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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)): Thank you, ladies and gentlemen, for being here.

Welcome to the Standing Committee on Justice and Human Rights. It's meeting number 59. We are televised today.

Pursuant to the order of reference of Monday, November 24, 2014, we're going to discuss Bill C-26, an act to amend the Criminal Code, the Canada Evidence Act and the Sex Offender Information Registration Act, to enact the high risk child sex offender database act and to make consequential amendments to other acts.

Ladies and gentlemen, just so you know, we have two ministers with us. We have the Minister of Justice, Mr. MacKay, and the Minister of Public Safety, Mr. Blaney. They're both going to give opening statements. Then we'll go to discussion rounds. Before we go to the second hour with officials, we need approval for the subcommittee on agenda, to discuss the rest of the meetings we'll have on this particular topic.

Without further ado, I want to call on the Minister of Justice, Minister MacKay, for his opening remarks.

Hon. Peter MacKay (Minister of Justice and Attorney General of Canada): Thank you very much, Chair.

Colleagues, I am pleased to be before you here at the justice committee to discuss Bill C-26, the tougher penalties for child predators act. This is my 51st appearance before committee.

This particular bill and its proposed amendments seek to ensure that child sexual offenders are held accountable for the horrific crimes they commit against the most vulnerable and valuable members of our society, namely children. This bill proposes to achieve this important goal through a range of different measures. What we're attempting to do here, of course, is bring forward legislation that further supports our government's effort to protect vulnerable members of society.

[Translation]

This bill proposes to achieve this important goal through a range of different measures, which include amendments to the Criminal Code, the Sex Offender Information and Registration Act, as well as the creation of a high-risk child sex offender database.

[English]

I'm here with various departmental officials as well as the Minister of Public Safety, Steven Blaney, who shares responsibility for this

legislation and in particular for the amendments that will result in a new database. I'll let Minister Blaney speak to those sections of this bill. The objective though, to be clear, is one which all parliamentarians should support. This is clearly a very non-partisan issue, yet some have questioned the necessity for the proposed amendments before us. I want to address some of those questions.

These amendments are necessary because of the sad reality that the instance of child sexual offences continues to rise. In 2013 police reported that sexual offending against children had actually increased again, this time by 6% in 2012 and 2011. Each calendar year saw a 3% increase. As Statistics Canada noted, sexual violations against children was one of the few categories of violent offences in Canada to increase in 2013. This comes from *Juristat* 2013, which was released in July last year. These numbers we can all agree are cause for concern. We feel compelled to reinforce our response to these serious crimes, and I believe Canadians share these concerns.

Bill C-26 better reflects the seriousness of child sexual offences by proposing to increase mandatory minimum penalties and maximum penalties for many child sexual offences. For example, this bill would ensure that maximum punishment for all hybrid sexual offences against children would be two years less a day for a summary conviction and 14 years on indictment.

In addition to increasing the penalties for making and distributing child pornography, Bill C-26 proposes to make these offences strictly indictable to better reflect their severity. Child pornography offences have devastating and long-lasting impacts on victims, particularly those that are posted on the Internet, where they can reside for someone's lifetime. We have seen in particular how this intersects with the cyber legislation and how often these types of images are used to bully young people in particular to a point where they take their own lives.

Chair and colleagues, this bill would also ensure that it would be considered an aggravating factor to commit an offence while subject to conditional sentence, order, parole, or statutory release. These are long overdue changes that will assist in preventing future offences by known or suspected child sexual offenders. Bill C-26 proposes higher penalties for those convicted of breaching supervision orders. It's our belief, and our responsibility to ensure, that supervision orders imposed on these offenders once they are released into the community are actually observed, and that breaches of conditions imposed to protect children result in serious consequences. The types of conditions, as we know, are that there be no contact, that a person stay away from a certain household, and that there be certain conditions around possession of weapons, alcohol, or drugs.

Those are the types of conditions, Mr. Chair, which, if breached, can and often do result in further offences. Therefore, to achieve that objective, Bill C-26 proposes to increase the maximum penalties for breaches of prohibition orders under section 161, probation orders found in section 733.1, and peace bonds, sections 810 to 810.2. These types of orders often contain conditions intended to protect children, as I referenced earlier. Maximum penalties for breaches of conditions of any of these orders would be increased from six to eighteen months if proceeded by summary conviction, and from two to four years if proceeded by indictment.

Mr. Chair, our government is also committed to ending what are sometimes called sentence discounts for child sex offences. This is to ensure that we recognize each and every child and the offence that has affected their life. To that end, Bill C-26 requires courts to order in all cases that sentences imposed for child pornography offences be served consecutively to sentences imposed for other child sex offences. This bill would also ensure that offenders who sexually abuse multiple children do not receive sentence discounts just because the sentences are at the same time for the offences involving multiple victims.

Further, Mr. Chair, Bill C-26 would clarify the text found at subsection 718.3(4) of the Criminal Code, which contains the general rules regarding concurrent and consecutive sentences. Its current wording is the result of an amalgamation of rules that predate Confederation and as such, requires clarification and modification, so we are taking this opportunity to do so.

• (1535)

[Translation]

Bill C-26 also proposes to codify certain sentencing rules applicable to the imposition of concurrent and consecutive sentences. For example, one such rule provides for the imposition of concurrent sentences for offences committed as part of the same criminal transaction, also referred to as the "same event or series of events" rule.

[English]

However, courts have also acknowledged that consecutive sentences should be imposed in certain circumstances even if the offence in question was committed as part of the same series of events or separate events. This bill would recognize two of these circumstances. An offence committed while fleeing a police officer would be served consecutively to any other sentence arising out of the same series of events, and a sentence imposed for an offence

committed while on bail should also be served consecutively to other sentences imposed. There is a precedent to proceed in this fashion.

Mr. Chair, Bill C-26 will also amend the Canada Evidence Act to ensure that spouses of individuals accused of child pornography offences are compellable witnesses for the crown. The testimony of an accused spouse may be required to prove guilt beyond a reasonable doubt, such as, for example, where child pornography is found on a home computer.

In conclusion, Mr. Chair and colleagues, and just before I turn it over to Minister Blaney, our government recognizes that criminal legislation alone is an incomplete response to child sexual abuse and that the criminal justice system's response to sexual violations against children must be multipronged or holistic.

This bill, Bill C-26, forms an integral part of the overall response, but I'm particularly pleased that our government has allocated over \$10 million for 21 new or enhanced child advocacy centres now to address the needs of child and youth victims of crime. I've visited a number of these centres, as I'm sure many on this committee have, to see how these centres and these programs are assisting in the recovery of victims, in particular young victims who have in many cases undergone considerable trauma as a result of sexual offences.

That is just another example of the overall response we're taking as a government. In particular, I commend all those who are working with young victims on the special needs that they require.

With that, I will turn it over to Minister Blaney.

Thank you.

• (1540)

The Chair: Thank you, Minister.

Minister Blaney, the floor is yours.

Hon. Steven Blaney (Minister of Public Safety and Emergency Preparedness): Thank you, Chair Wallace.

[Translation]

Mr. Chair, I want to thank you and the committee members for having me here today.

I am delighted to be here with my colleague, the Honourable Peter MacKay, Minister of Justice and Attorney General of Canada, to speak to the public safety component of the Tougher Penalties for Child Predators Act.

This legislation will enable our government to follow through on its promise to protect families, communities and, above all, children from pedophiles.

[English]

Let's be clear: tougher measures are needed to protect our children from sexual exploitation and abuse. As Minister MacKay indicated, while violent crime rates in Canada are trending downward, sexual violations against children are on the rise. Police reported some 4,200 incidents of sexual violations against children in 2013.

[Translation]

Canadians are rightfully concerned about the mobility and conduct of sexual predators who leave the country and commit sex offences abroad. We introduced the Tougher Penalties for Child Predators Act in order to address the deeply troubling reality behind that concern.

This bill comprises various elements, including measures to impose stricter obligations on registered sex offenders, in particular, those who have been convicted of committing sex offences against children or who travel abroad to engage in child sex tourism.

[English]

To complete Minister MacKay's opening remarks, I will discuss the components of the bill that will give law enforcement better tools to crack down on these despicable individuals: travel data, the database itself, and also the sharing of information between the CBSA and the RCMP.

[Translation]

We have already brought forward significant changes to the Sex Offender Information and Registration Act, legislation which established a national database of convicted sex offenders in Canada. Law enforcement relies on the National Sex Offender Registry, administered by the RCMP, in the prevention and investigation of sex crimes.

[English]

We currently have a database, which is only accessible at this time to law enforcement, where there are 36,000 sex offenders. Of these, nearly 25,000 have committed criminal acts against children.

[Translation]

Obviously, these are crimes of a sexual nature.

Currently, all registered sex offenders must report their address, their name, and the place where they work or volunteer, once a year or whenever that information changes. They are also required to report any periods of travel in Canada or abroad of seven days or more.

But in the case of international travel, the only information they have to report is their absence from the country for seven or more days and the approximate dates of their travel. They are not under any obligation to provide details on their destination, and that has to change. That is why we are here this afternoon discussing the legislative measures before you.

We have to do more to protect our children from sexual exploitation, and that responsibility starts here. That responsibility also extends beyond our borders, to children everywhere.

[English]

The tougher penalties for child predators act is important because if adopted, it would better protect children against people who want to steal their innocence for their own perverse sexual gratification. It would also hold those who commit these heinous crimes accountable for the harm they inflict on society.

[Translation]

For example, if a known sex offender living in Ontario wants to go to B.C. for two weeks, they must provide the address of and contact information for their destination. But, if they leave the country for two weeks, they are not subject to any rules requiring them to report where they are travelling to.

[English]

Under the legislation we are discussing today, this practice would end. The sex offender would have to provide travel details for trips outside Canada lasting seven or more days, and provide the precise dates of departure and return.

● (1545)

Unfortunately, sexual tourism exists. It is important to address this practice when it affects children and when it affects Canada.

[Translation]

The second key change this legislation will make is to close the information-sharing gap when it comes to communications between police and the Canada Border Services Agency, or CBSA.

Under the current legislation, the information in the registry cannot be shared with the CBSA, because the agency is not considered a police service. Under the current regime, information cannot be shared with those who control access in and out of the country.

What's more, the legislation would authorize the CBSA to collect travel information on certain sex offenders upon their return and to share that information with the people in charge of administering the registry. The bill would allow the information to flow in both directions.

Given the crucial roles of the RCMP and the CBSA in ensuring public safety, this information-sharing authority is one of the key elements in the bill that will strengthen existing legislation and hold travelling sex offenders to account.

[English]

Finally, I'm pleased to discuss a measure that Canadians, including me as a father, are very concerned about, and that is the right of victims, children and families, to know whether there is a high-risk sex offender living in their neighbourhood, and I emphasize, a high-risk sex offender living in their neighbourhood. Canadians have the right to know the character of the individuals who are near their children. If a dangerous pedophile is within arm's reach of their child, they have the right to take proper action and precautions. That is why the bill would enact the high-risk child sex offender database act, which would allow our government to create a national public database. This bill would create a public registry of high-risk sex offenders so that parents could take responsible measures to keep their children safe.

I was pleased to see nearly all-party support for this important legislation, save for the Green Party, which voted against it. I hope that members of the committee will support our plan to make sex offenders more accountable, to better protect children in Canada and abroad from sexual exploitation, and to give Canadian families access to information that would help them keep their children safe. The tougher penalties for child predators act would do just that.

Thank you, Mr. Chair.

The Chair: Ministers, thank you for your opening statements.

We'll now go to rounds of questions.

Our first questioner is Madam Boivin from the New Democratic Party.

[Translation]

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

Thank you for being here, ministers.

Mr. MacKay, you said this was your 51st appearance before the committee. And this is your first appearance, Mr. Blaney. I hope you are going to give us the time to properly study Bill C-26, which we were very happy to have referred to the committee. I would expect that you will give the committee the time it needs to study the impact of these measures. It's an extensive piece of legislation that requires two ministers to appear before the committee. Clearly, it has a number of different consequences.

By no means do I think you want us to do a comprehensive study of the bill, despite the fact that it deals with extremely serious subject matter and that we must do our due diligence.

[English]

There will be no time allocation on this committee, I hope, on the part of both ministers.

Hon. Peter MacKay: Madam Boivin, as you would know, ministers do not interfere in the business of committees. We do not direct the timing, or the witnesses, or the length of time you'll have to study this bill.

Ms. Françoise Boivin: I'm glad to hear it.

[Translation]

Hon. Peter MacKay: I totally agree with what you just said. This is a hugely important piece of legislation that will have a tremendous

impact on our justice system. I am sure you will have the time you need to study it.

[English]

Ms. Françoise Boivin: *C'est bien.* I have just five minutes, so I'll proceed. It's a big bill.

[Translation]

Since 2006, the Conservative government has taken a myriad of measures to better protect children. You introduced the Safe Streets and Communities Act, which sets out new mandatory prison sentences for seven existing Criminal Code offences related to child sexual exploitation and abuse, including sexual assault, sexual assault with a weapon and aggravated sexual assault.

The act also prohibits anyone from providing sexually explicit material to a child for the purpose of facilitating the commission of a sexual offence, and from making an arrangement or agreement with a third party by means of a computer or other form of telecommunication to commit a sexual offence against a child.

The legislation also seeks to strengthen the National Sex Offender Registry, raise the age of consent to sexual activity from 14 to 16 years of age, legally require Internet service providers to report child pornography, enhance the monitoring of dangerous offenders and subject them to harsher sentences.

And yet, nine years later, here you are telling us that sex crimes against children have increased by 6%.

Does Bill C-26 represent your government's realization that its approach to tackling sex crimes against children has failed? If not, what research did you use to arrive at Bill C-26, to determine that these issues needed specific attention?

Mr. Blaney, my last question is for you. You talked about the registry for high-risk offenders. Who will determine whether an offender is high risk or not and how will that decision be made? Is the public supposed to be content knowing that the name of a dangerous offender roaming their streets is listed on a registry? Shouldn't the government work to get dangerous offenders off the streets, instead of putting so much emphasis on a registry?

• (1550)

[English]

I'll start with Minister MacKay; seniority, I'd say.

Hon. Peter MacKay: Thank you, Madam Boivin.

First, to your question on why more reforms, why more sentencing changes, particularly mandatory minimums, the short answer is that we can't do enough to protect vulnerable children.

Ms. Françoise Boivin: Do the others not work?

Hon. Peter MacKay: They have worked. The statistics demonstrate that the persistence of some sexual offenders gives rise to greater steps for deterrence, greater steps to arm our police in many cases, our officials, with greater ability to deter. The use of peace bonds, for example, or the breaching of peace bonds or orders that have specific measures in place to deter child offenders.... We think this is an important step to take as far as sending that message of deterrence.

On longer sentences, I would simply say that, in my view, when it comes to the damage, the harm, that flows to a child as a result of a sexual assault, I think the sentence ranges are still low in many cases, particularly for the high-end offences that involve abuse of children. But I would also—

Ms. Françoise Boivin: Is it your statement that the judges do not tend to go closer to the maximums that are provided and that sentences are too low in Canada?

Hon. Peter MacKay: Well, there's still a range, and I would say that the lower range is what I'm concerned about, which is why mandatory minimum penalties are part of this package.

As I mentioned in my opening statement, it goes beyond the criminal justice system simply meting out higher sentences. It has to be approached in a way such that we are putting what I would describe, through the child advocacy centres, as more wraparound support for a child, for the child's family, and for the community as well. The community has to be involved too.

This is part of the response that we feel is necessary. When we look at that very sad statistic of the number of sexual assaults on children that are still occurring, and the fact that 55% of all sexual assaults reported are on children under the age of 18, this is an alarming statistic in a country like ours, and it begs for a further response.

Ms. Françoise Boivin: Often by a member of their own family, so it will be interesting with the register.

The Chair: You have one more minute, including the answer.

Ms. Françoise Boivin: Maybe we'll move to Minister Blaney.

How is your register...who is going to determine

[Translation]

whether an offender is designated as high risk or not?

Also, since these sex offences are usually perpetrated by family members, what impact will the registry have in that regard?

Hon. Steven Blaney: Thank you.

As you are no doubt aware, local law enforcement authorities are basically the ones who decide which individuals should be subject to public notification. That is already happening in Canada. What the Government of Canada wants to do is—

Ms. Françoise Boivin: I am not asking you who is going to be subject to a notification but, rather, who will decide whether an offender is designated as high risk, as described in clause 29 of your bill.

Who will be responsible for that and what criteria will be used?

Hon. Steven Blaney: As I indicated, local law enforcement authorities are already responsible for notifying the public of high-risk sex offenders. It is that data that will be compiled and added to the national database.

• (1555)

[English]

The Chair: Thank you, Minister.

Thank you, Madam Boivin.

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

Mr. Bob Dechert (Mississauga—Erindale, CPC): Before I turn to the ministers, Mr. Chair, I'd like to refer to something my colleague Madam Boivin mentioned.

She took the time to ask Minister MacKay about the amount of time this committee would take to study Bill C-26, this bill we're studying today. Of course, she will know that at our committee we had a discussion on the agenda for this bill and how many days we would have to study the bill. In fact, it was the NDP that suggested four days, which is the time we have allotted for the study.

I just think that because there are people watching today, they should know that this is the kind of nonsense we often get from the opposition. They actually set the time that they think we should study a bill for—

The Chair: Mr. Dechert—

Mr. Bob Dechert: —and then they try to make it that—

The Chair: Mr. Dechert, there's a point of order.

Mr. Bob Dechert: —we are somehow cutting the time to study it a bit short.

Ms. Françoise Boivin: Point of—

The Chair: Hold on.

Mr. Dechert, I'm interrupting you. We have a point of order.

Ms. Françoise Boivin: Point of order, Mr. Dechert. I mean, what's said—

The Chair: Mr. Dechert doesn't answer to the point of order. I do.

Ms. Françoise Boivin: Our subcommittee was in camera.

The Chair: That's right.

Ms. Françoise Boivin: I just asked if the minister had any.... I didn't say anything about the committee or anything.

If he wants to go into what went on in the subcommittee, I have no problem. I'll have fun saying four for bills, one study, and 11 meetings—

The Chair: I appreciate that.

We only have an hour with the ministers. Let me be clear for the committee. We are going to talk about the subcommittee on agenda and also the time allocated to this after we're done with the ministers, unless you want to waste time doing it now and then their hour will be up, whichever you prefer. Let's move on.

Mr. Bob Dechert: Okay—

The Chair: Thank you, Mr. Dechert.

Mr. Bob Dechert: At any rate, let's move on. My colleague well understands it's not the ministers who determine how much time the committee decides to spend on any particular matter, and I think people should know that there has been no attempt by the government side to curtail the study of this bill.

In fact, Ministers, you should know that we think this bill is very important and we want to spend a significant amount of time and an appropriate amount of time studying this bill, so no one should be under any apprehension that the government side has been trying to restrict the time for study of this bill.

Minister MacKay, I'd like to start with you. You mentioned that there is more to addressing the issue of child sexual offences, which are unfortunately on the increase in Canada and I think that's a great tragedy, than punishment. The opposition often likes to point the finger at our side of the House of Commons and say that we're all about penalties and that we're not addressing either prevention or the provision of services to the victims of sex offences and other offences.

You mentioned the child youth advocacy centres and our government's support for them. You will know there is a very well-known centre in Toronto called the Boost centre, which you've visited and which does remarkable work in helping child sex victims. You've visited the William Davis family centre in Brampton, in Peel region, the area I represent. We're very hopeful that a similar child youth advocacy centre will be established in the Peel region to serve sexual assault victims in Peel region.

I wonder if you could tell us more about those centres, our government's support for them, and how you think that can help address the issue of child sexual assault.

Hon. Peter MacKay: Thank you very much, Mr. Dechert.

I must say, having been a participant either through the practice of law or through parliamentary work, and a long-time observer of our justice system, I think one of the single greatest accomplishments we have seen in recent years is these child advocacy centres, in their approach and in the incredible, compassionate work they do at the earliest stage when the harm has been committed, when it is fresh, if you will. You mentioned several of these centres in Ontario, and I have visited these centres now in just about every province and territory. We have 21 up and operational, with plans to bring about more.

The magic of these child advocacy centres is that they bring together the various agencies and individuals all working to support children, including the police, the courts, victim services, and child psychologists and psychiatrists: those who are tasked daily with helping to support young people deal with the trauma that inevitably flows from sexual interference and sexual assault on children, as well as helping their parents and dealing with the broader community impacts as well.

I mention that just to keep in mind what you said about taking a holistic approach to the harms that come from child sexual assaults. And the number is on the rise. There's simply no getting away from that. I know this committee is seized of this issue. I would be very quick to point out the non-partisan nature of this bill, and I think that

will become apparent as you look further into the details. Yes, I fully expect, as I know Minister Blaney does, that you will give this a rigorous examination.

There are other things we can do as well. I had the opportunity to be in Madam Boivin's province just last week, in both Montreal and Quebec City, to see some of the programs that the Department of Justice also sponsors for young offenders who may, among other things, be involved in sexual violence and may be passing it on through a phenomenon that we have often seen, turning from victims into victimizers. These programs are aimed at young people who are in the system, so to speak, and who may benefit greatly from counselling, from programs, and from early intervention that will give them alternatives as they try to cope with the difficulties they have experienced. That is an add-on intention of this bill.

Mr. Chair, I have information about the child advocacy centres that I would like to leave with your committee at the conclusion of our testimony.

● (1600)

The Chair: Make sure the clerk gets it, and that would be great. Thank you.

Mr. Bob Dechert: We'd be pleased to see that, Minister.

Minister, as you know, this bill contains some changes to evidentiary rules around spousal testimony. Because many of these victims are young, often the testimony of a spouse is important. Can you tell us how this bill changes the evidentiary rules about spousal testimony?

Hon. Peter MacKay: Mr. Dechert, it has a very great impact on sexual offences in particular. In the past, a spouse who had very relevant evidence to present to the court was prevented from doing so, which had an impact on the crown's ability to secure convictions in cases involving children. In some cases, it wasn't a matter of the witness not wanting to take the stand, but rather of being prohibited from doing so under the rules of evidence.

In some ways, this bill has in fact been overtaken by another piece of legislation you're looking at, the victims bill of rights, which also has provisions that would essentially eliminate spousal immunity from testimony. But this bill, which was drafted around the same time, amends the Canada Evidence Act to specifically allow for spouses to be competent and compellable witnesses in sexual assault cases involving children.

Mr. Bob Dechert: Thank you.

The Chair: Thank you, Minister, for those answers

Our next questioner is from the Liberal Party. Mr. Easter, the floor is yours, sir.

Hon. Wayne Easter (Malpeque, Lib.): Welcome, Ministers, and support folks.

I do have some familiarity with the development of the sex offender registry. I was a minister in 2002 when we got the federal-provincial agreement to go forward with the sex offender registry. I think it was two or three years after that before the government finally got it into legislation.

There's no question we firmly believe we have to do all we have to do to protect people from sexual crimes. But as I go through this bill, and I think the parliamentary secretary in part mentioned it, there are two sides to the equation. There are penalties and prevention, and there is also rehabilitation. I know that's not possible in all cases.

This is not my regular committee, as you would know. This bill seems to me to be mostly about putting greater penalties, more consecutive sentencing, and those kinds of things. You did mention child advocacy and the good work they do. Is there anything else that the government is doing on the healing side and the rehabilitation side to deal with this problem other than the increased penalties and consecutive sentencing? Is there anything proposed in this bill that will do that, that I have not spotted?

Hon. Steven Blaney: I would begin to answer, Mr. Chair, by mentioning that at Correctional Service of Canada when an inmate has been convicted of a sentence related to sexual harassment or even more importantly a sexual offence, he is taken in charge by the service and offered programs.

In all correctional jurisdictions in Canada, we are providing rehabilitation services to individuals convicted of sexual offences. Treatment services typically involve group counselling aimed at psychological risk factors. There are also medications that are part of it. There are psychological services and medication offered that are selectively used to manage compulsions and to lower sexual drive. The research has shown that comprehensive treatment programs can be expected to reduce the sexual recidivism rate of child molesters from 17% to 10% after a five-year period.

At Correctional Services there are programs offered while the inmate is serving his sentence. That is what happens once the individual is convicted of a crime.

•(1605)

Hon. Wayne Easter: I'll come back to Minister MacKay, I know he is working on an answer to the first question.

Minister Blaney, one of the big areas is that, as we all know, eventually these individuals come out of the correctional system. You are well aware of the program Circles of Support and Accountability which Steve Sullivan who is the director of Ottawa Victim Services spoke about at another committee. I'll just quote what he said, "If Circles of Support and Accountability loses its funding, communities will be put at greater risk." He also said, "It's the only community program that stands between the more dangerous offenders and our children. It has saved countless children from violence and terror."

The funding for that program has virtually been cut by your government. I'm not going to get into the long explanation of what those volunteers do to work with high-risk sex offenders when they come out, but the reality is they have saved countless families from sexual violence. Why is the government not continuing to fund that?

Will you reconsider so that we can build on the rehabilitative side? We have to deal with all areas, not just penalties.

Hon. Steven Blaney: Thank you for your question.

Indeed, we are working with many national voluntary organizations once the inmates have served their sentences and are released into the community. That includes the John Howard Society, the Canadian Association of Elizabeth Fry Societies, the Salvation Army, the 7th Step Society of Canada, and the St. Leonard's Society.

The grants we had in place were providing a total of \$1.1 million annually to 15 organizations. We have provided funding until 2014, and now we are evaluating the funding under this initiative. We are reviewing it. I'm expecting some feedback from my departmental official.

It is important that we be there at the different steps, but it is also important to send a signal that there's zero tolerance for attacking a child. That's also what is behind this bill, not only for a child in Canada, but also for a child abroad. This is why I strongly support Minister MacKay imposing mandatory minimum sentences. This is a crime that has to be clearly stated for what it is: despicable and socially unacceptable. As you know, we are putting measures in place. If an individual who has been convicted will be travelling abroad, even for a short time, he will have to report to the authorities, and the information will flow....

The Chair: Minister MacKay, do you have a quick answer?

Hon. Peter MacKay: Yes, very briefly, Mr. Chair.

In response to the question from Mr. Easter, there are programs and Minister Blaney mentioned a number of them. One that I'm aware of in Atlantic Canada is the New Leaf program. To be fair, this was a program that was also funded by the previous government, of which you were a member. It's aimed specifically at helping to rehabilitate the offender. Those program funding requests are reviewed annually across the country.

On the proactive side, the Get Cyber Safe program and some of the online sharing of information are things that I would always point to as well.

The sharing of information abroad is something that we as a country have to do more of. We need to be responsible for some of the perpetrators, sexual offenders, who go outside our country and go to jurisdictions where they don't have the same protections, the same programs, or they have laws that are lax, that allow for some of these sexual predators in our midst who have gone abroad and carried on this horrible practice.

There are aboriginal justice programs that are also in place to support both offenders and victims. I would point to our legislation, Bill C-36, that dealt with prostitution, which also has program funding in addition to the legislation.

This holistic approach you referred to is something that we're continuing.

•(1610)

The Chair: Thank you, Minister.

Thank you, Mr. Easter.

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

Mr. David Wilks (Kootenay—Columbia, CPC): I thank the ministers for being here today. My questions are for Minister Blaney.

In order for law enforcement to track child sexual predators, there has to be a certain level of coordination between CBSA and the national sex offender registry. Bill C-26 would heighten accountability by changing procedures related to the method of notification of absences abroad by registered sex offenders.

Could you please elaborate on this portion of the bill? What information will be shared between the national sex offender registry and CBSA officials as a result of the amendments to this bill?

Hon. Steven Blaney: Thank you to the member, a former long-time police officer who served with the RCMP. I'm also very proud to sit with the member in this government.

Indeed that's it; we want to have better information sharing between the Canada Border Services Agency and those who are in charge of the registry that contains the names of sex offenders. All of the following information on sex offenders is collected on a regular basis. The information that will be shared, whenever it is finished, will be about the high-risk child sex offenders. When a high-risk child sex offender is willing to travel around the world, no matter the length of his stay, the information will be transferred from the RCMP to the CBSA. That would be the individual's given name and surname, every alias the individual uses, the date of birth, the gender, and the number of every valid driver's licence and passport that the individual may hold. The plan is to have these serve as flags for CBSA so that the offender can eventually be diverted to a secondary screening when they re-enter the country. They will have to provide some information to the border services officers, such as when they left, when they are returning, and every address or location where they stayed when outside Canada. This information will be sent back to the national sex offender registry.

This will make sure that if an individual has been identified as a high-risk child sex predator, there will be an ongoing buildup of information related to his travels. If the CBSA or the RCMP have reason to believe it's necessary to carry this information from a specific sexual offender to an authority, they will have the authority to do so in order to prevent or investigate a crime of a sexual nature.

Mr. David Wilks: Thanks for that.

Carrying on with the same theme, Bill C-26 authorizes disclosure to the CBSA of information from the sex offender database. Among other things, the CBSA will be authorized to provide to the database the following information regarding the sex offender who is the subject of disclosure: the date of their departure from Canada, the date they returned to Canada, and every address or location at which they stayed outside of Canada. This provision will enable the CBSA to flag high-risk offenders in its surveillance system and to help police ensure respect for traveller identification requirements.

Can you please describe how the system currently works as it pertains to sharing of information between the national sex offender registry and the CBSA? Can you use an example of how changes in this bill will help keep Canadians safe?

Hon. Steven Blaney: The current situation is fairly straightforward. Since CBSA is not the law enforcement agency, they cannot

share information with the registry. This makes Canada blind whenever a high-risk sexual offender travels across the world.

As a parallel, we have a little bit of the same situation when we have terrorists travelling abroad. Canada cannot become a net exporter of terrorists, nor of sexual predators. That's why we need to enable our own federal agencies to share information so that neither terrorists nor sexual predators can take advantage of the gap we have in our legislation. That's why I'm fully supporting the initiative of Minister MacKay and why we're seeking your approval this afternoon to get this bill moved forward, to close the gap and make sure, for those who would take advantage of the lack of communication that is now forbidden under the law, that's the past; if they leave the country to commit criminal offences, such as sexual offences, this information will come back into the country.

• (1615)

Mr. David Wilks: Further to that, Bill C-26 would heighten accountability by changing procedures related to the method of notification of absences abroad by registered sex offenders. Can you please elaborate on this portion of the bill? How does this reporting system work now? How would Bill C-26 change the status quo? Would this amendment have implications with regard to our responsibilities to cooperate in international investigations?

Hon. Steven Blaney: The bill will increase our capability to respond to the international responsibilities and agreements we have to fight this plague that is sexual tourism. This is really setting up the base. A while ago we set up our national sex offender registry. Now we have to make better use of it. This registry identifies sexual predators at high risk of offences against children.

It is important that we take action and that's why, with this bill, information will flow both directions between CBSA and the RCMP, so when the high-risk sexual offender is leaving the country, CBSA will be notified by the RCMP. When the individual comes back, CBSA will collect the exact data regarding the individual's travel abroad, and this information will be sent back to the national registry. This back-and-forth flow of information will close the gap and limit the abuse of our system some individuals may have committed in order to travel abroad to commit sexual tourism.

That's why I believe this is a strong measure. Information sharing is one of the pillars of this bill, and it is a measure that will close this gap.

The Chair: Thank you for those questions and answers.

Our next questioner, from the New Democratic Party, is Madame Péclet.

[Translation]

Ms. Ève Péclet (La Pointe-de-l'Île, NDP): Thank you, Mr. Chair.

I would like to begin by wishing the distinguished committee members a happy new year. I'm very glad to be back in their midst in this wonderful new year.

My first question picks up on those of my colleague, the member for Gatineau. This is directed to the Minister of Justice.

I'd like to know why all offences involving minors weren't included. For instance, you increased penalties for a number of offences, but not all. How did you decide which offences to include and not include? What was that decision based on?

[English]

Hon. Peter MacKay: Thank you very much for the question. It's a good question.

The main criteria here were that these were offences against children that were of a sexual nature, that could lead to exploitation, and that could lead to the type of harm we felt could be best addressed by bringing about penalties that stress deterrence and that put greater emphasis on public safety, on information sharing domestically and internationally, and on using the data bank and systems to allow members of the public to access that information and take steps to protect their own children, in addition to some of the proactive measures found in the bill.

This is an attempt to modernize with emphasis on offences of a sexual nature against a child.

• (1620)

[Translation]

Ms. Ève Péclet: Section 272 of the Criminal Code pertains to sexual assault with a weapon, threats to a third party and the act of causing bodily harm. Those strike me as offences of a sexual nature. Why were they not included?

[English]

Hon. Peter MacKay: I'm sorry, but I don't follow your question.

Ms. Ève Péclet: My question is on section 272 of the Criminal Code. The infraction is as follows:

[Translation]

—committing sexual assault with a weapon, threatening a third party and causing bodily harm to a complainant under the age of 16.

Why did you decide to raise the penalty from 14 years to life imprisonment? That ties into my colleague's comment. Why decide to raise the prison term from 14 years to life in certain situations and not others? What was the thinking behind that?

[English]

Hon. Peter MacKay: The general thinking is that when we examine that particular section of the Criminal Code, we're talking here about sexual assaults involving weapons and involving causation of bodily harm. Throughout the Criminal Code, as you would know, there are sections that are deemed to be more serious to which a commensurately higher penalty would be attached.

Many of the sections that did not result in the elevation were already at the 14-year maximum penalty, so for this particular offence, given its nature involving violence, harm, and the presence of a weapon, we deemed this to be commensurate with a higher penalty.

Ms. Ève Péclet: I understand. Thank you very much.

[Translation]

I have a second question.

In response to a question from a Liberal member, the Minister of Public Safety said that the budget for the registry had not yet been determined, making it impossible to know how much it would cost.

I'd also like to discuss a response you gave to another colleague. You said it would be up to police or local authorities, whoever is responsible, to implement the registry. How are you going to ascertain the costs of the registry? The authorities responsible for the criminal registry already struggle with keeping it up to date. In fact, that is unfortunately the reason why certain people are still free. Their criminal record isn't up to date.

The authorities already have the burden of maintaining one registry and will now have to implement a second registry, without the resources required to do it.

Hon. Steven Blaney: Thank you for your question.

To begin with, local and provincial authorities already have a procedure to notify the public. Right now, police already identify certain individuals as being high-risk sexual predators and determine that the public should be aware of these individuals for the safety of society. So those resources are already in place.

If this bill is passed, the Canadian government will compile that information across the country. The RCMP will be the authority responsible for compiling the data. After consulting with territorial, provincial and municipal authorities, we will examine public notifications pertaining to people other than high-risk sex offenders to pull the identity of individuals who satisfy the definition of a high-risk sexual predator, and put that information in a public database.

And that Canada-wide database will be administered and maintained by the RCMP. In that connection, the bill sets out a budget of approximately \$1.3 million per year for the first 5 years, and \$1.17 million for the following years. A total of \$169,057 has also been allocated over 5 years for the CBSA notification requirement, in addition to a funding amount of \$28,375. That is what it will cost the agency to collect information on high-risk sexual predators when they return to the country, for example.

• (1625)

[English]

The Chair: *Merci, madam.*

Thank you, Minister, for those answers.

Our final questioner for the ministers is Mr. Seebach from the Conservative Party.

Mr. Kyle Seebach (Brampton West, CPC): Minister MacKay, I want to talk to you about a couple of things. I've noticed as I've gone through the bill that we are working on a number of provisions that are going to increase some of the mandatory minimum penalties, and we have some evidentiary reform as well. We're also looking at some consecutive sentences for child sex offences.

I think a lot of that is getting coverage in the media, which is important, but some things aren't really being talked about. When we look at the sections that deal with what happens and the penalties proposed for breaches of probation orders, prohibition orders, or peace bonds, I notice some significant changes there that will have an effect on sentencing. I wonder if you could comment on that.

Hon. Peter MacKay: Thank you very much, Mr. Seeback.

As someone who has practised criminal law, you know that for years this has been a problem. I suggest that Mr. Wilks as well would know that dealing with consecutive penalties, mandatory minimums, maximums, etc., is very much a part of this bill. We have seen problems with conditions of probation and peace bonds and recognizance that are put in place as a proactive measure to try to protect the public, first and foremost, but that also allow for some modicum of control of behaviour, so there are prohibitions on drinking, or possession of weapons, or being around a child.

The history and the statistics will sadly bear out that the vast majority of sexual offences against children happen in a dwelling house by a person who is known to the child. Putting parameters around access to the child is what many of these preventative measures are intended to do. Sadly, these conditions are routinely breached. In our opinion, there has to be some consequence to that, and that's what we're seeking to do here. Through this bill, we're seeking to put in place increased penalties for breaches of probation orders or peace bonds that have real consequences, particularly when in concert with a breach of probation it results in another criminal offence.

Unfortunately, these breaches were very often treated as part of the nature of the business: we'll just add that on as a concurrent sentence. There was no specific recognition of that when a sentence was meted out by a judge.

This attempts to change that. It ups the ante, if you will, for the maximum sentence, when it comes to the breaching of these particular measures. The general rule that these offences...depending on whether they're prosecuted by summary or indictment, is reflected in the seriousness and impact of breaching those types of conditions that are meant to prevent further offences. That's captured in this bill. It is an important part of the message that we want to send to the public and to offenders, that these conditions are serious and are to be abided by.

Mr. Kyle Seeback: One of the other things I want to ask you about is on concurrent sentences versus consecutive sentences. I know that's another change that's coming with this bill.

What was the rationale behind changing some of the process with a concurrent sentence versus a consecutive sentence?

Hon. Peter MacKay: We have seen how this works at the very high end of the Criminal Code, with respect to first-degree murders. Most recently, there was the tragic shooting death of members of the RCMP in Moncton. That was an example of consecutive sentences. To be clear, that means stacking one sentence on top of the other. They're not to be served concurrently, but one after the other, to denote that a separate crime was committed against an individual in each and every case.

The same is certainly true of sexual offences against children. The parameters around this are curtailed, and rightly so in some cases, by this long-standing application of proportionality. It is very difficult for a victim or a victim's family member to hear that the sentence isn't individually recognized in the penalty that a judge is meting out. Consecutive sentences do that. Consecutive sentences put particular emphasis on each individual crime, each act of violence, sexual violence against a child, which we believe is deserving of a consecutive sentence. That is what we are attempting to achieve through this legislation. We believe it's appropriate given the abhorrent nature of this type of crime, the damage that is done, and the loss of innocence, as my friend Minister Blaney has said.

This is very important, in our view, to demonstrate to the public and to offenders the seriousness with which the justice system will respond to this type of heinous crime.

• (1630)

The Chair: Thank you very much.

That is our time with our ministers today.

I thank both of you for coming and speaking to us on Bill C-26, as we kick off the discussion and debate on it.

We'll suspend for a minute while we let the ministers go.

I think there will be a discussion on the sixth report that is in front of us, and I expect that to be in camera.

Hon. Peter MacKay: Mr. Chair, just prior to suspension, if I might, I offered to leave this information on child advocacy—

The Chair: Just give it to the clerk, and he'll distribute it to all members of the committee.

Thank you very much.

We'll suspend for a minute.

• (1630)

_____ (Pause) _____

• (1630)

The Chair: I'm going to call the meeting back to order. We're going to start a new meeting, but I need a motion to go in camera to talk about the sixth report. It is the agenda report.

So moved? Okay.

We're going to go in camera for a few minutes. All those in favour?

• (1635)

Mr. Bob Dechert: We could do it at the end.

The Chair: No, let's do it right now.

Anybody who's here who's not allowed to be at in camera sessions, we'll make sure we get you back here as soon as possible. We won't be too long, I don't think.

[Proceedings continue in camera]

•(1635) _____ (Pause) _____

•(1655)

The Chair: While we're waiting for our guests, I have reports 13 and 14. One is to ask the House under Standing Order 97.1 for a 30-day extension for Bill C-590, which is number 14, and Bill C-587, number 13. Could somebody move that for me?

An hon. member: I so move.

(Motion agreed to)

The Chair: Thank you very much to our witnesses from the Department of Justice and from the Department of Public Safety for joining us. Sorry about the delay.

There are no opening statements, just questions.

Madam Boivin.

[Translation]

Ms. Françoise Boivin: Thank you.

Since we have some time, this is directed to the officials from both departments and the RCMP representative.

We've talked a lot with the ministers about the harsher penalties, among other things.

Ms. Morency, prior to drafting Bill C-26, did the Department of Justice conduct a jurisprudential review of cases going back a certain number of years?

In their comments promoting Bill C-26, both ministers often pointed to the fact that offences against children had gone up by 6% in the past 2 years. The media has often cited that statistic, as have both ministers.

Was any research done? And if so, what did it entail? What findings did department officials come to, and how? Was there a trend among courts indicating that the sentences being imposed were not harsh enough?

I'm trying to understand what motivated the decision to create Bill C-26. What kind of analysis and research was done to warrant the measures in the bill?

Ms. Carole Morency (Director General and Senior General Counsel, Criminal Law Policy Section, Department of Justice): Thank you for the question.

As the minister just mentioned, the idea was to increase penalties, both minimum and maximum penalties.

[English]

The package, in terms of Bill C-26, also proposes some other related reforms looking at the implications of consecutive or concurrent sentences in these cases as well. As you've noted, with Bill C-10, the Safe Streets and Communities Act, those reforms came into force August 9, 2011, and yes it is a bit early to see the progress of some of those cases as they start to work through the criminal courts. We were seeing courts beginning to note, for example, even before Bill C-10 came into force, that Parliament was considering the importance of ensuring that the penalties in these cases, not just minimums but maximums, adequately reflect the

serious nature of these cases, and that courts should be treating these more seriously.

So it is a bit of a combination of things. First, it's looking at how the courts are dealing with this. We're starting to see some of that, but it's certainly in its early days. Second, if you look at Bill C-26, there's a combined approach of trying to increase penalties overall; it's not just minimum penalties and the approach that Bill C-10 had.

•(1700)

Ms. Françoise Boivin: I understand all that. My question is more about what types of studies or *constats* we have seen that have led to the need for the creation of Bill C-26. If we're not yet even able to see the effects, good or bad, of Bill C-10, how can we need Bill C-26? For example, I'm hearing from the legal community that last weekend in my region in Gatineau, 50 cases of drunk driving were thrown out of court. Why? They were thrown out because of time, because according to certain people the crown didn't understand the case, because of the shift that happened with the new infraction, because of the new burden, and so on and so forth.

Do we take the time to inform all the courts of all the changes so that they apply them before we come up with some new section or new clauses? I'm just not seeing the logic behind it all, because you're not giving me the meat. From your answer, I don't see exactly what was used to create Bill C-26.

Ms. Carole Morency: Again, I can just point to the commitments that the government has made. The minister has clearly stated that the overarching concern and intention is to ensure that in all cases, all forms of child sexual abuse are treated more seriously. Some reforms were enacted through the Safe Streets and Communities Act. Bill C-26 takes that and goes further to achieve that objective. One thing I'll note in particular is that Bill C-26 increases the maximum penalties for quite a number of offences. You have a bigger range for courts to look at, which is different from what you saw in Bill C-10.

Ms. Françoise Boivin: So it's more in principles, but we're still not yet at the point where we can say what the other clauses were able to achieve and if it had deterrence on criminality or whatever. I understand that.

Ms. Carole Morency: I'll just add on that point another important thing that Bill C-26 is proposing to say. If you look at the case law and how courts are dealing with sentencing now in cases where you have child pornography, as well as contact sexual offence, Bill C-26 is ensuring that those are imposed consecutively. We're seeing that happen in some cases now. It's a matter of codification in many respects, but it's saying to do that in all cases. That's an important change that we don't have at this point.

Similarly, there is another reform that Bill C-26 is proposing. If you have one offender before the court at the same time with multiple victims, again it gives very clear direction to the courts on how to deal with sentences between those multiple victims so that, as the minister said, each victim feels that their victimization is reflected in the sentence that is imposed on that offender.

Ms. Françoise Boivin: Why is this in Bill C-26, but it was not thought of in Bill C-10?

Ms. Carole Morency: I can't comment in terms of between then and now. Bill C-10, as you'll recall, was an amalgamation of nine bills. Some parts had been before Parliament over the course of several years and were merged in support of a government commitment after the federal election. It was a reintroduction of reforms that had previously been proposed.

If you'd like, I can ask my colleague Ms. Levman to give you examples of a couple of cases where we've seen courts begin to take the very serious direction that Parliament is giving to the courts, to treat child sexual offences more seriously.

• (1705)

Ms. Françoise Boivin: I want to move to the RCMP, but I take note that there are some good cases that are showing, before Bill C-26 even came into effect, that the courts are taking the cases more seriously.

RCMP—

The Chair: I'm sorry, Madam Boivin, but that's your seven minutes. Thank you very much.

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

Mr. Blaine Calkins (Wetaskiwin, CPC): My questions will be primarily for the members of the Royal Canadian Mounted Police. I have some questions of a bit of a technical nature. I would just like a reaffirmation that I'm reading the legislative summary and the legislation correctly.

The Sex Offender Information Registration Act already exists. The changes that are being proposed now are quite significant, in the sense that right now anybody who's in the sex offender registry does not have to notify if they're leaving the country. Is that correct?

D/Commr Peter Henschel (Deputy Commissioner, Specialized Policing Services, Royal Canadian Mounted Police): They have to notify if they're gone for more than seven days, but they don't need to notify where they're going to be and no details of their—

Mr. Blaine Calkins: There are no details?

D/Commr Peter Henschel: No.

Mr. Blaine Calkins: If they were to leave the country for less than seven days currently, would they have to notify?

D/Commr Peter Henschel: No.

Mr. Blaine Calkins: The legislative changes that are being proposed in this bill would change that should they become law. Is that correct?

D/Commr Peter Henschel: It will change it for those who are high-risk child sex offenders.

Mr. Blaine Calkins: Just for the ones who are high-risk child—

D/Commr Peter Henschel: Those who are high-risk child sex offenders will have to provide details for any stay outside of the country for any duration, and provide exact details of when they're leaving, where they will be staying, when they're going to return. For any of the others, it's seven days or more.

Mr. Blaine Calkins: Currently, if somebody is on this registry and they're going some place other than their usual place of residence for a period of less than seven days, no notification needs to be given. If it is more than seven days, or if it's less than seven days and they want to change their mind, they have to do so seven days in advance. Is that correct?

D/Commr Peter Henschel: Do they have to do that if they're going to change their mind?

Mr. Blaine Calkins: Right. Let's say somebody's going on a four-day trip. They do not notify anybody. They decide they want to stay an extra four days, if the legislation that's before us now passes, they can't make that decision mid-trip, can they? The way I read it is they have to make that determination at least seven days prior to departure. Did I read that correctly?

A/Commr Joe Oliver (Assistant Commissioner, Technical Operations, Royal Canadian Mounted Police): If the travel plans change, then within seven days they have to make a notification that the plans have changed.

Mr. Blaine Calkins: Within seven days of the travel change?

A/Commr Joe Oliver: Correct.

Mr. Blaine Calkins: Okay. Good.

I have questions for you with regard to the high-risk child sex offender database. This is a database that's above and beyond; it's a different database from the sex offender registry. Is that correct? I think that's important for Canadians to know. We're talking about two completely separate data entities. The high-risk sex offender database is the only one containing information about the offender that would be made publicly available. Do I understand that correctly?

D/Commr Peter Henschel: For a person to be put onto that public database, the first step is that the person already has to have been the subject of a public interest disclosure by provincial and territorial local authorities. If they meet that first test of being already identified publicly in a public interest notice—there can be public interest notices for not just sex offenders but also for murderers, and so on—then they also have to meet the qualification of being a high-risk child sex offender as well.

Mr. Blaine Calkins: It says here that those who qualify for it are those “who are found guilty of sexual offences against children and who pose a high risk of committing crimes of a sexual nature”. Who makes the determination as to whether they pose a high risk? How is that determination made?

D/Commr Peter Henschel: If they have already been identified by the province or territory where they are residing, then there will be a process, but consultations will be taking place with Public Safety, the provinces and territories, as well as with us to determine exactly what the criteria will be to meet that threshold.

Mr. Blaine Calkins: Now, this database, unlike the sex offender registry, will be publicly available. Is that correct?

D/Commr Peter Henschel: That's correct.

• (1710)

Mr. Blaine Calkins: It's going to be maintained by whom?

D/Commr Peter Henschel: By the RCMP.

Mr. Blaine Calkins: Everybody who has a child or grandchild, or whatever the case might be, will be able to access that database publicly. Is that correct?

D/Commr Peter Henschel: That's correct.

Mr. Blaine Calkins: All right.

Thank you, Mr. Chair.

The Chair: You have two more minutes.

Mr. Blaine Calkins: I can pass my time on to Mr. Dechert.

The Chair: I have him down as a speaker.

Mr. Bob Dechert: I'd be happy to take your time, Mr. Calkins, if you're finished.

Mr. Blaine Calkins: I'm good, thanks.

Mr. Bob Dechert: Thank you very much, Mr. Calkins.

I'd like to follow up on the question that Madam Boivin put to Ms. Morency, who mentioned that Ms. Levman might be able to tell us a little bit more about some case law.

My question has to do with the totality principle and how in your opinion it has been applied by the courts to the types of offences we see in Bill C-26. My understanding is that some of the cases we're talking about are just very recent cases. I notice that some of them are 2014 decisions, for example. I believe some of them might actually touch on legislation that was previously passed in Bill C-10 or perhaps other legislation.

I'd first like you to comment, Ms. Morency, and then perhaps Ms. Levman might want to take us through some of the cases.

Can you tell us whether or not the courts have been consistently applying penalties in all of these cases, or is Bill C-26 actually addressing some of those issues?

Ms. Carole Morency: Actually, I'll have my colleague Ms. Levman answer the two parts of the question.

Ms. Nathalie Levman (Counsel, Criminal Law Policy Section, Department of Justice): As Ms. Morency said earlier, we are seeing cases involving child pornography charges as well as contact child sexual offence charges. We are seeing that courts are more or less fairly consistently imposing consecutive sentences—not in all cases, but it seems to be a trend.

Where we're seeing a little bit less consistency is in the multiple victim cases. Courts take different approaches. Sometimes they do a victim-by-victim approach; the offences that are against one victim

will be imposed concurrently but the sentences for each victim consecutively. In other cases we are seeing that victims are being grouped by offence; the sentences are being imposed consecutively by type of child sex offence but concurrently as per victim.

Mr. Bob Dechert: Is it true to say that there is some inconsistency in the way these sentences are applied in different courts?

Ms. Nathalie Levman: Yes.

You also asked a question about the totality principle.

Mr. Bob Dechert: That's correct.

Ms. Nathalie Levman: We are seeing that courts are taking note when there are multiple convictions for different offences that they would have imposed a lengthier sentence for one particular offence, but they're reducing it by a year or two in light of the totality principle.

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

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

Hon. Wayne Easter: On this last question, either Ms. Morency or Ms. Levman, are these increased penalties that are being seen out there having any impact as a deterrent to these types of crimes, other than just keeping people off the street longer, or is there nothing you can tell yet?

I'm one who believes in the rehabilitation side. If the objective is to keep people off the street longer, well, that's one objective. But keeping people off the street longer, not providing the program, and letting them get out at warrant expiry is just a huge problem waiting to happen, so I'm wondering if there is a deterrent impact. If there is an intended deterrent impact of these longer penalties and consecutive sentences other than keeping them off the street, is there any evidence to show that?

Ms. Carole Morency: I think it's well established in terms of the Criminal Code's approach to sentencing that the fundamental principles require courts to consider denunciation, deterrence, rehabilitation, etc., pretty clearly. There is much research out there from over the years that talks about the different impacts that penalties may have, including whether mandatory minimum penalties have a particular deterrent effect versus incapacitation and all of that. I guess it would be difficult to say that in the short term, based on, for example, reforms enacted since Bill C-10 in the last three years, and to point and say, "Here's a direct causal relationship between this and that."

It's not to say, though, that there hasn't been a noticeable impact by even the sentencing reforms from Bill C-10. For example, if we look at some of the cases, I have remarked upon the fact that Parliament was in the course of reviewing proposed amendments to treat these cases more seriously and noting very clearly the courts saying that Parliament has said that we should treat these offences much more seriously and more seriously denounce and deter these offences. To the extent that we can point to this in the short term, I think there is some evidence of that in some of the case law.

• (1715)

Hon. Wayne Easter: Thank you.

Coming to the RCMP and the different databases, the high-risk child sex offender database will be public. How will that be accomplished? How does the information flow? If Mr. Jones is released and is arriving in Delisle, Saskatchewan, what's the operation for how this information will get out there?

D/Commr Peter Henschel: Are you asking specifically about the public database?

Hon. Wayne Easter: Yes.

D/Commr Peter Henschel: It's not an issue of the release. That's important there. The first step for the public database is that the local or provincial and territorial authorities will have to have made a decision to do a public interest disclosure about that individual. When that happens, that's the first step.

In cases where the local authorities have come to a decision to do a public interest disclosure, then the second test will be whether this person meets the criteria for a high-risk child sex offender. As I mentioned earlier, those criteria are still being developed in consultations between Public Safety and the provinces and territories, because right now the provinces and territories all have their own approach on how they determine whether or not to proceed with the public interest disclosure.

That development is ongoing as to what that criteria will be, but if the person meets the criteria for being a high-risk child sex offender, then the person will be added to the public database.

Hon. Wayne Easter: Okay.

In terms of this piece of legislation, beyond expanding our own sex offender registry, it is a different database. Are this kind of registry and public disclosure happening in any other country in the world? I think it does happen in some areas in the United States. What has their experience been? Do you know? Can you give us an example? If my colleague wants to look into where this system is in place, where would we look?

Go ahead, Kathy.

Ms. Kathy Thompson (Assistant Deputy Minister, Community Safety and Countering Crime Branch, Department of Public Safety and Emergency Preparedness): Thank you, Mr. Chairman.

Certainly this type of poly database is available in the U.S. It's been in place for a number of years. I don't know how many states participate.

Do you have more information?

Ms. Angela Connidis (Director General, Crime Prevention, Corrections and Criminal Justice Directorate, Department of Public Safety and Emergency Preparedness): We don't know how many states participate, but the evidence has shown that there's a lot of public support for having a similar database. There are some concerns about making sure that it's updated, that things like addresses are correct, so that you avoid the wrong person being identified as a child sex offender.

Hon. Wayne Easter: Okay.

I don't want to create work here, but is it possible to give us three examples of states that have this in place? Would you know three states off the top of your head?

Ms. Kathy Thompson: I don't, but we could certainly provide that to the committee, if you would like.

Hon. Wayne Easter: If you could provide that to the committee, that would be good, so that in terms of our own research we can get information from that area.

Ms. Kathy Thompson: Certainly.

Hon. Wayne Easter: One of the big areas of concern I have with these individuals is that some of them don't take programs when they're within the correctional service system.

What happens when they don't take programming now? Do they just get to warrant expiry and leave?

Ms. Kathy Thompson: Offenders who are admitted to a Correctional Service of Canada institution are assessed as soon as they arrive. If they're a sexual offender, they are recommended for either a low-risk, moderate-risk, or a high-risk program. That becomes part of their correctional plan, which is now mandatory. That factors into the consideration, of course, when they are considered for parole or for day parole.

Also, some offenders will have a long-term supervision order at the time of sentencing, if the view of the judge is that this particular individual may pose a risk or may not be as open to some treatment options and programs as other offenders might be.

As well, if they still pose a risk upon release, they can also have a section 810 peace bond imposed on them, as any individual can. It doesn't have to be an offender necessarily.

• (1720)

The Chair: If there are no further questions or answers, thank you very much, Mr. Easter.

I think our final questioner is Mr. Seeback.

Mr. Kyle Seeback: I want to talk about the interaction of consecutive sentences and the totality principle. I don't know who should answer the question.

When you look at the totality principle with some increased mandatory minimum penalties, and also the consecutive nature of sentencing, how do you see those things interacting with each other with some of the jurisprudence you've looked at? If there are three victims and, I don't know, four years would be the sentence for one, and now you have three that are going to be served consecutively, would that turn that into 12? Is that going to run up against the totality principle, or will judges be looking at making three that are each worth one and a half, and therefore end up right where you were before anyway?

How do you see that based on the cases and other things?

Mr. Matthias Villettorte (Counsel, Criminal Law Policy Section, Department of Justice): It's hard to say definitively what would happen. I mean, it's left to the discretion of the court at that point regarding how they're going to deal with the totality principle, once they determine that given the totality principle the combination or the whole sentence would be unduly long or harsh. But as my colleague Nathalie Levman has said, there are cases we have seen where the sentence on the individual offence is reduced in order to meet the totality of the sentence, as well as justifying it with the proportionality of the sentence itself.

Mr. Kyle Seeback: If you're increasing the maximum penalty, do you see that potentially moving the envelope with the totality principle? If the old maximum sentence was, for example, 10 years, and now it's 14 years, is that, in your mind, removing the goal posts around the whole circumstance?

I know you don't know for sure, but what would be your opinion of that?

Mr. Matthias Villettorte: For sure it sends a message of denunciation, what the worst offender in the worst circumstance committing this offence should get as a sentence. It does encourage a court to turn the mind. The maximum sentence is higher; it has been increased, which could therefore turn their minds in those situations where you could qualify the offender as the worst offender in the worst circumstances. There is definitely, in some instances, a move that we see in sentences.

Mr. Kyle Seeback: I'm going to share the rest of my time with Mr. Wilks.

Mr. David Wilks: Thanks.

This question is for the RCMP.

Under the national sex offender registry, let's say sex offender A travels to Italy. I use Italy because I believe we have a liaison officer there. How are we to confirm that sex offender A, who provides three addresses of where he's going to stay in Italy, actually stays at them?

Do we have working cooperation with other police forces in Italy, or for that matter, in Europe, or are we relying on our liaison officer to do that for us?

• (1725)

D/Commr Peter Henschel: It's not quite that direct.

What the legislation provides is for us to share this information with CBSA. First of all, in particular for high-risk child sex offenders, we'll actually have detailed information for less than seven

days. It allows us to share that with CBSA. It allows CBSA, on the return of the individual, to do some verification to see whether what they learn from that aligns with what the person provided before leaving. Our sharing information with foreign officials won't be done pro forma. It will be done on a case-by-case basis, when there is some reason to either advance an investigation or to prevent some kind of offence, keeping in mind things like ministerial directives on information sharing with foreign law enforcement, privacy issues, and depending on the country, what impact providing the information may cause.

That's generally how it would work. You'd have to have something specific to do more follow-up beyond sharing it with CBSA and doing verification of the data.

Mr. David Wilks: Okay, thanks.

The Chair: We actually have a few minutes left if somebody from the NDP would like to take the time.

Madam Péclet.

Ms. Ève Péclet: I have two minutes. I will never refuse to talk, even if it's for 30 seconds.

[Translation]

The minister cited a few figures in reference to the registry.

Some municipalities already have registries, while others do not. I would just like to know how much money we are talking about. He mentioned \$1.3 million over a 5-year period. He listed a few figures. What is the size of the budget being allocated to the new registry? How are you going to compile all of that data? And how will it be implemented in municipalities?

Some municipalities have it and some do not. I would just like some clarification on what the minister told us.

[English]

D/Commr Peter Henschel: You are correct that there are not databases in municipalities, that sort of thing. You're talking about the new database that will be created. It's a public-facing database. What happens right now is that at the local or provincial level, there may be public interest disclosures made, but it's not a database as much as it would be a news release made to the public to say that an offender is in the neighbourhood, or whatever. There aren't these other databases that we'll be pulling in from.

The estimated cost for implementing the legislation for us, for the changes that we have to make around the sex offender registry as well as the new database, is \$6.7 million over the first five years, and then \$1.17 million ongoing. That includes the development of this new public database, which is separate from the national sex offender registry.

A/Commr Joe Oliver: I would just add as a point of clarification that the national sex offender registry database already exists, and there are 36,000 names in that database. There's a single national database for people who have been convicted of a designated offence and who are required to register.

In the provinces there are registration centres, as set out in the legislation that exists today under the Sex Offender Information Registration Act, to identify areas where offenders would go to report, register, and do their annual reporting in, as well as reporting any changes to their address, driver's licence, and that type of thing. They exist today. That's what populates and keeps the information in the NSOR database current, valid, and relevant. We can understand where offenders are, whether they've changed addresses, and those types of things. That information is also used to do queries to support investigations.

Ms. Ève Péclet: Can I—

The Chair: No, that's it.

A/Commr Joe Oliver: That is a database separate from the high-risk child sex offender database, which will be created once this bill has been enacted.

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

I want to thank our witnesses from the Justice department, Public Safety and Emergency Preparedness Canada, and the Royal Canadian Mounted Police.

Ms. Morency.

● (1730)

Ms. Carole Morency: Sorry, but could I make one correction? I misspoke on Bill C-10 reforms and the child sexual offences penalties. I think I said they came into force in 2011. It was August 9, 2012. That was a mistake. Sorry.

The Chair: Thank you that correction.

Thank you for all your service to this committee and to the public. Thank you very much.

That being said, we are adjourned until Wednesday.

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