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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)): Good afternoon, ladies and gentlemen, and welcome to the Standing Committee on Justice and Human Rights. This is meeting number 63 and according to the order of reference of Wednesday, September 24, 2014, we're dealing today with Bill C-587, an act to amend the Criminal Code (increasing parole ineligibility).

We have the sponsor of the bill with us today and just before we get started and I introduce the rest of the guests, I'll let committee members know what has happened thus far.

Jean-François and I, but mostly Jean-François, worked on getting the witnesses set up for today and for Wednesday. Two sets of witnesses could not appear either today or on Wednesday. I don't know whose witnesses they were, but it doesn't really matter, as we thought it was important to have them for this bill, so I made the executive decision to move them to the Monday when we get back after the break week next week. They will be coming on the Monday. In that Monday meeting we will deal with the witnesses in the first hour, and clause-by-clause study of the few clauses that are in this bill in the second hour.

That leaves us open on Wednesday and at this particular moment there's nothing on the schedule. We've cancelled the meeting for Wednesday, but I'm open to any discussion of what we could do on Wednesday, if you want to proceed. It's a little tight to have witnesses, to be honest with you, but otherwise....

Mr. Dechert.

Mr. Bob Dechert (Mississauga—Erindale, CPC): Mr. Chair, could I suggest that we ask Mr. Leef, if he's available, to begin the discussion on his motion on the fetal alcohol syndrome study this Wednesday? I think that is time sensitive. I believe we have to report back to the House on that by the end of March, so we could at least start that process with him.

The Chair: I haven't spoken to Mr. Leef, but is that okay?

Ms. Françoise Boivin (Gatineau, NDP): That's no problem.

The Chair: Here's what I'll do. As long as Mr. Leef is comfortable with being prepared in two days, we'll have him come—and it will be just him as the sponsor of that bill—and have a discussion, if that's fair. It might only last an hour, but is that okay?

If Mr. Leef is not available, the meeting will be cancelled, so just keep your eyes open.

That's great. Thank you, committee members.

Mr. Bob Dechert: I had put forward a notice of motion. Can we deal with that today, also on the—

The Chair: Has it been two sleeps?

Mr. Bob Dechert: We did it on Friday.

The Chair: Can we deal with it, if we have time, at the end of the meeting?

Mr. Bob Dechert: Sure.

The Chair: Today, we have Mr. Colin Mayes, the member for Okanagan—Shuswap. I'll have to go there some day.

Also, as an individual, we have Susan Ashley. By video conference all the way from Phoenix, Arizona, we have Sharon Rosenfeldt, president of the Victims of Violence Canadian Centre for Missing Children.

We're going to let Mr. Mayes set off the discussion of the bill that he is sponsoring, Bill C-587. The floor is yours, Colin.

● (1535)

Mr. Colin Mayes (Okanagan—Shuswap, CPC): Thank you, Mr. Chair, and the committee for giving me this opportunity to speak to my private member's bill, Bill C-587. I also thank you for securing a time extension so that this bill could receive review by your committee.

This bill is a continuation of Bill C-478 which was previously introduced by Mr. Bezan in the first session of this 41st Parliament. Although Mr. Bezan's bill was read twice in the House and referred to this committee, it was withdrawn after Mr. Bezan was appointed to the role of parliamentary secretary, a position that precludes him from carrying a private member's bill forward.

I also thank the witnesses who are joining us today, particularly Sharon Rosenfeldt and Susan Ashley who have lost loved ones to unspeakable actions perpetrated by violent offenders. Ms. Rosenfeldt and Ms. Ashley represent more than themselves, their families, and the loved ones who were taken from them. They represent the community of Canadians that spans our nation, the community of Canadians whose lives have been changed forever by violent offenders.

Despite the tragic losses experienced by Ms. Rosenfeldt and Ms. Ashley, they have found the strength and courage to advocate on behalf of those whose lives were stolen away and also the thousands of Canadians who face the challenges of moving on with life after experiencing trauma which the majority of Canadians thankfully have never experienced.

As members of Parliament I believe it is our duty to demonstrate solidarity with this particular community of Canadians and support their advocacy with our own work in legislating towards a society that values victims' rights. As members of Parliament it is our duty to identify and address points of our legal regimen that require improvement. Specifically to this bill, I believe we must not only examine but reform the state of existing laws governing the removal from society and long-term incarceration of violent offenders who have abducted, sexually assaulted, and murdered victims.

This bill is modelled on Bill C-48, which was passed in 2011, which allows judges to set consecutive rather than concurrent periods of parole ineligibility in sentencing those convicted of multiple murders. This bill would empower judges and juries to give stronger sentences.

In the same way that Bill C-48 now allows judges to acknowledge additional degrees of blameworthiness on an offence when a conviction of multiple murders has been established, this bill seeks to provide judges the ability to extend the period of parole ineligibility to likewise acknowledge accompanying offences of abduction and sexual assault.

All parties worked together and passed Bill C-48 and it is my hope that this bill will likewise benefit from input and support from all sides.

As members of the committee are likely aware, section 745 of the Criminal Code provides for life imprisonment for convicted murderers, subject to varying periods during which they are ineligible for parole. For first degree murder the minimum ineligibility period is 25 years. For second degree murder it varies from 10 to 25 years.

While all convicted murderers are morally blameworthy, first and second degree murders are distinguished from each other by the higher degree of moral blameworthiness associated with the first degree murder that justifies the current mandatory period of parole ineligibility of 25 years.

While some may believe that the current thresholds for parole represent an appropriate period of incarceration for a violent offender who abducted, raped, and murdered their victim, many Canadians consider this to be insufficient in instances of extreme violence and murder. As we all know, perhaps none more than our witnesses, the investigation and prosecution of cases involving multiple offences such as abduction, sexual assault, and murder combined can take years. The time that it takes to arrive at a conviction and then sentencing for a violent offender is excruciating for survivors, family, and loved ones. Regardless, as painful as it is, it is essential to a sound carriage of justice.

● (1540)

This bill seeks to provide greater certainty, and therein relief, for the families and loved ones in that once sentencing is completed, the sentencing judge would be given the judicial discretion to waive parole ineligibility for a period of 25 to 40 years, again at the discretion of the judge. If parole is to be considered for violent offenders who abduct, sexually assault, and then murder their victims, it should not occur before at least 25 years have been served.

The toll a parole hearing takes on the family members and loved ones of a victim is excruciating as they await the hearing date, when the violent offender who took their loved one presents his or her case. Why should the offender be awarded parole while family members and loved ones need to mobilize to keep the violent offender behind bars? This amounts to a system where Canadians who have already suffered tragic loss and endured years of judicial proceedings are subjected to a system that requires continued mobilization and pressure to keep violent offenders behind bars.

This bill would add three new provisions to the Criminal Code, mandating a 25-year minimum parole ineligibility period for anyone convicted of an offence under each of the following offence categories in respect of one victim: number one, a kidnapping or abduction offence, sections 279 to 283; number two, a sexual offence, sections 151 to 153.1 and sections 271 to 273; and number three, murder. The bill would also provide a judge with the discretionary prerogative to replace that 25-year minimum parole ineligibility period with a longer period of up to 40 years, based on the character of the offender, the nature of the circumstances of the murder, and any jury recommendation in this regard.

Mr. Chair, I would like to respond to inputs made by members of opposition parties in the House during the second reading debate on May 30, 2014.

During second reading debate, the question was raised as to whether or not this bill complies with the provisions of the Charter of Rights. This is an important question, and I appreciated it. I sought and received an opinion from the Library of Parliament's legal affairs and national security section. The bill seeks to provide a sentencing judge the discretion to increase the period of parole ineligibility and as such uphold the principle of a judicial discretion which provides a safeguard of the Charter of Rights. I believe this is an important strength of the bill, expanding the discretionary prerogatives of the judge with a broader range of judicial discretion rather than imposing on whole charter provisions automatic periods of ineligibility beyond 25.

Second reading debate also raised a question of the amendments proposed to the bill that would interact with the Rome Statute. It is important to note that article 5 of the Rome Statute establishes the jurisdiction of the International Criminal Court over the following four offences: the crime of genocide, crimes against humanity, war crimes, and crimes of aggression.

Therefore, the Rome Statute does not directly apply to Bill C-587 for the following two reasons. First, the bill seeks to amend the Criminal Code, which is under the jurisdiction of Canadian courts. The Rome Statute only applies to proceedings of the International Criminal Court. Second, the four offences in article 5 of the Rome Statute are not included in this bill.

In closing, Mr. Chair, I would again thank you and the members of committee for reviewing my private member's bill.

I also thank the witnesses here today who have come to provide their perspectives, experiences, and pleas.

Thank you, Mr. Chair.

The Chair: Mr. Mayes, thank you for that presentation and the review of your bill.

We have two witnesses with us.

Ms. Ashley, the floor is yours for 10 minutes.

Ms. Susan Ashley (As an Individual): Thank you for giving me this opportunity to speak to you today. I'm here with a very difficult but important task of representing my family.

My mother and father were made to endure every parent's worst nightmare. In 1978 Donald Armstrong abducted, raped and murdered 16-year-old Linda Bright, my sister.

Linda was at the Frontenac Mall when she disappeared. Her body was found on a rural road the next day. There were binding marks around her wrists and a deep red ring around her neck where a ligature had been squeezed. She had been dumped on the side of the road like garbage.

Armstrong was convicted of the vicious rape and murder of Linda. At trial a leading psychiatrist described him as a dangerous psychopath. Armstrong's own mother testified that his anti-social behaviour began at the age of five and never stopped. As a youth he set fire to his family home and on another occasion stabbed his sister. Armstrong's mother described him as impulsive, with no feelings of remorse or guilt, and with an extreme anti-social personality.

In 1973 he kidnapped a woman in Halifax where he held a knife to her two-month-old baby and threatened to kill the child. Armstrong was also charged with the 1977 murder of Glenna Fox. Ms. Fox was stabbed repeatedly in the chest with a chisel in the parking lot of a shopping mall. At the time he was out of prison on a temporary pass.

Armstrong was charged with the abduction, kidnapping, and forceable confinement of a 31-year-old woman in Winnipeg in 1977. He held a screwdriver to her face and tied her wrists. Fortunately she escaped with her life.

Also in 1977, Armstrong stabbed a woman named Rita Bayer with a screwdriver as she sat in her car in a parking lot. He was convicted of attempted murder.

So, like other notorious killers, you now know Donald Armstrong.

Our family began attending parole hearings in 1997 when we attended Armstrong's section 745 faint hope clause hearing. The initial shock was unimaginable. We were told at the time of conviction we would never see him again. Fifteen years later preparing for our first hearing, we felt very much betrayed. We have been called upon since 2007 to prepare ourselves for other parole hearings. Every two years I receive a notification of hearing. Fortunately for us, Armstrong has continuously postponed hearing after hearing. We did not have to continually attend hearings; however, the emotional preparation in itself year after year is very painful.

Having a loved one taken in such a horrific manner causes a lifetime of reoccurring grief and emotional devastation. Having to relive such pain over and over and deal with the fear of the possibility of his release and physically facing him in person is simply cruel and terrifying This pain and fear runs so deep it is unimaginable to those who have not experienced it. Allow us to keep this pain tucked away deep for it never heals; it is just managed. It is extremely emotionally and physically exhausting.

My parents are aging. They can no longer bear the turmoil that these hearings create. Sharing a victim impact statement revealing your raw pain and memories is unimaginable.

To spare my parents' suffering, I take the responsibility to speak on behalf of my family. This in turn creates guilt for my parents as the burden is now mine. I am 51 years old. Armstrong is 59 years old. Can you imagine how many years, how many hearings, how many court appearances there will be and will amount to be? When I can no longer do this, then I will suffer the guilt of having to say “no more”.

Bill C-587 will not affect my family. We will continue to be called upon for hearing after hearing with many delays in between. We have nothing to gain.

I speak to you today to hopefully save other families from having to endure the cruelty of reliving their horror and continued re-victimization. And I urge you to pass Bill C-587. This bill is intended for the notorious criminals who commit the most horrific crimes, the monsters. This bill is for those who should never be allowed to have access to the people of this country. Most important, this bill is for the poor family members of the victims who will fall prey to these predators.

● (1545)

These hearings cause nothing less than a lifetime of victimization. There is hearing after hearing.

Had this bill existed in 1982, my family would have been spared so much unnecessary pain. We would have been able to maintain the faith we originally had in the courts and lived for many more years without having such a burden to bear. You cannot make any changes that will help my family, but you can protect many future families from so much unnecessary suffering.

Thank you for this opportunity.

● (1550)

The Chair: Thank you, Ms. Ashley, for sharing your thoughts on this bill with us.

Our next presenter for this panel is Ms. Rosenfeldt. The floor is yours.

Ms. Sharon Rosenfeldt (President, Victims of Violence Canadian Centre for Missing Children): Good afternoon, members of the Standing Committee on Justice and Human Rights, as well as Mr. Mayes and Susan Ashley.

I wish to thank the committee for inviting our organization, Victims of Violence, to present our views on Bill C-587, an act to amend the Criminal Code (increasing parole ineligibility).

As president of Victims of Violence, I will be speaking in support of this bill.

The enactment of the bill would amend the Criminal Code to provide that a person convicted of the abduction, sexual assault, and murder of a victim in respect of the same event or series of events will be sentenced to imprisonment for life without eligibility for parole until the person has served a sentence of between 25 and 40 years, as determined by the presiding judge after considering the recommendation, if any, of the jury. We support this bill for a number of reasons.

Today we are talking about the threat posed by violent, dangerous criminals. We are talking about the worst of the worst offenders. We are talking about a classification of criminal who could essentially never be released, who goes out hunting for human beings, many of them children, as their prey to commit the most egregious acts upon them. We are talking about a classification of criminal who creates havoc within our respectful justice system. By that I mean that the Canadian public has consistently expressed concerns on this classification of criminal who impacts directly on their confidence in our criminal justice system.

We also support this bill from the lens of a victim's family who also received a life sentence. The judicial branch of government should always be neutral, but neutrality does not mean that one side is forgotten. The prevailing notion that a crime is against the state fails to recognize the victim.

On a personal note, it was not the state who was abducted, raped, and murdered; it was my child. It was my son. As his mom, I will always be there to represent him.

There is no mythical closure for us, at 25 years or even at 40 years; however, this bill will help in our not having to attend parole hearings every two years, which once again opens old wounds and scars that never heal, even though we try to move forward and build a new life after the violent murder of our loved one.

The degree of trauma the victim's family suffers depends on the nature of the crime and the extent to which he or she can tolerate post-traumatic stress.

We support this bill because it includes three crimes. Currently this classification of criminal is sentenced for one crime, that of first degree murder, and many victims feel the abduction and sexual assault are thrown in as freebies. This bill will rectify that issue.

We support this bill because, although we have a dangerous offender designation for a certain classification of offenders, in the case of murder, with a life sentence, the dangerous offender designation is rarely used even when the offender is found guilty of particular grievous offences.

In closing, the public rightfully expects and trusts that governments will do everything in their power to protect our children, our families, our communities, and that is what this bill is about. That is why our organization, Victims of Violence, supports it.

Thank you.

The Chair: Thank you, Ms. Rosenfeldt.

We will now go to the rounds of questions.

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

● (1555)

[*Translation*]

Ms. Françoise Boivin: Thank you, Mr. Chair.

[*English*]

Thank you to our witnesses for being here today.

You are right, Ms. Ashley and Ms. Rosenfeldt; we probably cannot even come close to understanding what you've lived, so I won't even try to imply that I do. We don't. We can do it in an intellectual way, but definitely not with the same amount of emotion and hurt that you must feel. It gives me shivers just hearing what happened to your sister and to all the cases you were talking about. There is nothing worse than that.

We have a job to do, which is to look into legislation and see what we can do with it.

My questions will be mostly for Mr. Mayes, not because I don't understand your feelings. Ms. Ashley, if this legislation were in force right now you would probably be preparing to go in front of the parole board for the first time. I'm sure it would probably be as fresh in your mind as if it were yesterday. It's something that you never forget, I'm pretty sure.

Mr. Mayes, you said you obtained some legal advice, but you talked about the Library of Parliament. The Library of Parliament, and correct me if I'm wrong, does a legislative analysis but they do not give legal opinions. I think we asked you during debate at second reading in the House if you went further than that. Either through the Department of Justice or the Minister of Justice, did you get some analysis on what, let's say, a judge would impose? The jury would have said that this is such a disgusting case the person first of all will get life and will probably [*Technical Difficulty—Editor*] for ever, and thank God for that, but here's the 40 years before.

Do you have some legal analysis on the constitutional grounds? Aren't you afraid that type of decision might be thrown out of court based on section 12 of the Charter of Rights?

Do you have anything to add to what you obtained from the Library of Parliament in the way of legal advice?

Mr. Colin Mayes: I can't answer as to whether or not the library sought legal advice from a lawyer. I don't know if they have those skill sets on staff. They explained it's at the discretion of the presiding judge so it doesn't take away from anybody's rights.

Quite frankly, 25 years is a random number. Who thought of that to start with? Why did they decide on 25 years? Quite frankly I think that at that time, 25 years was a long term but today, as people live longer, it's not as long.

I've talked to the Minister of Justice about this and he never brought up anything that would be contrary to the charter.

Ms. Françoise Boivin: Thank you.

I agree with you. The fact that they said “discretion” in a sense defeats the purpose of what the witnesses are saying, because they're hoping that it will be the case. Aren't you afraid that they might never apply it because of that discretion? It's a catch-22. If you had put it as an obligation of the court to impose, we definitely would be seeing that case in the Supreme Court of Canada, but the fact that it's a discretion doesn't mean that if a judge imposes it, the decision will not be sent to the courts.

That's why I think it's so important to get that legal advice that would say, based on the jurisprudence, the specific cases that are in the purview of this bill. The fact that they're horrible crimes, not just any petty crime. It's people like, to use the words of Ms. Ashley, a dangerous psychopath. We think of Bernardo. We think of these people. I still say there's that aspect that is still very questionable in the file on that basis.

I'm afraid the jury might say that this is such a disgusting individual there's no possibility of parole for 40 years, and the judge will say he's afraid it will be contested and just go on with the 25 years. So we're doing it for nothing.

Do you have statistics on the number of cases your bill could apply to?

● (1600)

Mr. Colin Mayes: I don't have them for the committee right now, no.

Ms. Françoise Boivin: Okay.

Mr. Colin Mayes: Could I answer that? The fact is that you know some of the history of minimum mandatory sentencing laws, for instance, and that the judges haven't necessarily honoured them. Quite frankly, they would check with it being contrary to the charter. So it's hard to say what a judge.... If we asked a number of judges to give us an opinion, it doesn't necessarily mean that when it goes before a judge it will be upheld.

I think we've done our due diligence in looking at our perspective of the fact that it is at the discretion of the judge. That's why I felt comfortable with the fact that we weren't giving a mandatory time limit on the eligibility, because then we were forcing the judges' hand. We were dictating to them what their judgment shall be.

Ms. Françoise Boivin: I'm just afraid it won't be applied in the sense of what the victims would like to see. Have you checked Bill C-32 to see if there would be an impact on the changes?

Ms. Ashley and Ms. Rosenfeldt, maybe you followed our study of Bill C-32, the Canadian victims bill of rights. Do you see anything there that could remove some of the feelings you have to live with in your specific situations?

Mr. Colin Mayes: I think this bill complements the victims bill of rights, because this bill is focused not on how the judge handles the cases as much it is on protecting the victims' families so that they don't have to go through those parole hearings. That's where the focus is.

The intent of it is not so much to be more stringent on parole eligibility as it is to ensure that the families don't have to go. You've heard the testimony about that. That's what has driven this bill.

Ms. Françoise Boivin: I understand that.

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

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

Mr. Bob Dechert: Mr. Chair, it sounds like we might see an amendment from the NDP to make these provisions mandatory, which would be interesting. I look forward to that discussion.

Ms. Françoise Boivin: You're getting funny in your old age.

Voices: Oh, oh!

Mr. Bob Dechert: Mr. Mayes, I understand that when you spoke about this bill in the House of Commons you said, “The seriousness of offences set out in the bill would ensure that the parole ineligibility period would only be applied in cases” where murderers have a “lack of remorse and if the act of violence was a heinous and brutal act of violence or sexual assault ending in murder.” Also, you said, “Allowing for judicial discretion and not a mandatory minimum sentence...”, as we've just been discussing, and again today you've said that this would give the judge additional discretion.

Tell us why that's important and why you chose to go that route in this bill.

Mr. Colin Mayes: I think the existing law actually handcuffs the judges to that 25 years. Just imagine presiding over a case where you hear about some heinous things that have happened and you look at the offender, at the character of the offender, and you see no remorse. You see a violent person. Then you look at the nature and circumstances of the murder and you say, “My God, this person shouldn't be out of incarceration, because there's something wrong here”, but you can't do anything but give the minimum, the 25 years. This gives the presiding judge an opportunity to assess that.

As I stated earlier, the jury might even have a recommendation that they observe in the circumstances of the case and that they feel would be reasonable in protection of the family. The families are there. The fact is that if you've lost a young child, you might only be 25 years old. You might be dealing with this at 50 and then every two years after that. That's terrible.

This is the intent of the bill: to ensure that we have considered the victims in these violent crimes.

Mr. Bob Dechert: Thank you.

Ms. Ashley, I want to extend my condolences through you to your family for the terrible experience that you and your family went through with respect to your sister's murder.

You've told us about this particular murderer and all the other assaults and murders that he committed, I guess subsequently to murdering your sister. What I was very struck with was that you used the phrase that what happened to your sister, then the sentence that murderer received, and I guess the offences he committed subsequently, destroyed the "faith" that you originally had in the court system in Canada. I think that's very important. Canadians need to have faith in their judicial system, that it actually delivers a sentence that's appropriate to the severity of the crime.

Can you tell us a little more about how your faith in the criminal justice system was affected by the case and about your experience and your views on the views of Canadians generally in terms of faith in our criminal justice system when it comes to sentencing?

● (1605)

Ms. Susan Ashley: I actually thank you for mentioning that, because a lot of people don't understand that for a family, when such a horrific crime occurs, it's their first exposure to the courts. This is not something we do every day. This is new to us. You're only as good as the person sitting next to you, who might be able to help guide you through this.

When we went to that court appearance, I would have been in my teens. I'm 51, so I was 19 when I sat in court and watched the judge say, "Guilty, no parole, convicted. Guilty, life in prison." So first of all, as Canadians, my family sat there thinking that they were putting him away forever and that nobody else would ever, ever, ever have to be a victim of this. That was the first time we believed that he was going away forever. The judge said that he was going away forever. The police and everybody told us he would be going away forever.

Fifteen years, which may seem a lot to some, goes by really fast. When that first phone call came, it was such a shock. We kept saying, "No, no, no, you're wrong", because we were told he was going away for life. What boggles my mind is that in all the years I've been doing this, when I tell this story, the people of this country, Canadian citizens, do not know what the reality is, which is that when the section 745 hearings existed, nobody knew. We didn't know.

I remember reading an article about Clifford Olson's section 745 hearing. Not a word of a lie, but a month later I remember thinking to myself, "Thank God that doesn't apply to us." A month later, we got the phone call. I said, "No, that's not what the court said." The betrayal was unbelievable, because you can't go back and say, "That's not what you said."

Mr. Bob Dechert: In your particular case, the murderer did get out at least on some kind of temporary pass, you said, and then committed another offence—

Ms. Susan Ashley: No. Because of the fact that they took two years to investigate to find out who it—

Mr. Bob Dechert: It was during that period.

Ms. Susan Ashley: Yes. They were all overlapping each other. Then yes, for every two years, when you know he's not going to get out, people of this country do not.... It doesn't apply to many, but Canadians would never, ever be able to understand, for the few who it does apply to, how horrific it is.

Mr. Bob Dechert: It impacts the general population's view of our criminal justice system when they read about these cases.

Ms. Susan Ashley: It does, because people do not know. In all the years I've been doing this, I've never met one person who realized that what I was saying was true.

To have faith in your government and your courts is everything. When you lose that.... Then, to deal with Corrections Canada for many years, believing that Corrections Canada will get it right.... They don't get it right. There has been lie after lie. There's been battle after battle, where what you believed is so not true.

Mr. Bob Dechert: Would the passage of this bill partially restore your faith in the criminal justice system? Do you think it would do so for others?

Ms. Susan Ashley: Oh, it would mean everything. It would restore mine, because then I would think that the government is listening, that they realize what the error was. Back in the 1970s when all of this happened, nobody thought to pass—

Mr. Bob Dechert: I'm sorry, but I want to ask Mrs. Rosenfeldt a quick question.

Ms. Susan Ashley: Yes, sorry.

Mr. Bob Dechert: Thank you very much for that.

Mrs. Rosenfeldt, I was struck by two things you said. You mentioned post-traumatic stress for families of the victims, and you mentioned that you think the dangerous offender designation is rarely used. Could you address both of those? Could you tell us why you think the dangerous offender designation is rarely used and tell us a little more about your view of the post-traumatic stress felt by families of the victims of these kinds of crimes?

● (1610)

Ms. Sharon Rosenfeldt: To my understanding, Paul Bernardo, I think, has been given the dangerous offender designation, but it is very rarely used. I don't know of any violent criminal other than Paul Bernardo who has been designated as a dangerous offender. I believe the courts, the crown prosecutor, the judges feel that once they are sentenced to life imprisonment, what's the point of a dangerous offender clause?

With regard to post-traumatic stress, it is very, very difficult. Every victim responds differently. Some victims have such a hard time attending any of the parole board hearings that they would prefer to be possibly in a different room. I don't understand how, in a country as great as Canada is, we even have to consider the well-being of victims a maximum of 25 years after the crime. As Susan mentioned, we've all gone through the 15 years; now it's the 25 years, and 25 years is not very long at all. It's just hard to believe. After 33 years of doing this, I still find it hard to believe.

But it is getting better. I don't understand individuals who are more concerned with the charter issues in relation to legislation than they are in relation to victims. We have decades yet of victim awareness to be brought forward. We're on the right path.

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

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

Mr. Sean Casey (Charlottetown, Lib.): First, Ms. Ashley and Ms. Rosenfeldt, thank you very much for your powerful testimony. I align myself completely with the remarks offered by Madam Boivin at the outset of her comments. I won't repeat them, because they were much more eloquent than I could ever state.

I too will be directing my questions primarily to Mr. Mayes. Please don't take that as an indicator that your testimony hasn't been impactful and powerful, because it has. There is no doubt that this bill is directed at minimizing the trauma in the cases you have identified. That's crystal clear, in part because of what you've said. It will have other impacts, and those are the ones I want to explore. I mean no disrespect to anything that you have said by focusing on those other things. The fact is that the issues you've raised are absolutely clear. We get it, so thank you.

Mr. Mayes, you indicated that you have an opinion from the Library of Parliament. Will you provide it to the committee?

Mr. Colin Mayes: Certainly.

Mr. Sean Casey: Thank you.

As I indicated in my opening remarks, there's no question that one purpose of your bill is to minimize the trauma on families. That certainly is a laudable goal that we all share. Offenders who are in the class targeted by your bill will now be faced with another 15 years without eligibility for parole. Would you agree that this removes one incentive for them to be good citizens on the inside?

Mr. Colin Mayes: Mr. Casey, I have to say that when I first was approached to carry this bill forward, as a person of faith I had a hard time getting my mind around it, because of course I believe in confession and forgiveness and reconciliation, but I came to the determination that justice should not be trumped by compassion. Society expects justice. Quite frankly, there could be a person who has 40 years before parole who has turned their life around, and that is great, but they still have to pay their price to society. I think they need to recognize that and we need to be firm with that.

● (1615)

Mr. Sean Casey: Do you accept that this is entirely likely to make the job of correctional officers more difficult and more dangerous because there's one less incentive for these criminals to behave in a less destructive way while incarcerated?

Mr. Colin Mayes: You're speculating and I don't necessarily agree with that statement.

Quite frankly, if they are less inclined to be cooperative because they are going to have to wait for 40 years for parole, they shouldn't be let out in the first place. They shouldn't be let out in 25 years. Let's face it; if they're that type of person who is not remorseful and is not willing to understand the gravity of the crime and that they have an obligation to society to fulfill that punishment, then quite frankly, they shouldn't be paroled earlier than whatever the judge decides.

Mr. Sean Casey: Have you had any consultations with the representatives of correctional workers to determine whether they have any of the concerns that I've identified?

Mr. Colin Mayes: My concern in this bill has not been the offender; it has been the victims, and so I have talked to a lot of victims. I'm not going to take all my time, or any time, to talk to the offenders.

Mr. Sean Casey: I didn't ask whether you had spoken to the offenders; I had asked whether you had spoken to the people who guard them.

Mr. Colin Mayes: No, I haven't.

Mr. Sean Casey: Thank you.

Can you give us an appreciation for the impact of this bill? How many people who are currently incarcerated would be impacted? How many of these types of horrific cases have there been, say, in the last 10 or so years?

Mr. Colin Mayes: First, Mr. Casey, this bill will not be retroactive. I think that has been plain from the beginning. It will be just those future cases. I have a binder with the file of a number of cases right back to Clifford Olson and some of the things that he's done at parole hearings in harassing the victims of his crime, but I haven't got a fixed number of how many cases.

It's not for me to make that judgment of how horrendous the case is, whether or not that qualities as a heinous murder. It's up to the judge to make that determination, not myself.

Mr. Sean Casey: No, I disagree with you on that. You've specifically set out sections of the Criminal Code, and if there's an offence contrary to those sections of the Criminal Code for which there has been a conviction, then these sections apply. This is something that should be readily available—

Mr. Colin Mayes: Yes, you're right.

Mr. Sean Casey: —as to how many of those cases have there been. What is the impact of the problem you're seeking to address in numerical terms? I realize in human terms it's immeasurable, but what is it in numerical terms?

The Chair: If you don't mind, Mr. Casey, I actually have the answer based on input from the analysts. There are 636 designations for dangerous offenders since 1978. That's as of 2013.

Mr. Sean Casey: Thank you for that helpful information, but a dangerous offender is not necessarily one who has been convicted of the three classes of offence that are the subject of this bill. There would be a whole lot of others.

The Chair: This is the number of those who have the designation.

Mr. Sean Casey: Yes.

The class of offenders who are subject to this bill, the minimum period of parole for all of them is now 25 years. Right?

Mr. Colin Mayes: Correct.

Mr. Sean Casey: Okay, so this gives discretion to a judge to take it from 25 up to as high as 40.

Mr. Colin Mayes: That's correct.

Mr. Sean Casey: Okay. Has there ever been anyone who has committed the offences that are set out in your bill, so the class of offender that you are targeting, who has been granted parole?

● (1620)

Mr. Colin Mayes: Not to my knowledge, but I go back to the case that this is not about the offender; this is about the victims. Why don't we add up the number of victims who have had to go to parole hearings and go over the offence, and have had to hear that over and over again at every parole hearing? Let's talk about those numbers. Let's not worry about the offenders in this bill.

Mr. Sean Casey: It's your intention that this will keep the dangerous criminals behind bars longer. Right?

Mr. Colin Mayes: I just finished saying that they're going to be.... All of them have been behind bars for life. Correct? What's the question that you're asking, then?

Mr. Sean Casey: Have you done or obtained any sort of an estimate of increased costs to the system that would be incurred because of this?

Mr. Colin Mayes: I don't like to attach costs to justice. I'm sorry.

Mr. Sean Casey: Fair enough. Thank you.

The Chair: Thank you for those questions and answers.

Our next questioner is Monsieur Goguen from the Conservative Party.

Mr. Robert Goguen (Moncton—Riverview—Dieppe, CPC): Thank you to all our witnesses. Your testimony is certainly very helpful, and certainly, you have our deepest sympathies on your plight, Ms. Ashley.

I think you've captured the essence of this bill. One of the salient features of what this bill is trying to do is basically to reduce the number of parole hearings that one would have to attend. That in itself can be a complete trauma. It's thought that maybe making people ineligible for parole for 40 years could save families as many as eight parole hearings, and I think one alone would probably be sufficient to satisfy the test of what this bill is trying to do.

Thank you for presenting it, Mr. Mayes.

Some time ago, back in 2012, in the *London Free Press*, there was a quote from you, Ms. Ashley. I have it here, and if you don't mind, I'll read it out loud:

> If they let him out he will be somebody's neighbour, he will [have to] live by somebody's child's school. He will walk the streets of somebody's town. I can't bring my sister back, but I can certainly warn the public. We don't want this to happen again.

It's clear that one of your motivations, and I think it's a very solid one, is to keep the offenders behind bars, because in walking the streets they're an absolute danger. I mean, they're the stuff that the Stephen King movies are made of. Right? We know that in some instances these people will be released. This is not retroactive. Some offenders who are guilty of similar crimes, as horrific as that is, will eventually be out.

Do you see any value in perhaps warning the public, in publishing the names of these high-risk offenders on some sort of registry, so that communities can in fact, despite the fact that they're walking our streets, have some warning of what danger they present and where they would be? Would that bring any kind of comfort despite the fact that these monsters are walking about in our communities?

Ms. Susan Ashley: It would. It would be a great opportunity for people of this country to know exactly who their neighbour is, especially for these types of offenders, because they're predators. They do horrific things.

I think the people of this country deserve this and should have the right to know what these people have done and that they're walking the streets, definitely.

Mr. Robert Goguen: This government has put in place legislation that gives the capacity to the corrections officials to release people and restrict the areas where they could be if there are very good facts. Obviously, you know that restricting somebody from being released in a community near where a victim lived...surely that would have some merit in your mind. I mean, it can't help but be so.

Ms. Susan Ashley: To be honest, it's almost hard to even fathom what you're saying, because I see these people as.... There is no course that they can take in prison to fix themselves. They're psychopaths. They're predators. They cannot change. They cannot be fixed. In arguing that they are now in the community, other than putting flashing red lights on them, people are not protected from them because—

● (1625)

Mr. Robert Goguen: It's not an option.

Ms. Susan Ashley: It's not an option, because they cannot be cured. They cannot go into prison for 25, 40, or 100 years and be fixed. There are no courses to fix these people, because you're talking about such a small minority of criminals: the Olsons, the Bernardos, the Armstrongs, the psychopathic ones who are predators looking for their victims. They can't be fixed, so I don't think there's anything we can do to protect people of this country.

Even putting a sign on them is not going to protect the public. They shouldn't be there in the first place and have access to people. That's the whole point of our government keeping them in custody for life. That's what the courts are saying: it's life. Then they talk about 15 years and about 25 years. At what point...when is "life" life? What do they have to do to justify a life sentence?

You cannot give your empathy and your sympathies to the offenders. That's not fair. We're paying the price every day of our lives. I am so tired after all these years of being spoken to by people from Corrections Canada and other government agencies like I'm the bad person, because I'm making it so difficult for him and I'm causing him so much grief. I have to get the story to the public so that the people in the government, I feel, have to really watch what they're doing. I make sure that the public is watching the government and what you're doing, because if we don't do what we're doing.... The faith in Corrections Canada is minimal as well.

When you say that you're going to protect us from these animals, then do it. Keep them locked up, for Pete's sake. Twenty-five years is nothing. They can't be fixed.

Please stop giving your sympathies to them. I've been told how much grief I've caused Donald Armstrong. I'm sorry, but I've watched my parents, since 1978. You have no idea what it's like for these families and what they're dealing with. Then to be told that we're causing them grief? I don't care.

On your comment about the jail guards, my husband is a jail guard, and I can honestly tell you that he would not question this bill, because if they're going to be bad in prison at 25 years, they're going to be bad at 20, 30, or 35 years. You can't just put a number on it. If you're not going to make life true life, at least give the courts the opportunity to give them 40, so we can walk out and say that for 40 years we don't have to look back.

This is not what we want to live and breathe. This is not our world. We want to do what you do and have families and raise children.

Mr. Robert Goguen: You've talked about the obvious obligation of the government to protect the public. Physically, of course, that's one thing, but it seems to me that there's also an obligation to protect the psyche of those who are affected by it, because this is something that's in your life forever. If you'll permit me, I'll share an anecdote that really bolsters your fears and your continued fear.

In the 1980s, Allan Legere, who is now a dangerous offender, ran rampant in the Miramichi and killed a number of people in very horrific crimes. Corrections Canada recently released him from a maximum security prison in Quebec and transferred him to a security prison in Edmonton. This is all publicly known. The outrage from the public of the Miramichi was absolutely horrendous. He is now 63 years old. He had escaped before, but just the fact that he was transferred to a prison of somewhat lesser than maximum security was enough to strike much fear and cause controversy in this community in Miramichi, New Brunswick.

Thank you, Mr. Chair.

Ms. Susan Ashley: May I make a comment, Chair?

The Chair: Yes, very briefly.

Ms. Susan Ashley: I'll be very quick.

Donald Armstrong is in minimum security. I fought to keep him in medium security. He's not. He's in minimum. When I found that out.... I have two teenage daughters at home. He knows who I am and where I live and that I have two teenage daughters. The fear is unbelievable. I'm racing home every day to make sure he's not at my home, because he gets everything.... He knows everything I've said and done over the years.

It causes a tremendous fear. All I want to do is raise my children and protect them and my nieces and my parents. That's what I do. I want the government to do that.

The Chair: Thank you very much.

Thank you to our witnesses.

We're going to suspend for a few minutes because the next panel is also by video conference. I want to thank—

A voice: [*Inaudible—Editor*]

The Chair: Not in this panel, but maybe in the next one.

Mr. Mayes, thank you very much.

Ms. Ashley and Ms. Rosenfeldt, thank you very much for your presentations.

We'll be dealing with this, as you heard, in the second hour. Two weeks from today, we'll be doing clause-by-clause study.

We'll suspend for two minutes.

● (1625)

(Pause)

● (1630)

The Chair: Ladies and gentlemen, we're having some technical difficulties connecting with the British Columbia Civil Liberties Association by video conference. While we're waiting for that, if you don't mind, we could deal with some other committee items. Then we won't have to deal with them at the end.

First of all, I don't know if committee members have noticed how depressed I've been this last week. There are no supplementary estimates (C), which means there is no supplementary meeting happening here. It's very depressing for me.

An hon. member: We're all depressed.

Voices: Oh, oh!

The Chair: It means proper budgeting by the justice committee, I guess.

At any rate, a notice of motion has been put forward by Mr. Dechert. Let me read it:

> That, in regard to the motion adopted by the House of Commons on November 26th mandating that the Standing Committee of Justice and Human Rights undertake a study on the topic of fetal alcohol syndrome, up to ten members of the Standing Committee on Justice and Human Rights be authorized to travel to the Yukon, during the week of March 1–7 or the week of March 15–21, and that the necessary staff accompany the Committee.

Before I turn to you, Mr. Dechert, March 1 to 7 is way too tight, so we'll have to drop that one to start with. It is a break week.

The floor is yours, sir.

● (1635)

Mr. Bob Dechert: I apologize for that. I think this was drafted some time ago. Clearly we don't have time to arrange it for next week.

I think it would be very helpful if we could go to the place, or one of the places, where this issue is most important, most relevant, and where people have the most experience with it. Certainly Mr. Leef has made the case to me that it is a very significant issue to the people of the Yukon. It would seem to me that it would be very helpful for this committee, in understanding this issue and how we should potentially suggest the government deal with it in regard to the Criminal Code, to have at least one or two meetings in Yukon and to hear from the people of the Yukon, who deal with this issue on a daily basis.

That's the reason for my motion, Mr. Chair.

The Chair: Thank you very much.

Madam Boivin would like to speak to this.

Ms. Françoise Boivin: Thank God I had the weekend; if I'd talked to you right away, it might not have been as nice as what I will say right now in a very gentle voice.

Thank God you corrected yourself. It's not the only place. The Yukon is not the only place. I look at past experiences with our committee and all the studies we've done. I look at the *langues officielles* section that we had to analyze. I look at the situation of this bill, an important bill that we had voiced our support for and our willingness to adopt really fast, like in one day. Instead, now we have a full study.

I look at the big study that was already done on *l'alcoolisation foetale* in 2006. Mind you, it was maybe more on the angle of health, but still, we know this touches

[*Translation*]

inmates in federal penitentiaries and some communities across Canada.

[*English*]

There's also the cost. We're good at what we do here in Ottawa. People who know me know that I object personally, not for political reasons but simply on the basis of funding. It's the public purse. To do a trip with 10 MPs, plus

[*Translation*]

everyone involved, the staff, the interpreters, the clerks, the Library of Parliament employees who prepare everything for a single item.

If we want to undertake a major study and go to several places, we could think about it. However, it has the air of electioneering orchestrated by the Conservatives to compensate for the fact that you forced one of your members to put his bill on hold. Anyone following the matter knows that this is creating a few waves in his area. I think that we should not start playing political games because this is too serious an issue. We could do the study here and have witnesses come here or speak to them by video conference

I take pride in saying that our committee's expenses are reasonable, but that this would be an excessive expenditure. It would cost almost $50,000, when we could have passed a bill. The study would have been very advanced in less than one month.

Seriously, I see no reason to go there. In my opinion, the motion is an affront, and I am saying that as gently as I can.

[*English*]

The Chair: Are we going to be debating this for much longer or should I go back to the witnesses?

Mr. Dechert.

Mr. Bob Dechert: I just wanted to make one secondary point.

I'm a little confused at Madam Boivin's comment, because she said in one breath that going to more than one place would maybe be a good idea, but that going to just the one place in the Yukon would be a bad idea because it would cost too much.

The point I think it's important to make here is that the justice committee doesn't very often do these kinds of general studies. Typically we just deal with legislation and we deal with the bar associations and organizations of that sort that are used to coming to Ottawa and appearing before committee.

I think this is a very sensitive issue, and many of the people who would appear and want their voices to be heard are the kinds of people who are not familiar with coming to Ottawa and appearing before committees. I think it would show a lot of compassion on behalf of the members of this committee to go to a place like Yukon. If Madam Boivin thinks there are another one or two stops that we could make along the way in the same week, we would certainly be willing to entertain that idea. It's not just about Yukon, but that certainly is one place where it is a significant issue as Mr. Leef has presented it to me. He very much supports this idea and he thinks it would be very much appreciated by the people who care about this issue.

● (1640)

The Chair: Thank you.

Madam Boivin.

[*Translation*]

Ms. Françoise Boivin: I also do not think that we need to go to four or five places. I am simply saying that we cannot focus only on the Yukon.

Just imagine that we are in the Yukon doing this study and that people from Toronto want to come and speak on this subject. Witnesses from all over will be asked to participate in this study. In that case, would we go to Toronto? Would we make them come to the Yukon? We have conducted all our studies here. I do not want to change the habits of people who are not used to coming to Ottawa. We have used means such as video conferencing before.

I think that it is so telegraphed. It is definitely in order to create enthusiasm for a private member's bill that had to be put on hold. It was transformed into a more vague study so that it takes more time.

The cost would be astronomical. Mr. Chair, do you have any idea of how much it would cost just to get to the Yukon? I did some research on the weekend and it would cost at least $40,000 to $50,000.

With that money, we could tour all the courts and all francophone communities. Mr. Goguen, we did a study on the Criminal Code, which was mandatory. However, we were able to do a serious study from Ottawa. I believe that we can do a serious study of the bill in question, which has morphed into a study.

The Chair: All right. Thank you.

Mr. Goguen, you have the floor.

[*English*]

Mr. Robert Goguen: I just want to make the point, Mr. Chair, that the reason this bill was rolled into a study was that the scope of the bill was limited to mental illness associated with fetal alcohol syndrome. This bill was believed to have such merit that we wanted to study it so that it would be applicable not only to fetal alcohol syndrome but also to other instances of mental illness. There was no mischief intended in making a study of what is a wider and more meritorious scope.

The Chair: Is there anything further before—

Ms. Françoise Boivin: That's an important point and a valid one, but there is all the more reason then to make it a study that we can do here at way less cost to taxpayers. The problem may be bigger than this, and when you're talking about mental health, there are problems in every one of our communities. That being the case, that would be excellent, but I know there are a lot of people who will want to come and talk to us and that's not a problem. But we can do our work from here at way less cost to the taxpayers of Canada.

The Chair: Okay. The item has been moved by Mr. Dechert. I think there's been a thorough discussion on it.

All those in favour of the motion?

(Motion agreed to)

The Chair: What happens next? I've never had a travel one before.

We'll have a discussion on dates; we'll present a budget, which will have to go to liaison committee, and at liaison committee they will decide whether or not we're able to travel...?

A voice: After the House.

The Chair: After it goes to the House for assent.

A voice: It needs unanimous consent in the House.

The Chair: So it looks like we might not go anywhere. At any rate, it's an option.

Thank you very much for that, Mr. Dechert. I'm sure you're packing.

Let's get back to the issues of the day.

Today we are dealing with the order of reference of Wednesday, September 24. We're dealing with Bill C-587.

For our second pane, we welcome Mr. Krongold, a director with the Criminal Lawyers' Association, and by video conference from Vancouver, British Columbia, we have Mr. Paterson, executive director of the British Columbia Civil Liberties Association.

Mr. Paterson, can you hear us okay?

● (1645)

Mr. Josh Paterson (Executive Director, British Columbia Civil Liberties Association): Yes.

The Chair: Beautiful. Thank you very much.

With that, Mr. Krongold, the floor is yours.

Mr. Howard Krongold (Director, Criminal Lawyers' Association): To start, let me thank you, as always, for inviting the Criminal Lawyers' Association to speak to you about this bill.

Defence lawyers rarely face the kinds of cases that this bill relates to, and one rarely relishes representing people charged with these kinds of crimes. It's one of the hardest things one can do as a professional. Defence lawyers are human beings, of course, and we find these cases difficult to deal with, professionally and personally, just like anybody would. We certainly learn from the inside out of the cruelty and gruesomeness that occurs in a lot of the crimes of the sort that this bill relates to. I think nobody would want to understate the heinousness of the sorts of offences that this bill generally relates to.

However, I hope there is still room at the table for a voice of reasoned moderation, even when looking at a bill that deals with such serious offences for such serious offenders. I think the starting point is to perhaps look a little at where we've come from legally in the current regime we have in sentencing for murder.

When capital punishment was abolished in the 1970s, part of the compromise struck by Parliament was to impose an extraordinarily harsh and exemplary sentence for the worst of the worst offenders: individuals convicted of first-degree murder. That exemplary sentence was life without parole for 25 years.

Even though that sentence was intended to be harsh and exemplary, it was widely viewed as being so crushing as to put the hope of release too far out of sight. As a result, Parliament introduced the faint hope regime, the view being that a sentence that precluded any possibility of release for even more than 15 years would undermine our belief in the possibility of reform and rehabilitation. There were also concerns expressed about endangering corrections staff and other inmates by putting offenders in a situation where they had no chance of release, potentially for the rest of their natural lives.

We know that faint hope has been gone since about 2011, so we've gone from a situation where we viewed 15 years as much of a sentence as anybody could reasonably be expected to take, to 25 years. Here we are with a bill that would take us a step even further, adding from that 10-year increase another potential 15-year increase to the period of parole ineligibility. That, I should say, is a sentence that except for all but the youngest offenders will be a sentence of life without parole.

I think no one disputes that this bill is trying to target some of the worst of the worst offenders. It may be that few of these individuals will ever warrant release during their lives, but that's a difficult thing to know. I think we can be confident in that because we can look at something like the dangerous offenders context, for example. In the context of dangerous offender applications, we have individuals who have been convicted of a series of extremely serious offences. They are viewed as posing a pressing risk to the public. Yet, we have hearings, and we often learn that these individuals, despite their antecedents, may have a possibility of being treated in the community ultimately. It's for that reason we have hearings to determine whether or not they should receive an indeterminate sentence or a long-term offender designation.

Even then, for those who have already been determined to be extremely dangerous, who have committed repeated offences, the parole board maintains jurisdiction to decide that if things change, the person can perhaps be released.

It bears consideration that we should maintain our belief in the possibility of rehabilitation, the possibility that the corrections system can correct individual behaviour and treat potentially even very dangerous individuals, with the hope that one day, after 25 years or more, as the parole board sees fit, they can again be released into the community.

I'd suggest that we should at least be prepared to entertain the possibility that after 25 years we really can't know how a person is going to fare. We know that life without parole for 25 years is a very long time. The people in that situation will receive extensive treatment over the course of a good part of their lives. We ought not to preclude the chance that people in that situation, no matter how serious the crime they have committed, may have a possibility of reform.

It's my submission that life without parole for 25 years is already a lengthy and very harsh punishment and that it is unnecessary to go further.

● (1650)

The Chair: Thank you, sir, for that presentation.

Our next presenter, by video conference, is Mr. Paterson of the British Columbia Civil Liberties Association.

Sir, the floor is yours.

Mr. Josh Paterson: Thank you very much for having the BCCLA here.

I listened to the really moving remarks by the member for Okanagan—Shuswap in debate in the House. I actually went and watched the video. It's clear to see the goodwill with which the member has brought this forward and the desire to give comfort and relief to families whose loved ones have been victimized in the truly heinous ways referred to in this bill.

I wish to say to the member, through you, Chair, that I have nothing but respect for his efforts and the perspective that he brings on this issue. I too have known people who have died through homicide, and have some small understanding, although nowhere near a true understanding, of what it would be like to be part of a family like that.

However, I've been asked here today to talk about the proposal contained in the bill from the perspective of what makes appropriate and just sentencing policy and law, based on evidence. It's with that in mind that I come in front of you today to bring some criticism to this proposal.

In Canada, we've spent a lot of time over the last century—and some of it's been referred to by my friend who just spoke—adjusting the penalties in our criminal justice system as the criminal law has become more complex. We've taken into account the multiple different goals of sentencing, specific and general deterrence, rehabilitation, incapacitation, reparation, and denunciation, as well as promoting a sense of responsibility in offenders. In general, not one of those is valued more highly by the law than any other.

A key principle that is recognized by Parliament and the courts is that principle of proportionality between the gravity of the offence and the degree of responsibility by the offender. It's been recognized as well by courts and Parliament that the best way of achieving that kind of proportionality and of getting that balance right in the long run is through a system that has individualized decision-making, and regard to the personal circumstances of the individual concerned as well as the circumstances of the crime.

As we know, this bill may in some cases increase minimum sentences and will permit an increase in the length of time before parole eligibility may be determined. Murder already has the highest sentence known in the criminal law, and murder committed in conjunction with sexual assault is already treated as first-degree murder and can have that penalty attending to it. The aim here is to make it possible for judges to add 15 years in which there would be no assessment whatsoever for parole.

For us it's difficult to understand what will be added that isn't achieved by the current dangerous offender and long-term offender designations.

By the way, the BCCLA testified before this committee in the nineties in support of both of those designations. Although we had some amendments that we proposed at the time, we did not oppose them in principle. In fact, we supported them in principle.

It has been said that this law is about the families and not about the offenders. Indeed, I can feel intuitively why we would want to spare families from having to go through parole hearings. However, the parole hearing is central to the whole system of punishment and rehabilitation in the country. It is the valve that allows the government to determine whether it has any reason to continue to hold someone.

In 1915, a hundred years ago, the minister of justice at the time, C. J. Doherty, said that the right to imprison someone depends on the necessity of punishing that person to protect society. He said, and I quote, “When the necessity for punishment will have disappeared, the right to imprison will have disappeared also.”

The question here is not so much about the preference of the families, but what the government has the right to do in these kinds of circumstances. Once there is no need to imprison someone because they are deemed to be at a low risk of reoffence and because they have been punished and served their debt to society, we see no reason why they should not be released through a parole hearing.

In the case of someone designated as a dangerous offender, we understand that release date may never come.

● (1655)

Indeed, the crown attorney in the Colonel Russell Williams case said that in that particular instance, the record was so clear they didn't even feel the need to seek a dangerous offender designation, because the parole board would have such a record before it of the danger at which he could put society that he would likely remain in prison for the rest of his life. That assessment by the parole board is key to the justice of our prison system. It's the only way we can determine, in an ongoing way, after that mandatory minimum for murder is served, whether or not it remains just, whether it remains effective, and whether it remains a good idea to continue to hold someone in custody.

My five minutes are up, but I expect there will be some further questions.

The Chair: Thank you, sir, for that presentation.

We will go to the question round now.

Madam Péclet, from the New Democratic Party, the floor is yours.

[*Translation*]

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

I would also like to thank the witnesses for their excellent presentations. They did a good job and summarized their comments in five minutes. I often find it very difficult to summarize my comments so effectively.

I will try to be brief. I would just like to ask a question. Were your organizations consulted about the bill, yes or no?

[*English*]

Mr. Howard Krongold: They were not, until now.

[*Translation*]

Ms. Ève Péclet: Mr. Paterson, what do you have to say?

[*English*]

Mr. Josh Paterson: I don't believe they were, other than here. But we get a lot of e-mails, so if something came to us that we missed, I couldn't say for sure.

[*Translation*]

Ms. Ève Péclet: When you studied this bill, did you ask yourself if it applies to young offenders? Unfortunately, I did not have time to ask the member who is sponsoring the bill. Did you ask yourself that question?

[*English*]

Mr. Howard Krongold: It's a good question. I didn't look at that specifically. I know there's a different provision in section 745.1 that deals with the sentencing of young offenders. The offence here would be covered as first-degree murder. In addition to having this added punishment, I would imagine that it would be treated as first-degree murder for young offenders, but it's something that the committee should perhaps look at to make sure there hasn't been some oversight in terms of sentencing young offenders.

[*Translation*]

Ms. Ève Péclet: Mr. Paterson can add something if he would like to.

Mr. Josh Paterson: I have nothing to add to my friend's answer.

Ms. Ève Péclet: All right.

I think it is useful to study the system. As we heard at the committee's last meeting, it is useful to consider the justice system as a whole. I found that your presentations were very interesting because they dealt with integrating the bill into the system as a whole.

My next question is about a technical point. I am taking advantage of the fact that there is a lawyer present. I do not know whether Mr. Paterson is also a lawyer.

I would like to know if you looked for a definition of the expression “in respect of the same event or series of events”. Is that in the Criminal Code? How have the courts interpreted the expression “in respect of the same event or series of events”? What do you think of including this expression in the bill and in the Criminal Code?

● (1700)

[*English*]

Mr. Howard Krongold: Subsection 231(5) of the Criminal Code provides that certain forms of what would otherwise be second-degree murder are first-degree murder when—I'm just looking at the language here—the death is caused “while committing or attempting to commit” certain designated offences, which include sexual assault, aggravated sexual assault, and kidnapping and forcible confinement. There's a lot of overlap there.

I think the reason for the language in this bill, or the way I would read it anyway, is that.... There was a case—the name is escaping me right now—that held that you could have an escalation from second-degree murder to first-degree murder based on subsection 231(5) even if the victim of the murder and the victim of the, say, sexual assault or forcible confinement were different individuals as long as both were part of the same transaction. I think the intention here is to more narrowly target this provision to ensure that it's the same victim and the same transaction. It is a slightly narrower provision. You can imagine situations in which a person would be captured by first-degree murder under subsection 231(5) that would not be covered under this, even if there were also a sexual assault, an abduction, and a murder. That's a bit of a technical answer, but it's a bit of a technical question.

Ms. Ève Péclet: It was a technical question. Thank you very much.

Do you have something to add, Mr. Paterson?

Mr. Josh Paterson: Yes, thank you.

The only thing I was going to add is one of the things that continually creeps up over time in terms of the Criminal Code, which I'm sure members are well aware of, is the tendency toward creating piecemeal solutions by making individual changes to certain crimes at certain times, often in response to a particular current event. A look at the history of Canadian sentencing laws going back over more than 100 years shows that even going back to Confederation when we received English criminal laws, there was a huge morass of different penalties that weren't determined in relation to each other. They were proposed at individual times and various attempts have been made through the years to consolidate and even those things out with more or less success.

We have a generalized concern when all of a sudden we see for particular kinds of crimes brand new and in this case very long periods of parole ineligibility are being created without taking a comprehensive look at the whole body of the Criminal Code, despite some of the evidence as to whether or not those extensions of time incarcerated are going to make people safer in our communities. We say there's no evidence to show that's the case. About 10 years ago, Justice Canada put out a report suggesting that longer sentences tended to cut against public safety by putting people at a higher danger of reoffending.

We have a lot of concerns with the way in which this is coming up.

Ms. Ève Péclet: That's perfect, because you've just opened a door for my last question. In your practice and in your studies of all the different bills, it's exactly what we've been hearing in testimony over and over again. Do you have any studies or knowledge of the repercussions of what we're always talking about in terms of minimum sentences and how they play into the whole criminal justice system? I would like to have your comments on that.

I think you have a really short time, like 10 seconds.

● (1705)

Mr. Howard Krongold: Certainly this provision adds a complexity to an already quite complex system. You'd have to add additional counts to an indictment. You would normally charge somebody with first-degree murder; you wouldn't charge them with several other offences in addition. It creates a potential complexity in how a jury deliberates, because they normally would be instructed on the routes to first-degree murder, which they don't necessarily need to agree on. But in this case you certainly add complexity to litigation by having to prove three separate offences to get this sort of sentencing enhancement.

The Chair: Mr. Paterson, briefly.

Mr. Josh Paterson: We put out a report this past year on mandatory minimum sentencing that I'd be happy to send to the clerk.

There is a natural, intuitive sense that longer sentences make us safer and that they will deter offences, but countless studies have shown there's no evidentiary basis to support this belief. The evidence simply isn't there, and so we're quite concerned about measures like these.

We don't object to the mandatory minimum of 25 years for first-degree murder but extending that parole ineligibility causes concern for us.

The Chair: Thank you for those questions and answers.

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

Mr. Blaine Calkins (Wetaskiwin, CPC): I appreciate the witnesses who are here today.

Howard, you're a regular here at the House. Is your name on the chair?

I listened to your introductory remarks and appreciate them very much. The one thing that I want a little clarification on is that you said something about the fact that over that length of time—we're talking about somebody who has a first-degree murder conviction with 25 years before parole eligibility—they would have access to programs. Could you confirm something for me? I don't believe that anybody who's federally incarcerated has to take any programs. Do I understand that correctly?

Mr. Howard Krongold: I think that's right. I'm sure you could find somebody from CSC who could give you better information than I could. My understanding is that nobody has to.

Mr. Blaine Calkins: Nobody has to.

Mr. Howard Krongold: But, particularly when you have a situation where you have somebody who has the potential for parole —

Mr. Blaine Calkins: It's usually a factor. If they were serious about seeking parole, they would probably seek programming if they had it available to them. Is that it?

Mr. Howard Krongold: Yes, assuming that they have a realistic prospect of getting it in their lifetime. I would certainly expect that there would be a far greater incentive to seek programming, get help, and get treatment if you have a prospect of getting parole, even if it is 25 years out.

I can tell you that offenders are very aware of their parole eligibility. They will look ahead a decade or two and think, “I need to behave myself; I need to do as I'm told in custody; I need to obey the rules, and I need to get treatment and help”, because they're looking 10, 15, 20, or 25 years out and thinking that they are going to want get parole one day. If the parole ineligibility is 35 or 40 years, it's hard to see what incentive somebody has to make arrangements for when they're 70 years old, for example.

Mr. Blaine Calkins: Conversely, we just heard from Susan, who said they left the courtroom feeling that the fellow was going to get locked up and they would throw away the key, only to get that surprise phone call *x* number of years later saying that the individual who did that was seeking parole and that's the process.

That leads me to my next question. Maybe my next question is better directed to the analysts and so on, but could somebody here help me with what I want to know? I believe somebody said that there were 600 or some offences where this could have applied.

Chair, I think you brought that information forward with regard to dangerous offenders.

The Chair: The question was on the designation of dangerous offenders, on how many there have been. It didn't get into why they were designated as such or what their offences were.

Mr. Blaine Calkins: You're using my time, Chair.

Voices: Oh, oh!

The Chair: No, I'm not. I'm adding to your time.

Mr. Blaine Calkins: I don't know if the analysts can answer this. I think the hard part about getting statistics on this is complicated by the fact that....

Howard, I think you accurately.... I used to be a law enforcement officer. I know that when I found somebody who was guilty of multiple things—although I never charged anybody with anything this serious in my time—I would find that the most serious charge was usually the one that was proceeded with. I think you alluded to the fact that you very rarely would see a prosecutor or the investigative team pursue the charging of somebody with all three if it was particularly heinous, although it wasn't prohibited. Do I understand that right? It's just that usually they proceed with the most egregious factor. Is that correct?

Mr. Howard Krongold: I think that's right. Normally you would charge somebody with first-degree murder and everything else that goes along with it is less—

Mr. Blaine Calkins: Right, or the one that you're most likely to get a conviction with. That's the way you proceed with them. You want to go through all of that.... I guess here's the question I have if we're looking at it from the perspective of the victim. I appreciate the fact that we're looking at the overall sentiment of the justice system and what it's supposed to be doing, but if we put on the lens of a victim and just ask ourselves about it from the victim's perspective, and they have to relive it.... We've heard about the traumatization of having to relive the crime all the time. How many of these dangerous offenders or people who are charged with some of these crimes actually get parole eligibility before their sentence is up?

That's notwithstanding the fact that the faint hope clause has now been repealed, but that doesn't go back retroactively. Can somebody give me some edification as to how many people who do these kinds of crimes actually get parole?

● (1710)

Mr. Howard Krongold: I have some knowledge about how the faint hope provisions work. As you say, they don't work for anybody convicted of offences from 2011 onward, but it used to be that the success rate on faint hope applications was a little over 75%. For people who got a reduction of parole eligibility from a jury, about 90% of them would eventually get earlier parole. Now, that probably doesn't—

Mr. Blaine Calkins: Those are just the ones who would apply. Right? It wasn't automatic.

Mr. Howard Krongold: That's right. They had to apply for it. One imagines that people convicted of extremely serious offences might not have put themselves in the pool, because they would have realized that they were not going to get parole after 15 years from a jury—

Mr. Blaine Calkins: Right, but the parole is automatic. It's not like the faint hope, which is optional. Is that correct? The parole hearings are automatic. Do I understand that correctly? They're every two years. Right? That's my understanding. How many of those people with that automatic parole eligibility actually get the parole?

Mr. Howard Krongold: I don't know.

Mr. Blaine Calkins: Is it a large number? Is it a small number? Does anybody know?

The Chair: I'll ask our analysts to give us the information they have gathered thus far on this particular item.

Ms. Lyne Casavant (Committee Researcher): It's a very, very difficult question. We looked at the database and the media resources and tried to find people that met the criteria of Bill C-587, and we were able to find five cases where all the criteria were there.

The Chair: Rape, kidnapping, and murder.

Ms. Lyne Casavant: Yes, and only five cases. It doesn't mean that it's comprehensive, but it's possible that if you are charged with murder they will not go for the other accusation, or they will not pursue it if you get life sentence for first-degree murder. It's difficult to know.

On the five that we have on the list, Paul Bernardo is still inside. Some of them are not yet eligible for parole, so it's impossible to see if they would get parole when they would be eligible for parole, but it seems that they tend to stay inside prison for a very long time.

Mr. Blaine Calkins: If that's the case and it's the presumption that they rarely get parole, then the benefit of the bill from the perspective of the victim is that at least if the criminal or the convicted person is very unlikely to get parole under such heinous circumstances, why wouldn't we afford the victims the benefit of not having to go through these parole hearings? That's a question for Howard or the folks in B.C. If it's not likely that they're ever going to get parole, why would we put the victim through it?

The Chair: Mr. Paterson.

Mr. Josh Paterson: Chair, what I would suggest, and the stats we were able to find, which were really from media reports, suggested very much the same thing, is that few dangerous offenders coming up are getting parole. But the key from our perspective to maintaining the legitimacy and justice of the system is that the government has to undertake that assessment, however uncomfortable it may—

Mr. Blaine Calkins: Legitimacy for whom? For the victim? From the court's perspective? From society's perspective?

Mr. Josh Paterson: Legitimacy from the perspective of the right of the government to incarcerate someone. Now that we don't have capital punishment, incarcerating someone is the most egregious thing that we allow governments to do to anyone.

In situations like these it is quite merited that the incarceration power be used. But when a certain point of time arises past the minimum sentence that we have in the law, it is important for the government to have to check in and see if it continues to serve the public and the state's interest to hold someone. In many cases it will. In some cases, however, it will not. I understand the victim's perspective, but justice is not being achieved if there is an individual who is no longer dangerous, who has served their debt, and despite the pain that it may cause to a family to have to go through a hearing, the individual really ought to be entitled to have that hearing, to have some objective person make a decision about whether they can rejoin society. That's why we would say we still need to have those hearings.

● (1715)

Mr. Blaine Calkins: Howard, did you want to add something?

Mr. Howard Krongold: One thing I would add is that it's really difficult to look retrospectively at the people who have been convicted of these three offences arising out of the same transaction, because again you would rarely see a person charged with first-degree murder along with any other offence. Typically the only offence you need to go with is first-degree murder and you are either going to prove that or not. Usually if it's a whodunit that solves the case and most of these cases don't involve serious questions about *mens rea* and that sort of thing. You would typically see a person charged with a single count of first-degree murder. There may be plenty of other cases out there of people who would have been susceptible to this maybe because they are a party, maybe because they are an aider or an abettor to somebody else committing an offence of this sort who you could imagine 25 years down the line may well be sufficiently reformed that there would be a strong interest in releasing them.

But it is certainly true that the only cases where they throw the book at somebody by charging them with everything under the sun are the most heinous cases. So I think that probably skews the sample in terms of whether these are people likely to be released.

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

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

Mr. Sean Casey: I just want to follow up on that last series of answers.

We have it from our analysts that had this bill been in effect for the last while, there were five cases that would have been impacted. I've actually seen that research and Russell Williams isn't on it so it may be five or it may be six.

I heard you say, Mr. Krongold, that one explanation for this is that while there may be other individuals involved in cases like this, by the time you get to court it makes very little sense to proceed with anything except the most serious charge. Given those circumstances and the very limited scope, as well intentioned as this bill is, do you see a distinct probability going forward that it will make no difference?

Mr. Howard Krongold: I think there is always going to be a temptation by prosecutors to try to find clever ways to hold extremely serious sentences over an accused's head and prosecute them, obviously within reason, but with any plausible threat of an exceptional sentence they can muster. So I don't know. I think there will be an incentive to impose it. Is it going to be mostly in cases where we're talking about these really egregious and heinous crimes where everybody expects these people are never going to get out of jail? My concern is that it's not just going to be in those cases. Those cases are so extremely rare anyway. I think it has the potential of being held over the head of people who are less culpable than those we usually associate with these three offences, because there's going to be an option and creative prosecutors will, obviously within reason, look for ways to find cases where this sort of exceptional exemplary sentence can be at least charged if not fully prosecuted.

Mr. Sean Casey: Okay.

You will both be aware that as a private member's bill, this is not subject to section 4.1 of the Department of Justice Act, but the mover has indicated that he has received an opinion from the Library of Parliament. Does either of you have an opinion as to, first of all, either the constitutionality of this legislation or, if not as strong as that, the vulnerability of something like this to a constitutional challenge?

Perhaps we'll start with you, Mr. Paterson.

Mr. Josh Paterson: I think there's vulnerability here. To be honest, I didn't have enough notice of this appearance to do a more fulsome analysis. I think that in any instance when you're dealing with depriving someone of liberty, which of course is ultimately what all sentencing is about, you have questions about that, and taking away, or at least delaying due process around eligibility for parole would certainly trigger the section 7 liberty interests under the charter. The question then would be whether it does so in a way that's conducive to the principles of fundamental justice, and whether it is justified, and I think that's where you would get into these arguments. To be honest, the fact that there really isn't any evidence here to say that this would achieve a benefit, in terms of making society safer, that couldn't be achieved in another way—say, through dangerous offender designations and so forth—I think leaves some potentially significant liabilities in terms of justification. In fact, in some ways the government is already doing the thing that minimally impairs people's rights through the dangerous offender provisions, as compared to through a provision like this.

I say all of this without having conducted a fulsome analysis.

● (1720)

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

Mr. Krongold, do you have a view on that?

Mr. Howard Krongold: To my knowledge, the last time anybody challenged the constitutionality of the sentence for first-degree murder was in the 1990s. There were two appellate decisions, one from Alberta and one from Quebec, but that was at a time when the faint hope clause was in place, and both courts found that the actual minimum sentence being imposed was life without parole for at least 15 years, because there was the sort of release valve of faint hope. I don't think anybody has gone back to the courts since faint hope was revoked, and, in particular, there are now provisions for consecutive periods of parole ineligibility that would extend, obviously, well beyond 25 years for multiple first-degree murders. I don't believe there's been a challenge to that yet. I expect there probably will be at some point, but those cases aren't that common.

Mr. Sean Casey: We know that if this bill had been in effect years ago, there might have been five or six cases. I think we also know that nobody who has been convicted of these three offences has ever obtained parole. If I'm wrong, I hope you'll correct me. Then that leaves us with the reason for passing a bill like this being, for families, to minimize or eliminate the trauma of their having to continue to show up at parole hearings.

Does either of you have any statistics on the percentage of families that actually do elect to show up and participate?

Mr. Howard Krongold: No, that's outside my bailiwick.

Mr. Josh Paterson: I don't have that information either.

Mr. Sean Casey: Can you offer any perspectives on ways to minimize the trauma associated with repeat parole hearings besides the one put forward in this bill? What alternatives might be considered to address the only evil this appears to have a chance at being effective against?

The Chair: Who are you asking?

Mr. Sean Casey: That's for Mr. Paterson.

Mr. Josh Paterson: I can think of a range of different possibilities.

We have to remember, to begin with, that where a 25-year minimum sentence has been imposed, there's a quarter of a century since the trial, never mind when the offence was committed. I can't say for any individual family what's going to feel right to them. Some families won't have a problem with parole hearings starting a quarter century later and for others it will be re-traumatizing; there's no question about it.

It's really hard to prescribe an alternative solution. We know that these parole hearings perform an important function. Even though the chances of people, for example, who are designated as dangerous offenders will be very unlikely to be granted parole, that's actually a functioning of the system.

That's the system working in those cases, when they come to that kind of a decision. It is a necessary thing for government to have to go through and for the community to have to go through, in our justice system where we've given up the approach of a century ago of simply throwing away the key.

That would be my answer to that. I recognize that that won't be satisfying, necessarily, to some families who have gone through trauma and who would like to avoid having these parole hearings.

Mr. Sean Casey: Mr. Krongold, in spite of Mr. Mayes' protestations to the contrary, as you read this bill, is there a potential for retroactive application?

Mr. Howard Krongold: I didn't read the bill looking for that specifically. If there were any potential for retroactivity, it would be unconstitutional under section 11—I'm going to say (h)—of the charter. I might have the letter wrong, but it's somewhere in section 11.

● (1725)

Mr. Sean Casey: Do you care to add any comment to that of Mr. Paterson with respect to other options to minimize trauma on families for repeat appearances at parole hearings?

Mr. Howard Krongold: I'm hesitant to comment on too much because I'm certainly not an expert on the parole system. It may be there may be ways for a parole board, again as Mr. Paterson alluded to, to take an individualized look at the person in question after 25 years and be able to make a judgement call, not only about release, but about when it might be suitable to have another parole hearing.

It's probably going to be pretty clear after 25 years, if you're talking about somebody who's moving in the right direction and may well be eligible in two years, three years, or four years, than somebody who's just never going to get there and maybe imposing a slightly longer time before they come back before the parole board. But again, that's probably something that should be left to those who know more about the parole system than I do.

The Chair: Our next and final question for today will be from Mr. Goguen from the Conservative Party.

Mr. Robert Goguen: Thank you to the witnesses for testifying.

Mr. Krongold, you are a regular. There's a prospect of possibly getting you on the medical plan; hopefully, it won't be as a result of the questions, but we'll see where it takes us.

Arguably, one of the most salient features of this bill is certainly to prevent re-victimization. Yes, we know that the appearance before a parole board is very, very traumatic. We've heard testimony from Ms. Rosenfeldt and Ms. Susan Ashley. They've explained how this is truly horrific and a life experience that one would not want to go through.

Did you happen to hear their testimony today?

Mr. Howard Krongold: I didn't, no.

Mr. Robert Goguen: That's a bit regrettable, because I will refer to it.

Mr. Casey seemed to say that the only salient point of this bill was basically to nullify re-victimization towards reappearing at parole hearings. Ms. Ashley went on to testify to the effect that, and I'm paraphrasing, the prospect of release into a community and of meeting the perpetrator was absolutely horrific; the chance of that meeting maybe even after 25 years was absolutely crippling for the victim. She argued, to paraphrase, that the government has not only a duty to protect one's physical being, but also a duty to protect one's psyche. If the offender is in jail for a longer period of time and there's not the reappearance before the parole hearing periodically, there's not the necessity to prepare, and there's a knowledge that the person is there for a very lengthy period of time, then it seemed to be her conclusion that this reinforced the confidence in the justice system and, in fact, gave confidence to the public, reinforced their psyche with the thought that they're not going to meet such and such a person for a very long period of time. The parole system does away with that, and the common person does not know.

I would argue that certainly this is something that does give some additional strength to this bill. But you're saying in your brief, which was very interesting, that this didn't nullify at all the prospects of re-victimization. Yet for the reinforcing of confidence in the system, and the reinforcing of a healthy psyche, it seemed to be Ms. Ashley's firm conviction that this is something that would work. And as for everything else about being released, it's a Stephen King movie.

Your brief was interesting. You had seven recommendations and you seemed to have drawn very closely from C-32, an act to enact the Canadian victims bill of rights. There's a lot in there that mirrors what is in the victims bill of rights, which we're very proud of as a government, of course. The definition of victim, providing education about the criminal justice system, providing timely information to victims, affording victims the opportunity to get involved, restitution, compensation; it's pretty much the four pillars of Bill C-32. That's victims focused and your brief seems to be victims focused, yet you're opposed to this bill.

It's all a question of balance. I talked about the Allan Legere case. He was basically released from a super-maximum security prison to a maximum security prison. The people of the Miramichi in my province absolutely protested, although he's 63 years of age and moved further away, to Edmonton. That's the psyche aspect. I'm talking about protecting the victim by keeping them longer.

Knowing that there's a balance in the system, you've got to balance the rights of the accused versus the rights of the victims. Knowing that there's a very small number of accused who would even be subject to this, and bearing in mind that this imposition is discretionary, shouldn't the rights of the victims in this case be the ones that we're going to bat for versus the rights of the accused who would be small in number, and for whom the prospect of rehabilitation when they don't have to follow any courses.... Shouldn't we be on the side of the victims in this case?

● (1730)

Mr. Howard Krongold: Is that a question you'd like me to answer first or Mr. Paterson?

The Chair: I think the question was for you.

Mr. Howard Krongold: What I would say is this: we're hypothesizing a situation where you have someone who has served 25 years in the penitentiary and is remorseful, has admitted culpability for their offence, has engaged undoubtedly in extensive treatment and rehabilitative efforts, and has been determined by the parole board not to pose a substantial risk to the community, and who's then not going to be set free, see you later; the person's going to be under extremely intensive supervision for many years after they would initially get some form of parole, and supervision for the rest of their lives. I don't know if I entirely agree with the characterization that it's a situation where a person is just going to be let out the door because the parole board decides after 25 years that they're good to go.

Mr. Robert Goguen: That's not what's in the mind of the common citizen. They don't know the functions. They're in absolute fear. Their psyche is the one that suffers. They're the victim.

Mr. Howard Krongold: Right.

As Mr. Paterson alluded to, it's always a difficult balance, but ultimately we need to make an individualized assessment about the person in question, and that needs to be based on the dangerousness level that they present at the present time. I can't comment on how a given family member of a victim would interpret that. I imagine that some would view an offender who had shown true remorse and truly rehabilitated himself as a positive development. There are some who there would be no way that they could ever come to that view. It's difficult to make a rational determination based on sound penal principles and assessment of risk by looking at individual cases about how a victim in a specific case is going to react to the release of an offender.

Mr. Robert Goguen: It would seem to me that the bar would be fairly elevated where the imposition of this would be discretionary. The factors that the judge would be considering, of course, are the nature of the offence, the character of the accused, all circumstances surrounding it, and of course any jury recommendation.

The Chair: Thank you to our witnesses from the Criminal Lawyers' Association and from the British Columbia Civil Liberties Association.

I don't know if you heard this or not, but we are not dealing with this on Wednesday; it will be the first Monday back after our break week next week. We have a couple more witnesses, and then we'll be doing clause-by-clause study at that particular time.

Keep your eyes open to see if we're having a meeting on Wednesday or not.

With that, we'll adjourn.