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Chair

Mr. Mike Wallace

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• (1605)

[English]

The Chair (Mr. Mike Wallace (Burlington, CPC)): Ladies and gentlemen, I'm going to call this meeting to order. This is the Standing Committee on Justice and Human Rights, meeting number 50. Pursuant to the order of reference of Friday, June 20, 2014, we are resuming our consideration of Bill C-32, An Act to enact the Canadian Victims Bill of Rights and to amend certain Acts.

We have a number of witnesses, but before we get to the witnesses, I will apologize. We had a vote in the House of Commons, so we got here as soon as we could. We will give everybody the 10 minutes they've been allotted, which will take us to not quite 5 o'clock, and then we go to 5:30.

What is the camera in here? Oh, the aboriginal channel is covering the meeting, and it's not televised.

I suggest we do the first round, but with plenty of time, so you can share within your party. It's about 12 minutes if we do it and everything works out right. So if you have people whom you want to ask all or part of the questions, just pass your time on. There'll be two rounds for the Conservatives and one for the NDP and one for the Liberals.

Thank you very much for coming, witnesses. Let me introduce you and then we will go ahead based on the list on the agenda. We have, from the Fondation Katherine Beaulieu, Ms. Lise Lebel, president; from the Office of the Federal Ombudsman for Victims of Crime, Ms. Sue O'Sullivan, federal ombudsman for victims of crime; from the Sheldon Kennedy Child Advocacy Centre, we have Mr. Kennedy himself; from Pauktuutit Inuit Women of Canada, we have Ms. Tracy O'Hearn and Ms. Alyssa Flaherty-Spence; and by video conference from the Government of Alberta, we have the Honourable Jonathan Denis, Minister of Justice and Solicitor General, with us, which we really appreciate. Monsieur Denis, merci for joining us this afternoon.

With that, we're going right to your 10 minutes, Ms. Lebel.

[Translation]

Ms. Lise Lebel (President, Fondation Katherine Beaulieu): Thank you, Mr. Chair. Good afternoon.

The organization I am representing today is the Fondation Katherine Beaulieu. Our primary mission is to provide awareness and education to people about the consequences of driving while impaired by alcohol or other drugs.

We provide lectures and information kiosks as well as booths to measure blood alcohol concentration. In the near future, we would like to further develop our support for families. It was therefore important for us to be able to make a presentation here so that we can highlight some important amendments in Bill C-32.

According to the Canadian Charter of Rights and Freedoms, victims of criminal acts should also have rights, but just which rights are they? The Charter speaks of life, liberty and security of the person. Clearly, to no insignificant extent, a number of victims lose these rights entirely after a criminal act in which they were unfortunately involved.

Under the Canada Evidence Act, the spouse of a person charged is not obliged, in common law, to testify against that person. How is it that, still today, we are subject to that shameful kind of law, based on very old decisions that set so-called precedents? Is it not high time to see that justice is done in all fairness, to level the playing field and, most of all, to show respect to all the victims who are constantly experiencing the repercussions of the crimes that have been committed?

To clarify the situation, you should know that the spouse of an accused person cannot currently be compelled by a prosecutor to testify in a criminal trial involving that spouse's husband or wife. This is the case even if the testimony is crucial to the prosecution of serious charges, such as murder or impaired driving causing death or bodily harm. Of course, there are certain exceptions to that rule.

Our organization agrees with the amendments proposed in Bill C-43, which obliges spouses to testify in all cases. These amendments reflect a systematic trend towards providing crown prosecutors with access to all relevant evidence. Of course, we would not be the only country to adopt this new rule because other countries, such as Australia, have already done so.

Let us not be taken in. We all know that offenders, assisted by their lawyers, of course, use all possible means to try to make a mockery of justice. That does not include all the occasions on which they perjure themselves during their testimony in order to improve their chances of a discharge or to reduce the penalty to be imposed on them. The reality is that horror stories are heard in courtrooms each and every day. Victims are too often relegated to the background in the administration of justice.

With the excuse that offenders have rights, victims are kept in the dark about the circumstances of the crime; a number of them will never know the truth. With the excuse that criminals have rights, all possible evidence is never submitted to the court in its entirety. Let us no longer let criminals use their spouse as a free pass that allows them to stay ahead of their victims.

When a crime is committed, do not forget that the most odious act is not the act itself; it is in not recognizing that we committed it, that we, and only we, are responsible and that nothing, no one, can take responsibility for, or try to conceal, our errors.

Above all, let us not remain silent in the face of the moral and financial repercussions that victims must face day in, day out. For the most part, they have always been decent, fair and law-abiding. After each day in court, they return home bruised even more because, once again, the system has given them nothing.

There will be those who tell us that each Canadian citizen has the right to be tried in a just and fair way, whatever the cost. The reality is that everyone's weekly salary is chopped up in order to pay the costs that the guilty incur. Moreover, each victim has to absorb a part of the financial imbalance caused by the crime they suffered.

Did you know that a study published in 2011 estimated the real costs of crime at about \$99.6 billion, of which 83% is assumed by victims?

•(1610)

Our judges rarely order financial restitution to be paid to victims, except in the cases of material loss or theft: they consider that offenders are not able to take on such a requirement because they lack the means to do so. However, our correctional system always leans towards rehabilitating criminals. The talk is to successfully reintegrate them into society so that they can become law-abiding citizens once again.

The reality is that criminals have always had the benefit of much more support from our system than victims receive. They are supported until the very end of their sentences in order to improve as much as possible their chances of regaining their independence. With those optimal conditions, the offenders' ability to obtain credit should improve with time so that they would be able to compensate their victims.

With Bill C-32, An Act to enact the Canadian Victims Bill of Rights and to amend certain Acts, victims might have the right to ask the court to study the possibility of ordering restitution and, if the restitution is not paid, to have the order considered a civil court judgment. Would it not be appropriate for offenders to be required to periodically deposit amounts of money for the benefit of their victims?

Would that not be a good way to institute a form of restorative justice for everyone's benefit, for the benefit of our society? The financial assistance from the offender could allow him at the same time to take some responsibility for the mistake he made. I myself suffered the loss of my child in a traffic accident, so you will understand that my suffering will never be reckoned in dollars.

However, the reality is that, since that fateful day, I have had to rebuild my life in terms of the financial losses I have suffered since.

Going back, going back to a comfortable life, is impossible because, too often, life breaks us for ever and leaves us only with the bare minimum we need to keep going. Often, that takes the form of several years of hard labour, days of sacrifice that amount to nothing, because someone somewhere made the decision to flout a basic rule of life, to respect others.

Thank you.

[English]

The Chair: Thank you for that presentation.

Our next presenter is from the Office of the Federal Ombudsman for Victims of Crime.

Ms. O'Sullivan, you have 10 minutes.

Ms. Sue O'Sullivan (Federal Ombudsman for Victims of Crime, Office of the Federal Ombudsman for Victims of Crime): Thank you.

[Translation]

Good afternoon, Mr. Chair and committee members.

[English]

Thank you for inviting me here today to discuss Bill C-32, the Canadian victims bill of rights.

The Office of the Federal Ombudsman for Victims of Crime helps victims individually and collectively. Individually, we speak with victims every day, answering their questions and addressing their complaints. Collectively, we help victims by reviewing important issues and making recommendations to the federal government on how to improve its laws, policies, or programs to better support victims of crime.

Since the office opened in 2007, one of the top issues that victims have consistently raised is that of victims' rights. The development of nationally consistent victims' rights has been a priority of ours for several years. In June 2013 I made 29 recommendations to the Department of Justice as part of its public consultation on developing a victims bill of rights. These recommendations stem from interactions with thousands of victims and the feedback and input of interested stakeholders who shared their views and wishes with our office. Following the tabling of the bill in April 2014, my office released a response that assessed how the bill addressed our recommendations as well as other issues important to victims. I have provided copies of my remarks to the committee, as well as documentation that outlines in detail my recommendations on the victims bill of rights. Given time constraints, I won't discuss all of my recommendations, but I will highlight a view amendments that I believe are needed to strengthen the bill.

The bill recognizes the tireless work and effort of the victims and victim advocates who have fought for change in Canada for many years. I commend the Government of Canada for seeking the participation of victims in developing this bill, and would hope to see a similar approach taken in the future on other significant policy or legislative changes affecting victims of crime.

This bill marks a significant achievement, but it needs to be strengthened to more effectively address the full breadth of victims' needs and concerns. To strengthen the bill, the rights of victims must be enhanced throughout the criminal justice process, starting at the time of crime, through the courts, and through to post-conviction and conditional release. My recommendations aim to further strengthen the treatment of victims in terms of their rights to be informed, considered, protected, and supported.

One of the most basic rights we would expect a victim to have is the right to information. This bill provides victims the right to request information about the justice system, their role within it, and the services and programs available to them. This would include the right to receive information about the investigation and proceedings, and certain information about an offender or an accused.

While the bill provides for increased rights to information, it does not outline who is responsible for providing that information at all stages. I recommend that the victims be automatically provided at time of crime with clear information about their rights under the bill, including what information they are entitled to receive and who is responsible for providing it, and at what point. Furthermore, victims should be able to receive this information in the format of their choice.

Victims also want information about the status of the offender as they serve their sentence. The victims bill of rights does provide victims with rights to information about the offender, yet with some simple amendments, it could be more responsive to victims' needs and concerns. For instance, the bill gives victims automatic access to a recent photograph of the offender prior to parole or conditional release. I recommend that this should also apply in cases where the offender is on an escorted temporary absence pass.

The bill does not provide sufficient measures for recognizing and addressing the importance of providing victims with choice and options. For example, there are no provisions providing victims with options of how they wish to attend a parole hearing in order to accommodate either their personal circumstances, which may make it difficult to travel, or their anxieties and fears that may make attending a parole hearing in person impossible. I recommend that the bill be amended to provide victims with the right to choose how they will attend a parole hearing and/or present a victim statement, be it in person, by video or teleconference via closed circuit television, or through the use of other secure, reasonable, and available technologies.

As well, under the bill victims may listen to an audio recording of a parole hearing in cases where they are unable to attend. I recommend that victims should have the option of listening to audio recordings of hearings regardless of whether or not they attend. This is unnecessarily restrictive. We have heard from many victims who were able to attend a parole hearing in person but found the experience so taxing that they could no longer recall all details of the hearing. These victims should also be afforded access to audio recordings.

•(1615)

During court and parole hearings, victims want opportunities to have their views heard and considered, particularly in relation to

safety and security concerns. This speaks to victims participatory rights.

The victims bill of rights states that all victims have the right to convey their views about decisions to be made by the appropriate authorities in the criminal justice system that affect the victim's rights and to have those views considered.

The victims bill of rights provides victims with the additional right to have their safety concerns considered at bail hearings. While this provides victims with increased rights to participate, the bill does not provide victims with a mechanism to convey their views and have them considered by the court.

The victims bill of rights also provides measures to help ensure that victims are informed of a plea bargain in cases of serious personal injury offences or murder. Informing victims of a plea bargain is helpful in some respects; however, victims have clearly identified the need to have their views considered before a plea is entered and/or accepted by the court. This is not to suggest that victims should have any veto powers over plea bargains. Rather, it would ensure that victims can exercise their right to convey their views prior to decisions being made by the appropriate authorities in the criminal justice system.

The victims bill of rights provides measures to enhance the safety and security for victims at trials, including protecting victim information and identity during trial and testimony, allowing testimonial aids such as support persons, and allowing the victim to read a statement outside the court room.

Similar consideration should be applied to ensure the safety and security of victims at parole hearings. Presently victims are not guaranteed separate and secure waiting areas to avoid contact with the offender at parole hearings. I recommend that appropriate measures be established in order to protect victims' sense of safety when attending parole hearings, such as safe and separate waiting areas.

With respect to supporting victims, the victims bill of rights would require judges to consider making a restitution order in all cases. Where victims do not receive their full restitution, they would need to go to civil court to have the remaining amounts paid. Restitution is part of the offender's sentence. The onus should not be with the victims to take steps to collect the monies owed to them.

I recommend that a collection mechanism be in place that would alleviate the responsibility for the victim to pursue outstanding restitution payments.

In terms of enforcement, the victims bill of rights requires each federal department or agency in the criminal justice system to have a complaint process for dealing with breaches of rights. Where victims are not satisfied with the result of these complaint processes, they may file their complaint with authorities that can review complaints in relation to their department or agency.

Our recommendations to strengthen the victims bill of rights speak to two approaches to enforcing either participatory or service rights. These two approaches differ based on the nature of the right and the point of the process where it applies—that is, time of crime, court, or corrections and conditional release or parole.

In the context of service rights or rights to information, the use of internal complaint mechanisms may adequately protect victims' rights, provided these mechanisms are subject to proper oversight. I recommend that any authority with jurisdiction to review complaints have investigative powers to compel federal government departments and agencies to produce information and documents relevant to a complaint and to recommend remedies on specific complaints as well as systemic issues.

I would also recommend that victims have access to legal representation to address the court in order to exercise or enforce their participatory rights under the victims bill of rights.

Legal representation for victims is already allowed in determining access to personal records of victims in cases of sexual assault. This does not mean that the victims have “party status”, but rather that victims would have the ability to address the court only on matters directly related to the rights in this bill.

Some may argue that this would delay the courts and hinder the process of a fair and equitable trial, but I have not found evidence of this in other jurisdictions where victims have access to legal representation to address the courts, as is the case in several states in the United States.

Providing victims with a mechanism to address the court would help ensure that the process fairly considers and protects everyone's interests. Treating victims fairly and ensuring their meaningful participation is critical to increasing public confidence in the criminal justice system and improving the system's overall effectiveness.

In conclusion, I believe bill C-32 is a positive step forward for victims of crime in this country. The bill contains a number of measures that would help improve the system for victims of crime and help to ensure that they are informed, considered, protected, and supported.

At the same time, many of the measures contained could be further strengthened to ensure that victims are treated fairly throughout the criminal justice process.

With the implementation of this bill, I encourage the Government of Canada to work with the provinces and territories in establishing appropriate evaluation mechanisms to ensure the victims of crimes are better protected and have a stronger voice in our justice system.

•(1620)

[*Translation*]

Thank you for your attention. I would be pleased to answer your questions.

[*English*]

The Chair: Thank you very much for that presentation.

Our next presenter is from the Sheldon Kennedy Child Advocacy Centre.

Mr. Kennedy, you have 10 minutes.

Mr. Sheldon Kennedy (Board Member, Sheldon Kennedy Child Advocacy Centre): Hi. Thank you for having me here today.

I want to start by saying I never thought I'd see a victims bill of rights conversation. I'm very honoured to be here today.

We do a lot of work. I think I've been at this work for 18 years now and the drum I beat is that of trying to paint the picture of the invisible damage this crime has on our kids. I think that's difficult to understand and accept across this country. I think for a long time we had the mindset across this country that victims of crime, whether youth or adults, had to pull themselves up by their bootstraps and were told to get going. What's the problem? I think we're not there today. We're at a place today where through great research we can understand the damage of early childhood trauma.

I look at my own case. I was the victim of sexual assault. I had the whole NHL and the NHL players system looking after Sheldon Kennedy. It was almost like a competition. Who could fix Sheldon? I know where I ended up: being arrested, in prisons, in mental health institutions, and in a secure lockdown facility.

So you can imagine where young kids end up when they don't have those supports. They end up on our streets, they end up addicted, or they end up dead. I think that's where we need to be working and that's where I believe this bill fits. It gives a voice to victims. It recognizes the importance of understanding the damage that has been done. That's the most important part of this bill: the recognition of victims of crime. I think it's all about turning kids' lives around early, as we were talking about.

If we look at the cases we have come through the child advocacy centre in Calgary, we've brought together the Calgary Police Service, with the whole child abuse unit working there with 30-plus officers, together with the RCMP, 35 social service workers from Calgary Child and Family Services, a member of the crown prosecutor's office, the Ministry of Education, four pediatric specialists, 15 psychologists and psychiatrists. They all work together. We've had a change in legislation called the Children First Act to allow these people to talk to one another. We can all work off one interview.

Why is that? It's to be able to be the best we can be for that child, to tell their story and not re-victimize them. When they went to court before, the defence attorneys had a field day working off five or six interviews. The child didn't have a voice when they were in court.

If we look at the stats coming out of here, last year alone at the child advocacy centre we did 1,956 investigations. That's 15% of the cases that came into the systems in Calgary. They are all sexual assault cases and the torture cases on kids, some 1,956.

In 93% of these cases the child knows their abuser. It's somebody close to them. That's a myth that I think we need to get beyond in this country, that the people who hurt kids jump out from behind bushes.

In 45% of these cases a parent is abusing their kids. Look at how difficult that is. No kid wants to see their parent go to jail. None of them. That's the reason I think we need to make sure we're doing everything we can to protect these kids in the court system. To validate that it wasn't their fault.

When they show up at the door through Calgary police or through the systems, in the initial assessments one-third of all the children assessed at the CAC struggle with suicidal thoughts, substance abuse, self-harm, mental health issues, aggressive behaviour, sexualized behaviour, and issues of child exploitation. By the time they are between 12 and 17 years old, half of them present these issues. So I think I'd listen to what Sue was talking about regarding the evaluation.

• (1625)

Also, I think the victims bill of rights, the way I understand it, gives us a great platform and foundation for a consistent approach and framework to work from across provinces and territories. I think if we look at what we're trying to do with child advocacy centres, and if we see what we're doing here in Calgary, it's about being consistent in the approach we take in handling these cases.

I think it's about progress and not perfection in the way we move these issues forward. Eighteen years ago we were not even close to where we're at today. I think if we look at this bill, it's another great step forward. It's great progress forward, and to me that is critical. It's about keeping these issues moving forward.

We can stall all day about being perfect. Everybody has told us forever, "Well, we can't get six government systems working together. There's no way we can do that." Well, we're doing it. Once we got the systems out of the way and let the people do their work, it went from there to here. It's been huge.

The piece I understand and like about this is creating the standards and being consistent, whether we're talking about the language or the damage, and being consistent about understanding where these crimes take our kids.

We see it all the time. Our prisons are filled with kids who have been abused. If you look at the Calgary campaign to end homelessness, one of their radio ads says that 70% of the people on the street have been sexually abused. Can we not reach them early? In that city, 122 identified patients who have been sexually abused come through our doors every month. I think we'd have a pretty good chance of turning these kids' lives around.

If we can deal with just the abuse early and focus on that, instead of waiting until they live a life of abuse and have all the wreckage they go through as they go along their path and we have to try to reach them down there.... We're best reaching them here, before they get there.

Also, we all have to be pulling on the rope together. It's not just the job of the police. It's not just the job of the courts. It's not just a job for the children's hospital and other hospitals. It's not just a job for child and family, but a job for all of us who have the legislative mandate to protect kids.

I think the victims bill of rights gives us a foundation to start that conversation and keep building on it.

Thank you.

• (1630)

The Chair: Thank you very much for that presentation.

Our next presenters are the Pauktuutit Inuit Women of Canada.

Ms. O'Hearn, the floor is yours for 10 minutes.

Ms. Tracy O'Hearn (Executive Director, Pauktuutit Inuit Women of Canada): Thank you very much.

I'd like to thank the chair, the co-chairs, and committee members for inviting us to appear today.

I'm very grateful for Mr. Kennedy's words. I'll be speaking to similar issues.

For members who may not be familiar with Pauktuutit, the organization has just celebrated its 30th anniversary. It represents all Inuit women across Canada. There are approximately 55,000 Inuit in Canada. It's a very small number of the total first nations, Inuit, and Métis population in this country, but Inuit are very unique. I'll touch upon that a little bit later.

With regard to the victims bill of rights, we participated in a couple of discussions about the draft legislation at the time. I'm still not aware of any aboriginal-specific outreach or engagement strategy. We participated in broad discussions with individuals and various representative groups, so we have had some input. I don't see a lot of our specific recommendations included in the bill. I don't see anything about population-specific approaches. I don't see anything about remote and isolated communities. There are some where there may be reference to language; I'll speak a little bit more about that.

I think on the surface, a lot of the rights that are included in the bill would only benefit Inuit women and all victims of crime. But in 2011 we did a project with Justice Canada. Culminating our year-long project, we held a workshop. Every year we have an annual general meeting. We bring together Inuit women from across 53 communities in Arctic Canada, so we know that every year we'll have one national in-depth consultation. Sue O'Sullivan joined us at that workshop. It was a very powerful time.

We structured the day; we had a day to talk about issues related to victims and the justice system. Three primary recommendations came from our discussion. Most people are not aware of what information is available, what the rights of victims may be, and the processes around the administration of justice. First, a lot of people do not have basic awareness of their rights and legal proceedings. There is a lot of misunderstanding, such as the crown representing the victim. Fundamentally, there is a need for culturally and geographically relevant information that's in plain language and the necessary dialects of Inuktitut. So I would bring that forward.

We have to be mindful that Inuit communities, like many other northern communities, are served by a circuit courts system. There are all kinds of issues. A lot of harm is caused to victims. You can have a victim and an offender remaining in the same very small community for extended periods of time until the next time the court returns. There are issues around protection. There are issues around privacy and confidentiality. There's a lack of services. I listened to Mr. Kennedy's description of what happens in Calgary; that would be a dream.

Many, if not most, Inuit communities are served by a nursing station. There might be a two-member RCMP detachment. There are sociological issues, such as overcrowded and inadequate housing. Our board of directors had a teleconference last week, and they did discuss our appearance before the committee.

I bring greetings—forgive me—from Rebecca Kudloo, our president. Rebecca lives in Baker Lake, Nunavut, and was not able to be with you today.

When the board met last week, we had just returned from the fourth national aboriginal women's summit. Among other things, there was a meeting with the provinces and territories to talk about the issue of missing and murdered indigenous women. Our board considered that, and with regard to this issue, the Pauktuutit board has put an emphasis on the need to focus on prevention and an action plan to address what we consider to be emergency and crisis conditions in the communities.

•(1635)

I want to bring up the issue of child sexual abuse. The Northwest Territories, Nunavut, Nunavik, and Nunatsiavut, the north coast of Labrador, have the highest rates of violence in this country. We know that first nations, Inuit, and Métis women experience disproportionately high rates of violence and victimization. For Inuit women, most violence occurs in people's homes. It is family violence. It is abuse by family members.

We've been told anecdotally that there is not a child who has not been touched by child sexual abuse in one form or another. We don't have evidence. It is very difficult to get those numbers. But

anecdotally, there's not a child untouched. There is a virtual absence of services—general services in the communities, specialist services, intervention, and postvention. Supports are generally available, a plane ride away or by using some form of telehealth.

I wanted to bring these forward. Last week the board asked that we focus our presentation on the issue of violence against women and all of the related issues around victims of violence.

I know that our time is short today.

Alyssa Flaherty-Spence is a youth board member who is in law school. I know that Alyssa wants to speak to Gladue around sentencing and the housing issue. We've tried to be strategic in bringing forward some key points for consideration. We're available at your convenience—we're a few blocks away—for further discussion.

Thank you.

Alyssa.

Ms. Alyssa Flaherty-Spence (Member, Board of Directors, Pauktuutit Inuit Women of Canada): *Nakurmiik.*

Ujunga Alyssa Flaherty-Spence.

Hi, I'm Alyssa Flaherty-Spence. I am a youth board member at Pauktuutit.

In southern Canada, you have psychologists, psychiatrists. You have a hospital with doctors available. You have counsellors. You have RCMP, police. They are always available. I don't know how many of you have been to any communities up north, but these are not available. For instance, a treatment centre is years and years to get to.

The reason I'm saying this is that the Gladue decision and the obligations for a judge, a justice, to provide a CSO for an offender... They have to provide conditional sentencing orders for any aboriginal offenders. Up north, when a judge has an aboriginal offender in front of him, he or she has to provide conditional sentencing orders. These conditional sentencing orders require treatment centres, resources, in the north.

These resources are not in the north. There's nothing available there. What happens is that offenders are sent down south, probably to Ottawa to a non-Inuit-specific treatment centre, or the closest city where it costs the least to send them. They are treated. They are sent back into the community, again with no resources, and they reoffend against the victim. And they reoffend against the other victims who are in the community. It could be a community of 400 people. Everyone knows each other.

The victim has no place to go. The victim has no resources, no counsellors, and no doctors available; they're usually Skyped or teleconferenced in. There's no place for the victim to go to. For instance, there are barely any shelters; 70% of the communities in the north of Canada do not have shelters.

Where is the victim going to go? Is the victim going to go next door where the offender probably knows where the victim is going? Is the victim going to fly out of the community? Probably not, as it's going to cost thousands of dollars. A woman who is 19 years old in the community doesn't have the resources. They can't escape. The victim can't escape the community. There are no psychiatrists. There are no substance abuse facilities in the communities for the offenders to go to, so they revictimize not only the person previously but other people.

The justice system in the north doesn't have anything that's community oriented or trauma informed. As you know, there is a lot of colonization with Inuit. They're not going after the root cause, which has a lot to do with the trauma that has happened for Inuit and for aboriginal people. The justice system just doesn't look after, pinpoint, any of that trauma that has happened for the victim and for the offender.

These are just a couple of points that I wanted to bring forward.

Thank you.

• (1640)

The Chair: Thank you.

Ms. Tracy O'Hearn: Do we still have a moment?

The Chair: I'll give you 30 seconds more. Is that okay?

Ms. Tracy O'Hearn: Another time, thank you.

The Chair: Okay. There will be questions and you may be able to answer.

Thank you very much for that presentation.

Our final presenter is Minister Denis, from the Government of Alberta.

Minister, the floor is yours.

Hon. Jonathan Denis (Minister of Justice and Solicitor General, Ministry of Justice and Solicitor General, Government of Alberta): Thank you very much, Mr. Chair. It's nice to see you again, albeit through a different means than last time.

Our priorities in Alberta include promoting safe and secure communities, ensuring adequate access to justice, and, of course, supporting victims first. The rights of victims must not be ignored or compromised. Our position is that Bill C-32 carries the same premise.

In the three years that I've had the privilege of serving in this position, I've met many individuals who've been victimized, all through no fault of their own. Just last week in Edmonton, I was an invited guest of a group of families who had loved ones who had been murdered. While it was a very difficult meeting, it underpinned again to me the need to support these victims first and to continue to provide services to them. On the other side, of course, many victims

who I've met have been nothing short of heroic, and you've heard from one of them today: Mr. Sheldon Kennedy.

We applaud the efforts of the federal government to act along the same lines as we believe. To this end, Alberta supports Bill C-32 as it reflects how victims of crime in Alberta have been treated for many years; however, we do have some comments about Bill C-32, which I'll outline in a moment.

Alberta agrees that the rights of victims should play a significant role in the criminal justice system. This is why earlier this year we passed amendments to the Victims of Crime Act to make it easier for victims to access benefits.

Our Victims of Crime Act gives legislative life to these important rights. We have had a compensation program in place since 1969 and will continue this. Since 1997, the Victims of Crime Act has included principles to which all members of the criminal justice system in Alberta must adhere when working with victims. These principles are very similar to those found in Bill C-32.

The robust programs and policies we have in this province make the legislation and its benefits available to victims across the province. On a daily basis, our victim services workers help victims of crime navigate the criminal justice system. In fact, our financial benefits program has assisted many Albertans who have been victimized by serious and violent crime, and we have every intention of continuing to do so.

Now, although we support Bill C-32, we have identified several challenges that may impact our provincial programs and services. It is our desire to make Bill C-32 more workable and, frankly, even better than it already is.

Bill C-32 establishes rights for victims that may create expectations of provincial programs, which could create resource and training impacts. We urge the federal government to make minor adjustments to the bill to ensure that it can be rolled out smoothly in Alberta and have a positive impact on the administration of justice from coast to coast to coast.

Our first concern is the definition of "victim". The victims bill of rights act defines a victim as "an individual who has suffered physical or emotional harm, property damage or economic loss as the result of the commission...of an offence". Bill C-32 amends the definition of victim found in section 2 of the Criminal Code. This amendment significantly broadens the current definition of victim for the purposes of the Criminal Code. This change may have far-reaching impacts on all aspects of the criminal justice system.

Our ask, basically, is that Alberta requires time to consider all of the impacts that this broader definition will have on the criminal justice system. Alberta, like many other jurisdictions, defines "victim" differently in our own provincial legislation. Our Victims of Crime Act defines victims for the purpose of financial benefits as those who are injured physically or psychologically or killed as a result of a crime. The key difference is that our definition in this province does not include those who are victims of economic or property crime.

We have another broader definition of victim for the purposes of victims of crime programs, and it includes all victims who have suffered injury or loss. Victims of crime in this province may apply for financial benefits under the provincial legislation if they have suffered injury. These benefits are not currently available to victims of economic or property crime. Economic or property crime may cause significant injury to individuals, and we are in no way discounting this fact, but rather are indicating that the resources required to move in this direction need to be considered and, of course, where they would come from.

The difference in definitions in the victims bill of rights, our legislation, and the amendment to section 2 of the Criminal Code may be somewhat confusing to victims. One possible solution would be to amend the definition of victims in Bill C-32 to “as defined by the Lieutenant-Governor in Council of the province in which sentencing is occurring”. Another possible solution would be to clarify that “victim” is “as defined by the Lieutenant-Governor in Council of the province in which sentencing is occurring for the purposes of all provincial programs and benefits”.

The second approach would mean that there is no substantive change to the availability of victims' access and all-round rights in Bill C-32, while affirming the rights of various provinces to define “victim” differently for the purposes of their own programs and services, and also to ensure consistency throughout the entire province and ease of understanding by victims.

● (1645)

Again, I recognize that economic or property crimes can cause real injury to victims across the country. That being said, appropriate time is needed before the legislation comes into force to allow victims' services organizations to prepare information and training materials to minimize confusion among victims about available programs and services. Ensuring that victims programs and services are well positioned to educate victims and communicate with them will ensure that the aims and goals of the victims bill of rights are met.

Finally, if the legislation were to continue to define “victims” as including economic or property crimes, we also ask that this matter be brought before the next federal-provincial-territorial meeting of justice ministers to discuss the financial impacts on provinces.

Our second commentary relates to the definition of “community”. Community impact statements added to the Criminal Code by way of Bill C-32 are not necessarily new. While the code was not specifically [*Inaudible—Editor*] for them, they have been used in many cases in the past. Defining “community” would assist in the implementation of this bill. It would also save valuable court time that would otherwise be spent litigating this definition and determining if a community impact statement were admissible under this provision. If there's no legislative definition, this could result in inconsistent definitions across this country as established by various courts.

As well, the legislation allows individuals to represent the community and to read community impact statements in court. Providing greater legislative guidance to the bill as to who can speak on behalf of a community would again save valuable court time that would otherwise be spent deciding these issues. It would also give

community groups, the Crown, and victims certainty in knowing that they can speak on their behalf at sentencing hearings.

Our third concern relates to how complaints at provincial agencies and bodies will impact the current provincial complaint mechanisms and the resources that will be required. It's unclear whether this provision does more than affirm the rights of victims to take advantage of the current existing complaint mechanisms. If this section is meant to do more than affirm already-existing provincial complaint mechanisms, some clarity is required. This section will undoubtedly result in an increase in complaints to provincial bodies and agencies in this province and elsewhere. Some of that is not necessarily bad in and of itself, but we do need to plan for this.

Resources and time will be required to clearly define the complaint process. For example, victims programs and services will need to develop materials and information that will set out the various complaint mechanisms available, including complaints about police agencies and crown prosecutors. It will also have to determine how is best to distribute the information. Alberta's Victims of Crime Act requires the director of victims services to provide information to victims who they feel have not been treated in accordance with our act in order to resolve their concern. Work will have to be done to determine how the victims bill of rights will impact the work of our director when a victim files a complaint.

Finally, Alberta asks that the Government of Canada consider a longer coming-into-force period for this legislation. In addition to the rights granted for the victims bill, it also contains amendments of the evidentiary provisions found in the code. For example, the availability of testimonial aids such as screens during the act of evidence would need to be explained in Alberta to allow them to be accessible as required by this bill.

● (1650)

The Chair: Minister, could you slow down a little bit for our translators?

Hon. Jonathan Denis: I'm sorry, I thought I was running out of time.

The Chair: No, I'll give you time to finish. Don't you worry.

Hon. Jonathan Denis: That's okay.

In particular, the technical issues and requirements posed to circuit courts would need to be considered, as those technical options may not be available in all communities.

This bill also makes a number of amendments to the Criminal Code provisions that deal with restitution orders, something that's very important to victims. These changes will undoubtedly result in increased numbers of restitution orders being made to courts. Again, in and of itself that's not necessarily a bad thing, but something that we have to plan for. Systems and processes will need to be put into place or expanded to ensure that victims are notified of their right to seek restitution, as well as to assist them in applying for restitution and assist them in filing a restitution order for enforcement.

We held significant consultations in 2002 prior to the development of our Victims of Crime Protocol. This protocol outlines what victims can expect from the criminal justice system. This protocol, again, is designed to appeal to victims who do not have legal advice, in plain everyday language.

Wide-ranging consultations may need to be held across the province to update the protocol in light of Bill C-32 to ensure that the goals of the bill are met in this province and elsewhere. Therefore, we are seeking an appropriate amount of time—for instance, just six months—to ensure that our systems and processes are up to date and ready for the smooth implementation of this bill.

In conclusion, Alberta supports Bill C-32. We see it very much as a positive step forward. I do appreciate the opportunity to come before this committee to outline our concerns. I also want to extend a special thank you to Suzanne Kendall of our department for her assistance in this regard.

I'm happy to answer any questions you may have, and apologize for any inconvenience earlier.

The Chair: Thank you very much, Minister.

Thank you to everyone for your presentations.

We are going to do the question rounds now. The first three will be 12 minutes, and if we have any left, the last round will go to the Conservatives.

For the first round of 12 minutes, we have Madame Boivin from the New Democratic Party. Please share with your group.

Ms. Françoise Boivin (Gatineau, NDP): Yes. Thank you, Chair. Chair/"share".... Anyway, it's that time of the day.

[*Translation*]

I would first like to thank all the witnesses for joining us today. Your experiences all vary, but they have one point in common, supporting victims. Thank you for the work you are doing at various levels.

[*English*]

Minister, I will start with you because it's a rare breed, a minister of justice from one of our great provinces who comes in front of our committee. We truly appreciate it because we heard, through some of the testimony of some victims support groups—and being a lawyer myself, it was quite clear in my head—that you guys will have to apply this charter on a day-to-day basis. So we make the laws in some aspect and then we—I wouldn't say dump because that would not be a nice word—

[*Translation*]

We are happy to pass the responsibility on to you, you might say.

[*English*]

But I appreciate the words you expressed, the practicality, because it kind of sounds a bit like our own Minister of Justice in Quebec who said exactly the same thing following the federal/provincial/territorial conference that happened, I think, in Alberta not too long ago. She said that the justice ministers view Bill C-32 as a positive. A lot of provinces already do what is necessary to be done, but if we want to add, we will need to give you time.

I'm a bit afraid, and I guess you saw that it's three months, 90 days, that is one of the deadlines. That is, as soon as it's going to be adopted, it's going to be 90 days from *la sanction royale*. So is that too fast for you to be able to implement?

• (1655)

Hon. Jonathan Denis: We would like to see at least six months. Again, we support where this bill is, but we want to make it even better and also ensure that the victim services agencies are able to keep up and are able to comply with the bill. Again, this is all within the best interests of victims. It's a short period of time that we're asking for and I don't think it's unreasonable.

Ms. Françoise Boivin: Not to corner you, but in a sense, was there any consultation prior, because I'm a bit surprised that the charter is now in front of us and you guys need to evaluate and see where it's going. I know you discussed it three or four weeks ago, but were there more discussions before that? Did you see Bill C-32 in a project manner—for example, to see how you would be able to implement it? If the federal government brings Bill C-32 with a specific deadline, I would have suspected that a good government would already have made sure that its partners in the federation were aware of what they would have to do.

Hon. Jonathan Denis: Well, there are a couple of issues there. The first item you talked about is looking ahead towards where legislation is going. Realistically, we respect that it is in the purview of the federal commons to amend legislation on a regular basis. So we don't know exactly what's coming until the bill is fully passed and sent off to the Senate, because it is amended on a regular basis.

There has been some consultation relating to the working groups that we do have. All the consultations occurred before the introduction of the legislation, so we were unable to give any specific information about the impact found in the victims bill of rights on our existing legislation, programs, or policies. So that's why we're just asking for six months. It's not a long period of time and that's really about all that's required.

Ms. Françoise Boivin: Thank you.

Thank you to the two representatives of the Pauktuutit. I'm glad to see that you were participating in the consultation.

Today we received an answer from the Minister of Justice concerning a question that was asked of him when he came in front of this committee on Bill C-32, where it was supposed to—and I'm sorry, I'll switch to French which is easier for me.

[Translation]

On October 9, 2014, he made the commitment before this committee to provide us with information about the aboriginal organizations that had played a role in developing Bill C-32, about their comments and about the measures in the bill designed to address their concerns. He answered a number of questions.

Some of my impressions about the minister's remarks correspond to what you told us.

[English]

I tend to agree with you. There is nothing in this bill about cultural differences. You talked—and not too much—about the Gladue case from the Supreme Court of Canada, which was very clear that because of specific cultural...that we had to address this.

In one of his answers the minister made the following quite clear.

[Translation]

Bill C-32 will apply to all victims of criminal acts with no regard to race, personal or financial circumstances, gender, age, sexual orientation or ethnic origin. Although many of the proposed provisions may be particularly useful for aboriginal victims, the Victims Bill of Rights will give the same rights to aboriginal victims as to other victims all across Canada.

Representatives from the Native Women's Association of Canada told us that a number of victims are afraid of the police. That may seem strange to people like us who live in cities and are used to seeing them play a role in the community. But the perception of people living in more remote locations may be very different.

Is that a concern for you? How should we tackle this new charter so that you benefit from it as much as victims in big cities?

[English]

Ms. Tracy O'Hearn: Thank you. I appreciate the question.

The point I wanted to add earlier is that at the present time Pauktuutit does not have a working relationship with Justice Canada or with Public Safety Canada, and we were not able to consult.

Pauktuutit is one organization, but it does have a mandate from Inuit women to be a representative in these sorts of discussions. I was mindful this morning that we are appearing before you in the midst of a really meaningful national discussion about violence against women. So no, there must be unique application of this.

As I mentioned earlier, there really is a pervasive lack of even basic knowledge about what the rights of victims are.

I'll stop there for now. Thank you.

• (1700)

Ms. Françoise Boivin: My last question, quickly, is for Sue O'Sullivan.

What role do you see for the ombudsman of victims? I must say, I tried to get you more of a budget from the minister when he came in front of the committee. But seriously, what role do you see the ombudsman of victims playing in the application of this bill?

Ms. Sue O'Sullivan: We have our mandate that's been clearly defined in the OIC. As you know, under this bill all federal departments will be required to have an internal complaint system. One of the issues is that we're going to have to wait to see how those

complaint systems are, because part of my mandate is that victims of crime can contact our office in relation to issues around federal programming policies, and that won't change. But we have to see how that relationship is going to work now that there are the internal complaint systems.

Part of my comments was about the ability to have the authority to demand documents. Right now we have excellent open lines of communication with the federal agencies that we deal with. With the internal complaint systems they're developing, I don't know how that's going to look. We're going to have to monitor that and look at how that relationship will develop. But we're going to continue to use the voice of our office to amplify the voice of victims on many of these issues.

I realize that when there is new legislation, evaluation is going to have to be a joint effort among the provinces and territories and the federal government. Because at the end of the day, we need to know if this bill is making a difference.

Ms. Françoise Boivin: Yes, because I was a bit afraid when I heard the minister... If this charter is supposed to be national, you cannot have a charter that is applied a certain way in Alberta, a different way in Quebec, a different... We're one country. But I understand that we have to be realistic, maybe to the point of—

Ms. Sue O'Sullivan: One of the issues we've seen in Canada, as you've just identified, is that there is a huge variability as to what access you have. I would just build on some of Tracy's comments, because you can't exercise a right unless you know you have that right. I think that's reflected in the minister's comments as well.

The Chair: The minister has his hand up.

Ms. Françoise Boivin: Yes, for sure. Maybe I didn't understand the translation or—

The Chair: Minister, do you also want to answer this question? The NDP have a—

Hon. Jonathan Denis: Thank you very much, Chair. There is one thing I just want to clarify.

In no way were we suggesting that one province should be treated differently from the other; rather, that there should be a six-month, and not 90-day, period in which to implement everything in this bill.

If you recall, many of our victims services organizations—and we've seen some of them today—are non-profit groups, staffed by volunteers. We want to ensure, as the last speaker said, that they're aware of what rights and obligations are available so they can adequately serve victims, and with respect, six months is not a long period of time to be asking for.

Ms. Françoise Boivin: It's definitely not long, and I think it will take more than six months, to be quite frank.

[Translation]

Mr. Philip Toone (Gaspésie—Îles-de-la-Madeleine, NDP): I am going to follow on from my colleague.

My thanks to all the witnesses for their powerful comments. They are much appreciated.

[English]

I have only a minute so I'm going to try to keep it very brief.

The bill speaks to community an awful lot, and I think you were able to raise questions regarding the stresses that communities are already feeling from being remote and isolated. The victims and the perpetrators are often in the same community. Is there anything in the bill that's going to make it easier for communities to deal with the supposed powers that are going to be brought forward for the victims to exercise?

Ms. Tracy O'Hearn: We haven't had the capacity or the resources to do a thorough analysis of the bill. I would say that without adequate resources, I don't see how whatever enhanced protections there may be can be implemented in remote communities that lack even basic services and resources.

Mr. Philip Toone: I think that's time, right?

The Chair: That's about time.

Thank you for those questions and answers.

Our next questions are from the Conservative Party.

Mr. Goguen, go ahead, please.

[*Translation*]

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

My thanks to all the witnesses. With the diversity of views they have expressed, their testimony is helping and guiding us as we study the bill.

[*English*]

I thank you for all your testimony and your diversity of ideas. Certainly the whole idea is to improve the bill.

My first question is for Ms. O'Sullivan. I've never seen a panel as Irish as this one.

I don't know, Madame Lebel, how you escaped the furor of the four-leafed clover, but in any event....

The Ministry of Justice held some extensive consultations, as you know, and what we heard from victims was that they wanted more protection; they definitely wanted more information; they wanted to be treated with respect; and they wanted to be treated with dignity. But they also expressed a lot of concern regarding delays. Delays do not help victims; there's no question about that. The dockets are loaded and time passes very quickly, particularly for a victim who's trying to heal.

That's another thing the witnesses told us, that basically the longer the procedures go on, the harder it is to close the book and the harder it is to start the healing process.

You mentioned in your testimony that there will be an internal complaints system for breaches of a victim's rights. Certainly that has to evolve. We don't know exactly where it will lead.

You also seemed to suggest that you wanted some sort of a system in which, in the case of a breach, the judge could be approached and spoken to by the victim. It seems that would inherently cause delays. I'll take you through a scenario: the investigation is going on; we've done the preliminary hearing; the victim believes there's a breach; the judge is setting the time, the date, and the place for the trial; the

victim wants to raise some sort of a breach; and a special hearing takes place. So instead of the trial going forth, the special hearing trumps this and more time passes before the trier of fact gets to see what's going on in the case. What happens if, in the special decision, following a hearing of the victim's arguments on the breach, the victim doesn't like the decision? Is there an appeal? How long does this go forth before ultimately the trial is held instead of dealing with some sort of complaint on the victim's right before the judge rather than an internal system?

I just see it being another time factor of delay.

• (1705)

Ms. Sue O'Sullivan: I have to agree with you, of course, that victims also want a speedy trial. They want to ensure that the criminal justice system goes ahead. There have been many reports, including the recent access to justice report, about the reasons for those delays. Many have to do with adjournments and issues like that.

We looked at the United States, which very much takes the approach of allowing legal representation for victims of crime.

Mr. Robert Goguen: But they have diverse criminal law systems, don't they? There are as many criminal law systems in the States as there are states, are there not?

Ms. Sue O'Sullivan: No. Each state can make constitutional law at the state level, so over 30 states have victims' rights in their constitution. I'll speak about eight states that certainly have had standing for victims.

When I say "standing", again, I want to be clear. I'm not talking about party status. I'm talking about their very limited standing or ability to exercise their rights.

We've talked to victims' rights lawyers in the United States. In particular there is the National Crime Victim Law Institute out of Oregon, of which Meg Garvin is the executive director. I asked her about this, because Oregon has had limited standing for victims since 2008, and she is aware of one delay for a sentencing since 2008. Since then, she says, because that delay happened once, the participants in the criminal justice system now ensure that doesn't happen.

We also spoke to groups of victims' rights lawyers in Washington. They said that when victims have the right to that legal representation, whatever happens takes place ahead of the pre-trial and ahead of the trial. They can meet with the victims, ascertain what their safety and security issues are, ascertain the system with their victim impact statement, and state any other concerns they have around their rights. In actual fact both of them talk about the ability to actually expedite the process—

Mr. Robert Goguen: So the hearing on the breach is all pre-trial?

Ms. Sue O'Sullivan: What they're doing basically is calling it a notice of appearance, whereby they'll file a notice of appearance and ask for an assertion of rights. This helps to preserve victims' rights from the beginning, as opposed to waiting until these have been contravened. They also file proactive pre-emptive motions. It helps to preserve the record of proceedings. Most of this occurs pre-trial to ensure that rights can be assessed during trial.

So when we talk about this, again, it's specific to victims' rights. We already set the precedent in 1988 when we allowed victims to make victim impact statements. Now a judge must consider restitution. So, really, what we're left with is that this bill says that a victim has a right to convey their views and have them considered. What we're saying is that one example would be a bail hearing where you have a right to have your safety and security concerns taken into account, but there's no mechanism for me to address the court and do that. So if in fact I had legal representation, which we allow—there already are hearings, as you are well aware.... For a sexual assault victim, there will be a hearing in regard to production of records and they have a right to have legal representation at that.

I asked Oregon specifically if this had happened in that state because they have a right to be notified about a bail hearing on that. What happened in that situation, which they say is a rare one, where the victim was not notified about the bail hearing and didn't have that opportunity, is that the accused remained in the community and a second hearing was called, with the accused again remaining in the community during this, when in fact then there was a determination. In many cases the offender remains in the community, but it's an opportunity for them to have their voice heard, but that this is more of a rare occurrence.

The second issue where we see that the victim's voice needs to be heard is in the plea bargain. Again, the way the bill is written, it says that a victim for serious injury or murder.... I've talked to crown attorneys across this country as well—and again, I'm reflecting some of the unique circumstances—and many crowns will tell you that they already do that, that as a matter of fact they already meet with the victim. So what we're saying is that let's talk about consistency. If you have a right to be heard, and most crowns are doing it as practice, then they should make sure that's a consistent practice. The right is to be heard. We're not suggesting a veto power for victims in relation to that.

Why is this so important? It's because we know about procedural fairness and how people are treated within the criminal justice system. If a victim feels they've been treated fairly, they are more satisfied with the criminal justice system. If they're treated with respect and dignity and are given an opportunity to participate, they have a higher level of confidence in the criminal justice system.

So we're talking about two extra situations where they can have that advice, and what we're hearing from people who exercise this is that it could actually expedite the system, because it just makes sense. We often look at it through the lens of it's just going to cause delays. If you know ahead of time what your rights are and you have assistance in doing a victim impact statement, and you can make sure that your lawyer is talking to the crown attorney to tell them what your safety and security concerns are, at the end of the day at a bail hearing the judge has the final say, but they'll have the information upon which to make that decision.

• (1710)

Mr. Robert Goguen: The way you're—

The Chair: Five more minutes.

Mr. Robert Goguen: The way you're describing it, it almost seems to run in tandem or in parallel with it. Okay, so it's not within the act.

What about the prospect of the victim addressing the judge on the plea bargain? I think you've mentioned that in your recommendations, have you not?

Ms. Sue O'Sullivan: We're talking about the victim having an opportunity to speak to the crown attorney.

Mr. Robert Goguen: Just to the attorney, not to the judge?

Ms. Sue O'Sullivan: Yes, that they would have an opportunity, because it's the crown attorney then who presents the plea. That's right.

Mr. Robert Goguen: Okay, that's fine.

[*Translation*]

My next questions go to Ms. Lebel.

Thank you very much for your testimony. Your work is certainly moving the rights of victims forward. I know that you have done a lot of work in the justice system and the fact that you are here to provide us with your point of view is much appreciated.

Clause 52 of the bill amends the Canada Evidence Act to allow a person to be compelled to testify against his or her spouse. That will help the crown to prove that a crime took place.

What is your opinion on that? Do you think that the amendment will improve the system and benefit victims?

Ms. Lise Lebel: If I consider my own situation, I think that would be the case.

In his testimony, the lady's husband said what he wanted, but, comes the time for parole, we find out that the story is different. Everything that was said in court was a story that changed at the parole hearings, because the husband had not revealed all the evidence.

Mr. Robert Goguen: So by compelling the testimony of the husband, the evidence can be complete.

Ms. Lise Lebel: If the husband had been compelled to, the crown could have asked more in-depth questions, which was not possible during the trial.

Mr. Robert Goguen: I have another question for you.

[*English*]

and if I have any time left, I'll give Mr. Wilks the occasion to ask a question or two.

[*Translation*]

The bill provides for a victim surcharge. The money from the surcharge would go to organizations providing services to victims. Would a surcharge like that be helpful? Should the provinces try to improve their victim surcharge programs?

Ms. Lise Lebel: Certainly, because, with that money, the organizations would be able to—

Mr. Robert Goguen: The money is the key.

Ms. Lise Lebel: Yes, it is.

We have to start from the basics. We are discussing victims today, but basically, what they most need is to be supported. If small organizations like ours lack the means to help victims all through the process, the injuries they have suffered will certainly take longer to heal.

While my organization does not currently deal directly with victims, we are working so that fewer and fewer victims find themselves in the situation.

But certainly, everything is always about money.

[English]

Mr. Robert Goguen: I gave you two minutes, you only gave him one.

• (1715)

Ms. Sue O'Sullivan: I'll keep it short because I want give Sheldon some time.

Thank you for that. The best analogy I can use is the U.K. code of practice for victims of crime, which was based on their lessons learned. They said that it was necessary to build into the legislation information about who exactly is responsible for providing what. If you tell police organizations that this is what they're required by law to provide, then they'll provide it. There is much more technology being used. I'll just refer to the state-wide automated victim information notification systems being used in the United States, and a new one in the U.K. called TrackMyCrime. There are all kinds of available technologies that are being used.

I'll stop there because I want to give him time. There are 30 seconds left.

But I thank you for that question. That's exactly our recommendation, to clarify who does what.

Mr. David Wilks (Kootenay—Columbia, CPC): Let me tell you, you're a kind gentleman.

My question is for both Ms. O'Sullivan and Mr. Kennedy. It has to do with what you brought up in your statement, Sue, with regard to informing the victim of how things happen. I come from a law enforcement background. Sometimes it can become taxing for the police when they're holding on to 40 or 50 files that they're trying to keep a line on.

What I'd like to hear from you is whether you have a vision of how one would hand off notification from the police to a victim, to the crown, to the courts. It seems to me as though, sometimes, if all else fails, it all just gets dumped on the police. The problem the police say is that, "Well we've done our investigation. We've filed everything with the crown, and we're moving on."

Sheldon, could I hear from you with regard to how your group deals with that?

I only have a minute.

Mr. Sheldon Kennedy: What we've done is to create working memorandums of understanding between all six different government systems on the ways they are going to share information amongst each other. They triage each case every morning. There's a manager from each group. Whether it's the police, child and family services, Alberta Health, the crown prosecutors, they sit around the

table and discuss each case. They're very clear on exactly who's doing what so that it doesn't matter what door a family goes through: they will get a consistent answer.

To me, we need to be consistent with information. It doesn't matter what door the victim goes through, it has to be consistent. We need to be working together collaboratively with the same approach and the same language. We might have to work a little bit differently from each other depending if we are from the health sector or the police force, but the message and the outcomes we're all trying to achieve have to be consistent.

The Chair: Thank very much for those questions and answers.

Our next questioner from the Liberal Party is Mr. Casey.

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

Thank you to all of the witnesses for the work that you do and for the obvious effort that you have put into your statements.

I'd like to start with Minister Denis.

Minister Denis, first of all, thank you very much for coming forward. I am very concerned about the issues you've raised. Here we are debating a bill that's going to impose some serious financial obligations if it is to have any meaning. It is not entirely clear how big the envelope is going to be and who's going to hold the envelope for those financial obligations.

I know that you recently had a meeting with your colleagues, the other federal and provincial ministers. You should know that we've invited all of your colleagues to testify before the committee. You're the only one who has accepted the invitation. Do you have any sense of why the others are reluctant to come before us?

Hon. Jonathan Denis: Thank you very much for your comment.

Unfortunately no, I do not. You are correct that we did just have a federal, provincial, and territorial justice ministers meeting in Banff where we discussed many of these issues, including this particular item.

I'm sorry, I can only speak for myself.

Mr. Sean Casey: You've raised three areas in particular where you say you want to have a closer look. Thank you for that.

You've talked about the definition of "victim" and how, if that definition is going to be as broad as it is formed in this bill, it may have implications for your budget and your resources. You've talked about the complaints process and how if it is a matter of provincial jurisdiction, as it is now, as this gives rise to greater complaints, that will impact your provincial budget.

Finally, there are your comments with respect to the likely increase in restitution orders and therefore the demand for information with respect to restitution.

You have identified those three. Here's my question for you on those. Have you costed out what you expect the impact of these changes will be on your budget, on the provincial resources?

• (1720)

Hon. Jonathan Denis: First off, you raised a couple of questions there.

First, in dealing with the definition of victim, my biggest concern is actually for victims. The fact is that I want the definition to be consistent, at least in a particular province. We're dealing with rank-and-file everyday individuals. If they're victimized—again, through no fault of their own—I don't want them victimized a second time through the system by basically getting a runaround. Many people don't have the clear delineation between the federal, provincial, municipal governments that we deal with every day. That's why I want there to be a consistent and common definition so that, again, it becomes easier for them to navigate what can be a very complex justice system.

As far as the process goes, we are actually in the process of reviewing how much that actually would cost. That again goes back to our request for a brief continuance here, for roughly six months, as I'd indicated to the earlier commenter.

Mr. Sean Casey: Are you satisfied with the level of funding you receive from the federal government with respect to legal aid?

Hon. Jonathan Denis: As I've indicated before, legal aid is a federal-provincial jurisdiction. The federal government funds roughly \$10 million of legal aid. We tried to reach an agreement at the last federal-provincial-territorial meeting. Unfortunately, we weren't able to do so. We fund over 80% of legal aid. We would like to see the federal government step up in that respect.

I recently announced a further funding increase here of \$5.5 million to increase the eligibility requirement of legal aid in this province. However, legal aid does not primarily deal with victims, which is of course what we're discussing today.

Mr. Sean Casey: I would suggest to you that when you look at the additional procedural steps that will be available as a result of what's being brought forward in this bill, there is undoubtedly going to be an impact on the legal aid budget, on the crown counsel budget, and on the budget within the provincial courts. If there isn't an increase in resources, there will be further delays. Do you see where I'm coming from, in that the potential slowing down of the system, if the resources aren't allocated, is going to be another problem that's going to land in your lap?

Hon. Jonathan Denis: Realistically, we are responsible for the administration of justice. The federal government is responsible for the Criminal Code, as I'm sure you're well aware. I think the principle here, though, is that the victim has to be put first, ahead of the rights of the offender. That is why we do see this bill as positive.

That said, though, if there are additional resources and they do help victims, I personally think that's money well spent.

Mr. Sean Casey: Thank you, Minister.

Ms. Flaherty-Spence, when Ms. O'Hearn passed the floor over to you, she promised that you were going to talk about Gladue. I'd like to give you an opportunity to speak a bit about the impact of this legislation on the Gladue principles. Former justice minister Irwin Cotler has said that "Bill C-32 would appear to limit the application of the Gladue principles by specifying that the sentence must be 'consistent with the harm done to victims or to the community'".

I have a two-part question, one that arises out of testimony we heard from the Chiefs of Ontario. First of all, what is your reaction to Mr. Cotler's comments that Bill C-32 will compromise the Gladue

principles? Second, given that we have enshrined in the Criminal Code provisions to deal with the unique situation of aboriginal offenders, do you not find that the absence of any such provisions in the victims bill of rights is problematic?

Ms. Alyssa Flaherty-Spence: I'll go to your second question first.

In terms of the victims bill of rights, I want to focus more so on Inuit with regard to the Gladue decision. The Gladue decision requires a CSO. For aboriginals in Canada, most of them do have the resources available. Inuit, in terms of the regions, do not have those basic, basic resources that every Canadian should have. As a victim, you do not have those resources. So speaking specifically to Inuit in terms of the Gladue decision, how is a CSO supposed to be brought forward when Inuit don't even have those basic resources? How are the courts, the judges, supposed to implement that CSO?

So the courts are feeling powerless, really. The judges don't really know what to do. They're supposed to give these decisions without... and then they're seeing the offenders come back into their courts very often.

• (1725)

Mr. Sean Casey: You did say that, and now I get it. Thank you.

Ms. O'Sullivan, I know you're familiar with someone by the name of Maureen Basnicki. She lost her husband in the 9/11 attacks. In my meeting with her, she was quite concerned that the definition of "victim" contained in the victims bill of rights excludes her.

Is that also your interpretation? Do you share her concern?

Ms. Sue O'Sullivan: I think she raises such an important point. Our office is contacted by people who lose loved ones overseas, be it through homicide or...and obviously, in her case, homicide as well. In terms of what she's looking for, her husband was killed in a different country, and she and other families who lose loved ones who are victims of crime in other countries still need the supports back here in Canada.

I realize it's a provincial matter, the actual direct support and victim support, and again, I can't speak on behalf of the provinces, but I understand that there have been discussions on "reciprocity", I'll say. Even victims in our own country with loved ones who are victims of crime in another province face those same issues of not being able to access that.

The best example I can give you is this. Some of you are probably familiar with the fact that the European Union is basically in the process of implementing the EU directives that are, for want of a better word, a "victims" bill of rights in relation to service rights for the 28 countries. In that, they say that any member of the EU who is a victim of crime in any country will have a right to access those services back in their own country. I think there would be an expectation from Canadians that no matter where the offence happens, we would make sure that there are supports and services available to victims of crime in our country when a loved one is lost or is a victim of crime.

So I think she is raising a discussion that must be had. I can't speak to the provinces—they provide the direct services—but it also occurs within our country. We've heard from victims whose loved ones were murdered in other provinces that they can't access the financial supports they need, or else the counselling is unavailable to them.

Mr. Sean Casey: Within the office of the ombudsman, I know that you do have some resources. It's not exclusively Sue O'Sullivan. Has your department done any estimate of the cost of implementing the victims bill of rights and where it comes from, federal versus provincial?

Secondly, you've suggested several enhancements. Have you also costed them?

Ms. Sue O'Sullivan: To answer your first question, my simple answer is no. Obviously that would be a huge undertaking.

What I can say is that we've looked at other countries who face similar challenges around implementation. Again, I'm trying to bring that different lens. Obviously, if you look at the EU directives, they provided a length of time to implement and they also provided funding. They made funding available to those countries that had to implement. To give you an analogy, if you will, in Canada, we have some provinces that have very robust victims services. We've also heard examples of where there are very few services available to victims.

So they made moneys available to assist in the implementation of this. I've heard from the government that there will be moneys available for implementation. Obviously, as the victims ombudsman, I would say that has to exist. If we're going to ask people to provide these services, to implement the bill, then we're going to have to ensure that there are resources in place to do that.

The Chair: Mr. Casey, that's your time. Thank you very much for this question.

As we have two minutes left, Mr. Dechert, I'll give you time for one question.

Mr. Bob Dechert (Mississauga—Erindale, CPC): Thank you, Mr. Chair, and thanks to our guests. I'll be quick.

Ms. O'Sullivan, as I understand it, you have suggested that a new independent body be created to investigate complaints from victims that their rights may not have been honoured under the victims bill of rights.

First of all, do you have a sense of what that would cost and how many people would be involved? I assume you're not suggesting that your office would do that, but a new body.... Wouldn't that also require each of the organizations that would possibly be subject to investigation to have a complaints department person: the police services in various communities across Canada, the crown prosecutor's office, the Department of Justice Canada, and various provincial court organizations? They would have to have a complaint organization to liaise with the new investigative body that you're suggesting. Can you take us through your vision?

• (1730)

Ms. Sue O'Sullivan: Yes, just to clarify, we're not necessarily suggesting a new investigative body; what we're saying is

whichever, because as you're well aware, there's the Commission for Public Complaints Against the RCMP, a federal agency that has oversight responsibilities and the ability to look into this.... There's the Human Rights Tribunal. There's our office. Our comments and our recommendations are that whatever an entity is doing that, it should have the ability or, if I could say, the authority to compel.

Mr. Bob Dechert: Okay, so you're not suggesting the creation of a new independent body. I thought maybe you were.

Ms. Sue O'Sullivan: No. I apologize.

Mr. Bob Dechert: Okay.

A number of our friends in the opposition have said as recently as our last meeting that the victims bill of rights, in their opinion, would not change anything for victims of crime. Do you agree with that statement?

Ms. Sue O'Sullivan: No, I do not.

Mr. Bob Dechert: Mr. Kennedy, what do you say?

Mr. Sheldon Kennedy: I do not agree with that.

Mr. Bob Dechert: Can you briefly discuss how you think it would help?

The Chair: Thank you very much for those questions and answers.

Mr. Blaine Calkins (Wetaskiwin, CPC): I have a point of order, Mr. Chair, if I can quickly....

I didn't get an opportunity to have an intervention today, but I just want to set the record straight for my fellow Albertan. Back in Alberta, we pronounce his name Jonathan "Denis"—

The Chair: Oh, not "Dennis"?

Mr. Blaine Calkins: It's just a point of clarification I wanted to make.

Voices: Oh, oh!

Mr. Blaine Calkins: and Jonathan—

The Chair: Thank you very much, Minister "Dennis", or Denis, if your family would like to hear that.

Thank you everyone for coming today. Thank you for your presentations. We will continue to hold discussions on this for the next three meetings, and then we'll be dealing with clause by clause in a couple of weeks after the break week.

Just before we go, members, I think we should all remember Cecilia Shea and wish her well. Cecilia is one of our interpreters, and thank God she's leaving today, because otherwise we'd have to suspend so that she could have her baby, as she is only a few days away from giving birth. Good luck with that.

Some hon. members: Hear, hear!

The Chair: With that, thanks very much, and we'll see you on Thursday.

The meeting is adjourned.

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