. The second is that we need to have a consistent definition, and that definition has to be known to children, youth, and adults and be equally applied and be equally able to be applied across all of that. The third piece that we need in the legislation is an understanding about when we're crossing the line into criminal behaviour. When does humiliation and criminal intent occur?

The other thing we need to realize is that the majority—at least half of the youth, anyway—report that they don't tell adults about it. They're not reporting the incidents. We don't even know the true prevalence of it. They're not reporting it for fear of consequences. If we make it a legal problem, it becomes more problematic.

The last piece, the message I want to leave with you, is that children are developing beings. They play multiple roles; they try things out. Sadly, part of what we do, one of our developmental tasks, is to try out different roles, to try different types of identity, to

try the aggressive behaviour. It's part of experimenting. It's part of us defining—children are taking the process to define who we are. If we're really going to be effective at addressing this issue about cyberbullying or bullying in our society, we need to start with a preventative approach, a public health education campaign. There's a role for government to be the integrative coordinator of that strategy, because it's a public health issue, and we have many examples—drunk driving, smoking—of where public health campaigns make a difference, can change children's lives, and can help them develop into the developing beings we want them to develop into.

I hope as an academic I made that under my 10 minutes.

• (1655)

The Chair: You are under your 10 minutes, Professor. Nice job. Thank you very much for your presentation.

Now we will go to our guest, who's joining us by video conference. Ms. Palmer is the vice-president of the Canadian Association of Police Boards.

The floor is yours, Ms. Palmer.

Ms. Cathryn Palmer (Vice-President, Canadian Association of Police Boards): Thank you so much, Mr. Chair and members of the committee. Thank you for the opportunity to offer our comments on this legislation, which is very important to our organization.

I will be coming at this from a slightly different perspective than the previous two very learned speakers did.

First, I'd like to just mention, if I could, a little bit about the organization I'm representing. The Canadian Association of Police Boards was founded in 1989, motivated by a desire to find common ground among police governors on matters of mutual concern, matters that have a national implication. We are the national organization of police service boards and commissions providing civilian oversight and governance of municipal and first nations policing in most parts of Canada.

The police boards and commissions that are our members are responsible for the more than 75% of municipal policing in Canada. We manage the services, set priorities in our municipalities, establish policy, and represent public interest through the civilian governance and oversight process.

Local policing today, as you know, involves a number of major functions besides dealing with crime. Our officers are in schools, they assist people suffering from mental illness, they prevent social victimization, they police international waterways, they're involved in national security and anti-terrorism-related matters, they participate in integrated and joint policing projects—and the list goes on. Often they are the agency of first resort when other programs are reduced or eliminated due to fiscal challenges that municipalities face.

We have a duty to ensure that police officers have the tools at hand to make appropriate decisions that protect public safety, especially the safety of our children.

We also believe that the laws they enforce should reflect our values and principles and what we stand for in our communities.

If a law can provide the push needed to change both an offending behaviour and the related attitudes towards that behaviour, then we have to support it.

In 2009, a resolution was voted on and approved by our membership. It reads as follows:

WHEREAS new technologies allow individuals to increasingly enter private domains; and

WHEREAS these same technologies allow individuals to hide their identities while targeting others; and

WHEREAS cyber-bullying is increasingly affecting Canadian youth; and

WHEREAS current legislation does not criminalize cyber-bullying;

THEREFORE be it resolved that the Canadian Association of Police Boards request the Federal Government pass legislation to increase and strengthen current Criminal Code provisions to criminalize cyber-bullying behaviours and to increase the accountability of technological service providers for ongoing abuses of their systems.

You can see that this resolution supporting amendment of the Criminal Code as well as increasing culpability of Internet service providers around the issue of cyberbullying was fully supported by the membership of CAPB.

Each year, copies of approved resolutions are sent to the appropriate federal and provincial ministers to ask for feedback and commentary.

I would like to read to you the response we received from the Minister of Public Safety at that time, the Honourable Peter Van Loan. Minister Van Loan wrote:

Concerning the Association's resolution on cyber-bullying, I agree that we must protect our children. Bullying in any form is unacceptable social behaviour. This Government has taken a number of actions to raise awareness and prevent bullying through activities carried out by the National Crime Prevention Center and the creation of a partnership between the RCMP and the Canadian Teachers' Federation to provide young people with information about how to identify, deal with and put an end to cyber-bullying. There is no more important role for Government than the safety and protection of Canada's most vulnerable population, our children.

We applaud the government for being proactive with these measures to educate and try to prevent cyberbullying, but we strongly believe that their efforts do not go, and have not gone, far enough. We need to bring our criminal laws up to date regarding modern technologies and the potential abusers of those same technologies as they do have an impact on our society.

Part of our responsibility as an oversight body is to ensure that the police have the proper tools they need to do their jobs effectively. Sometimes these tools come in the form of legislation without which their hands are tied.

• (1700)

It is from this perspective that I appear before you in support of Bill C-273, An Act to amend the Criminal Code (cyberbullying). The Canadian Association of Police Boards supports the proposed legislative amendments, as they reflect the influence that modern technologies have in our daily life.

Many concerns arise for law enforcement around the issue of cyberbullying. The Nova Scotia task force report on bullying and cyberbullying states:

Cyberbullying poses a particular challenge to the community because it happens in a sort of "no man's land". The cyber-world is a public space which challenges our traditional methods of maintaining peace and order in public spaces. It is too vast to use traditional methods of supervision.

In simplest terms, this bill clarifies that existing sections of the Criminal Code apply to communications made by means of the computer or electronic device. We agree and we fully support this.

We also agree that tougher legislation alone is not a cyberbullying strategy, but one part of a broader national anti-bullying strategy that is needed.

Similar to comments made previously, last week I had the opportunity to listen to a young recruit constable on the Edmonton Police Service deliver her final project presentation, which was on creating a bully-free Alberta. Constable Cunningham very clearly stated that bullying is a social problem that requires an understanding of human relationships; we need to purposely promote positive social development in our youth; all children involved in bullying accidents—perpetrators, victims, and bystanders—must be included and considered in interventions; and we will effect the most change with the largest group, which is bystanders. She stated: "We need to intervene at multiple levels if we are to effect real change in bullying in our society."

Thus, this legislation is seen perhaps as just one tool that is necessary at this point. Cyberbullying can be a very serious crime with real victims and, for some, a crime that has some very tragic outcomes.

Our duty today, to borrow a phrase from the former Minister of Public Safety, is to assist in any way to identify, deal with, and put an end to cyberbullying. There is no more important role for us, as the association representing civilian oversight of municipal police in Canada, than the safety and protection of Canada's most vulnerable population, our children. We believe the amendments to the Criminal Code put forward in Bill C-273 will be one step towards that goal.

Thank you.

The Chair: Ms. Palmer, thank you for your presentation.

Now we will go to our rounds of questions.

Our first questioner is Monsieur Morin from the New Democratic Party.

[Translation]

Mr. Dany Morin: Thank you very much, Mr. Chair.

I would like to thank our witnesses. Each presentation provided a wealth of important information.

My first few questions are for Professor Shariff and Professor Craig.

I would like to know what you think about the part of the bill presented by Ms. Fry that deals with...

[English]

intent to harm.

[Translation]

How could this affect young adults, adolescents or children who are not fully aware of the scope of their actions? How could these three words compromise the essence of this bill, which is to prevent or at least limit the damage done by bullying?

● (1705)

[English]

Prof. Shaheen Shariff: I'll take that. That's a very good question, because as I said, young people aren't distinguishing.

You're asking about the younger children, but when we talk about digital natives who are growing up immersed in digital technologies, we're finding that even at the university level now young people are having a hard time. For example, a couple of years ago we had a young student at McGill who tweeted that he was at a seminar and he wanted to use an M-15 to shoot the presenters. Then basically, when asked, he said he was just venting. These are repeated.

There was a case in California. A Justin Bieber type of young man had a promising career in music; he was about 14 years old. He put on his website that he had golden brown eyes, and in response to that he got such venomous posts on his website by his classmates and schoolmates, some of whom didn't even know him. They testified in court that this had become a competition as to who could post the worst insults. They said they weren't even thinking about the victim; they were just being jocular and funny.

If you look at society—if you look at television sitcoms, comedians, reality shows—you'll see that the norms of what is funny, what's a joke, what's an insult, and what's harm have shifted. As the Supreme Court of Canada said in the *A.B. v. Bragg Communications Inc.* case, this is now discernable harm. But as Wendy mentioned, we need some legal definitions as to “intent” and “harm”. What is “perceived intent”?

If I can continue quickly, a British Columbia teenager committed suicide because one of her former friends yelled at her on the phone, “You are effing dead.” She thought the kids were really going to kill her, and she killed herself before that. The lower court in that case said that when there is perceived harm, that can be considered as criminal harassment, so the perpetrator was charged. But that's still a grey area; the high courts haven't really ruled on that.

So yes, these amendments would affect kids, because they really don't realize. If school principals see this as a way of reporting it to the police and putting them through the criminal justice system, then

I think you're taking away opportunities to teach them and you're putting them through a system in which they're now labelled as criminals or young offenders, and then they're treated like young offenders. So that's one of the issues, that they could be labelled.

I agree that the police actually do play a very good liaison role, but for young people who don't know what they're doing, it's a difficult issue.

The Chair: Thank you, Professor.

That's your time, Mr. Morin, sorry.

Next is Mr. Goguen, from the Conservative Party.

Mr. Robert Goguen: Thank you, Mr. Chair. This is an open question to all three of the witnesses. If I have any time left, I'll share it with Mr. Wilks, who is prepared.

In December 2012, just recently, the Standing Senate Committee on Human Rights released its report entitled “Cyberbullying Hurts: Respect for Rights in the Digital Age”, and quoted on page 73 therein is a Professor Shelley Hymel, who is a professor of psychology at the University of British Columbia. Dr. Hymel noted that the vast majority of schools today still rely on punitive methods of discipline. Nevertheless, in Dr. Hymel's view, a more effective approach is to teach children to be responsible for their own behaviour through restorative and restitution practices that build empathy and help to make children who bully accountable for their own behaviour.

Now, there are differences of opinion in those witnesses who testified before the Senate, but a clear message that was endorsed by most of them was that working with children in the restorative justice approach was the most effective.

I'd like to canvass your thoughts on this.

● (1710)

The Chair: Who'd like to go first?

Prof. Wendy Craig: Well, I guess I'll say absolutely, yes, when we look at the research on what are the successful components of bullying prevention: restorative justice, a whole-school approach, and an approach that works with the individual children involved and teaches them the skills and the competencies they need to be different.

Also, it's not just about teaching them the skills. What we think about are educative consequences. There are consequences to these actions that need to happen, but they also have to be educative. They have to teach the children or the students a new way of being and moving forward. Clearly, the research shows that those types of positive approaches work, and in fact that the deterrent approaches are not effective in terms of bullying prevention. Restorative approaches that build up the skills that kids need are the way to go.

The Chair: Ms. Palmer, you would like to answer that question?

Ms. Cathryn Palmer: Yes. I'd like to re-emphasize that we agree that tougher legislation alone is not a cyberbullying strategy but is one part of a broader anti-bullying strategy that is needed, and we stand alongside the numerous witnesses who appeared before that Senate committee and supported amendments to the Criminal Code. We believe the harassment sections currently do not effectively include electronic communication. We also recognize that the committee report did recommend the promotion of restorative justice as a key component of any coordinated strategy.

The Chair: Professor Shariff, do you have anything to add?

Prof. Shaheen Shariff: Yes. I looked at restorative justice about 10 years ago. I haven't looked at it recently, but one of the concerns was the challenge in getting all the parties together for restorative justice.

There was also the aboriginal form of circle sentencing. That wasn't proposed in the Senate report, but that's a related type of approach.

One of the issues was bringing the parents and other people to the table. Other than that, I would support it.

The Chair: Thank you.

Mr. Wilks, you have a minute and a half.

Mr. David Wilks: Thank you very much, Chair. I'll be very quick. I have one question for Ms. Craig and one for our witness from Edmonton.

You mentioned a universal definition in your speech. It seems to me that we as a society have failed to some degree. If we think about it from the perspective of raising a child, we don't give them the bike and then just tell them to go and ride it, right? We're with them the whole time. When they start to walk or crawl, we don't just say, "Well, fill your boots, and we'll see what happens first." We're with them.

But all of a sudden, computers came along in the 1990s or 2000s, and we said, "Here, have a computer and we won't monitor you. We'll just let it go." That's basically what we've done. I'm curious about what your thoughts are on a universal definition.

Then quickly to our witness from Edmonton with regard to tools that police need, as a retired police officer, I don't know if these amendments do anything for the police with regard to new tools. I would suggest that somewhere down the road the responsibility will be handed to the police, and at some point in time the general public will feel that the police have failed, because they will have been unable to do what they needed to do in the Criminal Code.... It goes beyond that. I'd like to hear your answer.

The Chair: Thank you for that.

I'll give each of you 30 seconds to answer those questions.

Prof. Wendy Craig: Okay. I'll just say two things.

You're absolutely correct, in that we spend a lot of time street-proofing our kids, but we don't spend any time telling our kids, working with our kids, or socializing our children to be safe online and to do it appropriately. How many times do we tell our children to say "please" and "thank you"? And with that, now you know how old my children are.

We need to work hard to teach them and provide them with that skill. That's why this is a public education campaign that respects development.

The second piece that I want to add is that we absolutely need the universal definition, because if we're going to legalize it or put it into things, we need to know what the behaviour is that we're charging and we need to know what are the boundaries around that behaviour. It's absolutely essential that we have it. I would argue that cyberbullying is bullying in a different context, and that if we can define "bullying", we can define that it can happen in all of these places.

The Chair: Okay.

Ms. Palmer, you have the second question.

Ms. Cathryn Palmer: Thank you.

I understand the point the member has made. I think that applies often to many of the responsibilities that the services across the country often feel are perhaps downloaded upon them. They then are expected to deal with something that is really a very difficult and complex social problem.

Again, I will just re-emphasize that our support of this legislation is with the understanding that it is a piece of what needs to be a very broad and multi-faceted strategy, one that we could see being a tool for the police across the country.

• (1715)

The Chair: Thank you.

Thank you, Mr. Wilks.

The next questioner is Mr. Casey from the Liberal Party for five minutes.

Mr. Sean Casey: Thank you, Mr. Chairman.

First of all, thank you to Mr. Goguen for his question, and to each of you for your comments with respect to restorative justice. In this era of minimum mandatory sentences, tough on crime legislation, and multiple changes to the Criminal Code to create new offences, to hear anyone talk about restorative justice on Parliament Hill is refreshing. Thanks to all of you for that.

My question comes back to the last point made by Ms. Palmer, and it was also made by Dr. Fry when she testified.

It's for you, Professor Shariff, although I'd be interested in Professor Craig's comments as well.

Both of them have talked about the fact that this bill is but one tool, and that there is a need for an overall, more comprehensive strategy. Yet, if I understood your testimony correctly, Professor Shariff, you didn't see much value in the bill, if I have it correctly.

I'm asking you specifically to respond to what Ms. Palmer and what Dr. Fry have said, that there's no good reason to delay this particular tool while waiting for something more comprehensive.

Prof. Shaheen Shariff: I guess I would say that a lot of the criminal aspects of cyberbullying are already covered under the current code, whether it's online or offline. Harassment is harassment, whether it's online or offline. Extortion is extortion, online or offline.

If we are going to put in a bill, I would agree with the Conservative gentleman who was asking Ms. Fry questions or discussing the inconsistency in the bill. The proposed amendments are only covering certain aspects of cyberbullying.

I really don't think it would make a difference. I understand the need for a tool. The only purpose it would serve at this point is to give some comfort to the public that something is being done, but there have been so many band-aid measures. Do we really need piecemeal band-aid measures? Once that's done, it leaves the impression that we've done what we can, but we really need to study this in much more depth and come up with ways to look at it.

I don't know if I have more time.

The Chair: You have two more minutes.

Ms. Craig, do you want to comment?

Prof. Wendy Craig: I'll add that I think what this bill is trying to do is be part of the package, and I think it would be problematic if it sat on its own in that package, because what does it say to us about the principles? I think the thing that makes it problematic is this recognition of what I would call a developmental perspective, the meaning of the behaviour to children as they age, and the intention they have when they engage in these behaviours throughout...

My concern is that if we just put this one piece in place, we're putting in a punishment, we're putting in something that can forever affect children's and youths' lives. This bill is not child and youth friendly, in the sense that it doesn't put in the developmental supports they need in order to change and be different, but in fact it's going to put in blocks to their lives' development that are actually going to negatively impact the development.

This bill, in the context of the educative measures to support the children in the context of a developmental perspective that their understanding of intention to harm, their understanding of the behaviour, changes with age, is helpful in the context of providing police with the tools they need to support the youth when they are working so effectively in the communities, when they are looking to identify that behaviour.

I think we need to put it in as one piece of a package, because as it stands alone, it's probably not going to make a huge difference, and in fact it's going to have a negative effect on our youth.

• (1720)

The Chair: Mr. Casey, that is your time. I'm sorry. Thank you very much.

Our next questioner is Mr. Armstrong from the Conservative Party.

Mr. Scott Armstrong (Cumberland—Colchester—Musquodoboit Valley, CPC): Thank you, Mr. Chair.

Unlike the chair, I have great respect for professors. I was an assistant professor myself.

Voices: Oh, oh!

The Chair: You didn't see my marks. You'd understand why.

Mr. Scott Armstrong: My background is in education. I have 18 years as a public school educator. I've taught every grade from fourth grade to post-doc studies. I've been through it. I've seen a lot of terrible things that children can do to each other.

I agree with a lot of the testimony here today. I don't think this piece of legislation is going to make a huge difference, because most of it is in the code already.

I'm going to ask some specific questions. I'm going to offer some ideas that might make a difference for young people in particular who are facing this, because this is a terrible social problem we're facing now.

Professor Shariff, you talked about an Austrian study that said when children are reporting why they do this, they say there are just two motivators: anger and fun. I know that's what kids would say because that's how they would articulate it, but I believe all bullying, whether cyberbullying, physical bullying, intimidation, or exclusion, is all based on power. I think power is the really key word. Would you both agree with that?

Prof. Shaheen Shariff: Yes.

Prof. Wendy Craig: Yes.

Mr. Scott Armstrong: To have power, that is where you can have the intent to hurt or harm. The problem we have sometimes with young people is they don't realize the power they have.

For example, as I just said to the chair...I made a joke. I can do that with him; he's a friend of mine. I might say the same type of thing to someone who's not quite as good a friend and they might take that as something that was really hurtful, even though I didn't mean to hurt him or the other friend.

A lot of it has to do with the perception of the victim as much as it has to do with the intent of the person who's being accused of bullying. Would you agree? Are those some accurate statements?

Thank you. They're nodding, just for the record.

Voices: Oh, oh!

The Chair: Within a minute you have to say yes or no.

Prof. Shaheen Shariff: Yes.

Prof. Wendy Craig: Yes.

Mr. Scott Armstrong: Thank you.

In my experience here—I think we've had experiences with children—I agree that we need a definition of cyberbullying if we're going to develop an approach to it. I think that definition has to involve the power of the person who's perpetrating the said bullying. I think that has to be the basis of that.

One of the comments you made is that girls do this more. I think maybe in some aspects, from my experience, it's more exclusion; it's more intimidation. With boys, it can be a bit physical, and that's why I think we're seeing more suicides by girls across the country than boys. Intimidation lasts forever. Exclusion lasts forever. With boys, it can be quicker; it's dealt with and it's done and they can be friends two minutes later. With girls, sometimes it lasts a lot longer, particularly with teenage girls.

I really think that to make a real difference to stop bullying, whether it's on the playground or whether it's cyberbullying, the one thing I've always talked about is having some sort of supervision take place. Would you agree with that statement?

Prof. Shaheen Shariff: Yes.

Prof. Wendy Craig: Yes, but....

Mr. Scott Armstrong: I'm going to offer a solution and then I'll let you comment.

I think we need parents to supervise. Teachers can't supervise; they're not there 24 hours. Police can't supervise; they just don't have the resources to go through every Internet thing. Parents can supervise their own children. We have to find ways to motivate parents to do that.

I believe we have to do that through the ISPs. I think if someone perpetrates this, when it's hurting someone, there has to be a way that we can take the tools away. As Mr. Wilks said, we give them a tool they don't know how to use yet. If they don't know how to use it... you wouldn't let a child drive a car without a licence. If they're not using the tools properly, I think we should have the Internet service cut off. I think that's the only thing that's really going to send a message. If you threaten to do that to a household or to someone who's paying the bill for cellphones, I think those parents will really start watching what their children are doing. That's just one piece of the puzzle, I would suggest, if children are going to use it.

Is access to the actual use of this equipment something we should look at as we move forward in legislation?

The Chair: You have one minute to answer all those comments.

Prof. Shaheen Shariff: One minute? Oh my God.

I'll address the last part of your question. Censorship doesn't really work, and I'll tell you why. I'll give you an example. In Australia the ministry put in about \$59 million to do just what you're suggesting. A 14-year-old challenged the minister that he could hack through any of those filters, and did so in front of media and did so again. If kids want to access the technologies nowadays, especially with the range of digital media that exist, they will access it.

In terms of a power imbalance, yes, there is a power imbalance, but it can also be reversed, because perpetrators are victims and victims are perpetrators.

In terms of a definition, I think we need legal definitions. I think we need more legal definitions because there are different legal aspects to cyberbullying. The difficulty with just defining the behaviour has been established already. It's very difficult to provide one common definition of the behaviour.

What was the other thing?

• (1725)

The Chair: I'm going to go to Professor Craig for 30 seconds.

Prof. Wendy Craig: I'm just going to suggest a couple of things. One is that, absolutely, we need to involve parents, who need the educational tools. They need to know themselves how to be effective at monitoring and supervising their children. With increased supervision, aggressive behaviour goes down.

Parents don't have those tools. Right now children are the experts. They learn technology faster. They're more effective at it. So we have to catch up; we're in the catch-up generation.

The second issue is if you take it away, that's the number one reason children don't report it. We're talking about an extremely negative behaviour, but there's lots of research—and we've done some research—to show the positive effects of the Internet. For isolated, vulnerable children, for children in minorities, it provides an opportunity to find a community online where they can be accepted and where they can explore. There are positive effects of the Internet that we need. We can't take it away, because when you take the technology away from children, you isolate them, and there are more negative kinds of consequences.

It's about skill building, competency building for the adults in children's lives and for the kids in children's lives.

The Chair: Okay, Professor. Thank you very much.

Thank you, Professor Armstrong, for your comments.

Our last questioner for this afternoon is Monsieur Jacob, for the New Democratic Party.

[*Translation*]

Mr. Pierre Jacob (Brome—Missisquoi, NDP): Thank you, Mr. Chair. I might be last, but I'm certainly not least.

My question is for Ms. Craig and Ms. Shariff.

Bill C-273 is lacking when it comes to prevention, rehabilitation and an overall strategy on bullying. We, in the NDP, take cyberbullying very seriously. I would like you to comment on two things.

First, Dr. André Grace said that young bullies are often dealing with other social problems. He hoped that the government could develop a legislative framework and could consider the communities, schools and parents as part of the solution.

Also, Finland has the KiVa program, which is thought to be one of the best anti-bullying programs in the world. Instead of expelling the bully, discussions between the bully, the victim and other children are arranged. Including the entire community is at the heart of the effort to fight bullying.

I would like you to comment on these two things, Ms. Shariff. Then, Ms. Craig could tell us what she thinks.

[English]

Prof. Shaheen Shariff: I agree. I think having the youth contribute to the solution is very central to everything we are looking at. Dan Olweus, the Scandinavian guru of studies on bullying, found very early on that if you give kids the chance to contribute to rule-making, it goes down by 50%, and that was a long time ago. So, yes, kids should participate.

Under the CRC, the United Nations Convention on the Rights of the Child, Canada has not been doing a great enough job under participation rights, under article 12. We're repeatedly asked to engage kids more in contributing to these kinds of things, so I agree.

Prof. Wendy Craig: I'll just add that the health behaviour survey of children and youth that's funded by the Public Health Agency of Canada is run in 42 different countries. If we look at how Canada did in the last round on the prevalence of bullying, we're in the bottom third. That's bad, by the way. That means we have the highest rates.

The countries that have the lowest rates of bullying are much those you've described—the Scandinavian countries, Norway, Finland, Sweden. What do they all have in common? They all have a national campaign that takes a systemic approach that's designed to involve the children who are victimized, the parents, the teachers, and the communities, and to provide each level of the system with skills. These countries with low rates of bullying and victimization say that bullying is a problem that, yes, happens at school, but it's a community and a society problem. That is the effective kind of approach, and it works. They have the lowest rates.

• (1730)

[Translation]

Mr. Pierre Jacob: Thank you, Mr. Chair.

I find you have really identified the problem. The overall strategy on bullying is very important. Suppressing it is just the start. We continue with rehabilitation and prevention, naturally.

Thank you, Mr. Chair. That's all I have to say.

[English]

The Chair: Thank you very much.

I want to thank our guests today, Professor Craig and Professor Shariff.

Ms. Palmer, thank you for joining us by video link.

The questions were very good.

Thank you, committee.

The answers were excellent. I think it was a clear indication of where people stand on this issue, so thank you very much.

With that, I remind committee members that if they have any amendments, if they could get them in by 5 o'clock tomorrow, that would be appreciated. Other than that, we have another hour of discussion with witnesses on Wednesday, for the first hour, and then we'll go to clause-by-clause.

With that, thank you very much.

The meeting is adjourned.

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