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# **Standing Committee on Justice and Human Rights**

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**EVIDENCE**

**Wednesday, February 25, 2015**

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**Chair**

**Mr. Mike Wallace**



## Standing Committee on Justice and Human Rights

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• (1535)

[English]

**The Chair (Mr. Mike Wallace (Burlington, CPC)):** Okay, it looks as if we have everybody here, which is great.

We are the Standing Committee on Justice and Human Rights. This is meeting number 64. Pursuant to the order of reference of Wednesday, November 26, we are dealing with the subject matter of Bill C-583, an act to amend the Criminal Code with regard to fetal alcohol spectrum disorder.

With us we have Ryan Leef, the MP for Yukon. It is his private member's bill that has been referred us in terms of the subject matter, so we're going to have an opening statement from him and then we'll do rounds of questions.

Prior to our doing that, we have two pieces of business to deal with.

There are two budgets on the table, ladies and gentlemen. The first one deals with Bill C-587, which is \$5,700. That has to do with the committee dealing with the bill on increasing parole ineligibility.

May I have a motion for \$5,700?

**Mr. Bob Dechert (Mississauga—Erindale, CPC):** I so move.

(Motion agreed to)

**The Chair:** Just so you know, I haven't gone to the liaison committee because we passed a motion about travel to the Yukon at the last meeting. The clerk's office and his team worked overtime getting us a budget together—

**An hon. member:** He's a great clerk.

**The Chair:** We have a fantastic clerk.

The budget works out to \$68,776. What happens with this is, if it gets approved at committee, I will be seeing the liaison committee for its approval. If it gets approved there, it will go to the House leaders, and they will decide whether we can travel or not.

Does anyone want to move that motion?

**Mr. Bob Dechert:** I so move.

(Motion agreed to)

**The Chair:** That will give me another meeting to go to tomorrow, thank you very much.

Mr. Leef, that was money to go to Yukon if we get to travel to your home riding. Sir, the floor is yours. We're dealing with the reference of the subject matter of your private member's bill.

**Mr. Ryan Leef (Yukon, CPC):** Mr. Chair, if you could indulge me, maybe you could give me an indication of how much time I have.

**The Chair:** You have around 10 minutes. I'm somewhat flexible as you're way off base.

**Mr. Ryan Leef:** Okay, fair enough.

Mr. Chair and committee members, thank you very much for your invitation to appear today on this important topic.

[Translation]

I apologize, but I am going to make my presentation in English only. I don't speak French well, but I understand it well. If you have questions to put to me in French, that will be fine.

[English]

I'm practising as best I can. If there are any questions in French, I'll do my best to navigate those and rely on interpretation if I can.

I've had an opportunity to speak about my Bill C-583 in the House of Commons a number of times. I thought that today, for the benefit of the committee, I would reflect more on some of the potential recommendations I have. Having worked with groups and organizations that routinely deal with FASD, I would perhaps also like to provide a little bit of guidance based on my professional experience, both prior to becoming a member of Parliament, and now, as a member of Parliament, to help with your deliberations as you take on this study.

Before I get to that piece, I do want to say that it has been an interesting journey for me to explore how the development of a private member's bill works in the House of Commons, and the work entailed in engaging community partner groups and colleagues on both sides of the House.

I can say that from a Yukon perspective, when I took this on, I found tremendous support from the Yukon territorial government, and indeed, from the opposition there. The NDP opposition in the Yukon were very supportive of the efforts I was making. I am also grateful for the support that was provided across the floor in the House of Commons to move this into committee for a more detailed study. In that vein, I think we have an opportunity here to do some great work for the people that work with people living with FASD on all facets of this issue.

I know we have a colleague here, on the NDP side, who has put forward some legislation in the past to deal with this important topic. I know my colleagues on the Conservative side of the House have been seized with this for a long time. And, of course, we have colleagues like MP David Wilks who has seen the impacts first-hand through his career, as I have, of people living with FASD, and their conflict with the criminal justice system.

My background involves not only growing up in the Yukon where there is, I think, tremendous leadership by the Fetal Alcohol Syndrome Society Yukon, FASSY, to address this critical topic in Canada, but also, in my professional careers as a correctional superintendent and as a member of the Royal Canadian Mounted Police. I was directly able to see the challenges people living with FASD have, particularly when they come into conflict with the law, and also some of the measures we can take to help support them before the justice system becomes an inevitable track in many of their lives.

They are disproportionately represented in the justice system. There are a number of reasons for that which I think we'll be able to touch on through some questions and answers members might have.

I've said a couple of times in my addresses to the chamber on this topic that our government has been focused on victims and victims' rights. I commend our government for that approach. The reason this topic is so important is that long before people with FASD collide with the criminal justice system, they are victims first. Unfortunately for them it's a life sentence. FASD doesn't get better. It is a lifelong condition once someone has it, and there is really no other neurological development disorder that sets somebody on a crash course with the criminal justice system from the moment they are born. That's the bad news.

The good news is there is lots we can do, much of which you will hear over the coming days as you engage in this study. There is a lot of great work that's being done by community groups and partners, and indeed, by our government.

I'm looking forward to being able to touch on some of the great work I think puts Yukon at the forefront of FASD research and FASD engagement, in large part due to contributions by our government and investments in the right areas which I know will help to improve the social living conditions of people living with FASD, improve their opportunities in life, and ultimately avoid the inevitable collision with the criminal justice system we often see.

•(1540)

Of course, there is a critical element in this that involves a prevention discussion, and I know that other experts and witnesses will talk to you about that.

In that vein, what I've heard from the discussions I've had with the key stakeholders and I think you're going to hear—and it would be my recommendation—is that the committee look at a broad perspective of across-departmental approaches to this. From a justice committee standpoint, if all the roads are leading to a justice outcome, we need to look at where we can support the prevention or altering of that route. I think we all recognize that starts with investments and support in education, social support, housing,

employment opportunities, skills development, health care and prevention, and education around that front.

I would encourage the committee to attempt to broaden the witness base as best they can, if that hasn't been a consideration to this point, to see if we can break down some of the silos that might exist at the federal and provincial levels. Much of the discussion that we have when we reach out on those topics does involve provincial, municipal, and NGO support at the community level. It doesn't all fall under the purview of the federal government. Nonetheless, the federal government can take a role in engaging in those discussions and providing either the necessary financial support, legislative support, or the networking that can often be realized by federal counterparts in this role.

There are a couple of quick facts that I think are important for the committee to consider. We'll clearly talk about the social impact of FASD. There is also a financial cost that is well stated. I'm referring to a report now from the Fetal Alcohol Syndrome Society Yukon, which estimates annual costs for FASD in Canada to be about \$5.3 billion; the average individual cost per person is approximately \$1 million over their lifetime.

I think that illustrates clearly that prevention and support, particularly on the prevention front, are very important in terms of the overall financial cost. We have some challenges with diagnoses that I know will be discussed throughout this study, but the best estimate we have right now is that about one in every 100 births in Canada has been affected by FASD. Those rates are alarming as well.

I applaud and I thank the committee for taking this on. You can see both in terms of the numbers on the social costs and the financial costs that this is a worthy topic of national discussion and national attention. For that, I congratulate and thank you. I obviously wish you all the best as you continue your engagement on this study.

With that, I'd be happy to field any questions members may have.

•(1545)

**The Chair:** Thank you, Mr. Leef, for that overview of your bill.

We are going to questions now, and our first questioner is Madam Péclet from the New Democratic Party.

**Ms. Ève Péclet (La Pointe-de-l'Île, NDP):** Thank you very much to my colleague.

I'm very happy to see him advocate for more social housing and education funds. We're not going to contradict him on that; that's for sure. We all know that there are some very vulnerable people we need to help right now.

[*Translation*]

This is an extremely important issue and I am very happy that we are going to be able to examine the matter. As we speak, there are people in Canadian penitentiaries who could benefit from actions taken now.

I would like to know what type of consultations my honourable colleague did before introducing his bill. I don't want an exhaustive list of the organizations that were consulted, whether they were health organizations or others. We are talking here about an amendment to the Criminal Code. Did my colleague consult organizations that could provide legal advice, or something similar?

[English]

**Mr. Ryan Leef:** Certainly.

The impetus in the beginning started with the Canadian Bar Association's resolutions. They had provided some language over the course of time, and it was an issue that was interesting and important to me when I became a member of Parliament. So I spoke with members of the Yukon branch of the Canadian Bar Association, who were direct advocates and involved heavily at the national level. They provided some context and background for what they were looking at.

Of course, in the evolution of my bill, which had multiple iterations throughout that time, we had drafting experts look at it to evolve it and make sure we weren't creating any unintended consequences.

Also, all the while of course I was continuing to consult with CanFASD and FASSY.

A host of national groups and organizations have attended a number of the conferences where we've been able to put forward iterations of my bill, so that we could look at to see if it was reaching not only the right legal language, but effectively, for lack of a better term, the trade language that's used and make sure the legal verbiage was matching that. I would be guessing, but it was worth of 100 different groups and organizations that I consulted with.

**Ms. Ève Pécelet:** That's a broad consultation. Congratulations to the member.

[Translation]

In your speech, you also referred to a conference that took place in Vancouver. You said that you went all over Canada to consult different organizations regarding your bill. In your speech in the House of Commons, you said there was a national consensus on the importance of acting on this problem. As you said, your bill has received the approval of the Canadian Bar Association and of several other organizations. We agree that this is an extremely important problem.

• (1550)

[English]

We should deal with it right now, because there are people who could benefit from this right now.

[Translation]

Studies were already done by other committees, among others the Standing Committee on Health, in 2006. What could that study add to our work? The NDP was ready to support Bill C-583 today and send it quickly to the Senate. Why did you vote against the bill when all of these organizations support it? What will that study add? Today, we could at least have passed something that is likely to help

people in prison, who unfortunately are victims of a syndrome that is beyond their control.

[English]

**Mr. Ryan Leef:** As I said in the House, I believe in the merits and the tenets of the bill without question. There's a little more to that process, of course.

I want to deal with a couple of points in a more general perspective here.

As for the bill itself, when I first introduced this, I wrestled with the narrow scope of C-583, that it really was only going to impact one part of the population in that justice piece. Through my consultations, which were continuous—literally daily I was speaking with the groups and organizations—when we started looking at the timing left for us, and the greatest good and the greatest impact, we started looking at this silo-breaking study as being something that really would be beneficial.

It was largely on the advice and support of many of the groups that are invested, and not just groups and organizations.... As you can imagine, I've been inundated with input from families who have had this experience, people living with children with FASD. I was getting the pure family perspective. The law enforcement community, and groups and organizations in the health community really support what it is that you're going to be able to do with this study.

Also, you did mention the 2006 study. I'll correct you on this. There haven't been a lot of studies. There has been that 2006 study, but since that point in time there's been tremendous evolution in knowledge around FASD, particularly around the field of diagnosis, and that's an important thing for this committee to seize itself with. I think the groups will tell you clearly that we've learned a lot since 2006, and what we can do with that information at the federal level is very important. But right now I don't think that evolution of information has permeated all of the departments the way it should. It is very much making what you're doing worthwhile in topping up that 2006 study, which is, in my mind, at present day a little bit incomplete.

**The Chair:** Let's have a short question, please.

[Translation]

**Ms. Ève Pécelet:** If the 2006 study was not satisfactory to the member, that may be because the government did not follow the recommendations of the committee. That may be why there is not enough information from Parliament's point of view.

I have several studies here that demonstrate the importance of acting regarding criminal justice. I know that someone who is found guilty of an offence is affected by the fundamental principles of criminal justice. However, we have to give indications to judges and to the actors in the criminal justice system. This is in line with the principles established in the *Gladue* decision—you are probably familiar with that Supreme Court judgment.

Historically and culturally, people who are victims of this syndrome find themselves in penal institutions without any kind of help. Why not come to the assistance of these people by adopting Bill C-583? We could also ask the government to respect the recommendations contained in the 2006 study, and help these people.

•(1555)

[English]

**Mr. Ryan Leef:** Thank you for that.

Neither one of us was here in 2006, so neither one of us can speak to what steps were taken in implementing the recommendations of that study. We can speak to the great work that I'm sure you're tasking yourself with now on this study, and whatever recommendations you might bring from it.

On the point you raise, I think you'll certainly be able to tease it out when you're speaking with the witnesses on this specific justice end, and I certainly look forward to hearing their comments on that end of it. As I said, obviously I believe in the merits and the tenets of the bill, and I understand the benefits that would have been realized had I been able to get the bill through. For a number of reasons I made the determination that I didn't see I was going to have the time to get it through with the time I had left, and I wasn't going to be pleased with a symbolic win by having the bill die a natural death on the order paper in the Senate when the House rose in June.

I had a deep and heartfelt conversation with the people who have been very much invested in this journey with me and with their guidance and support I made the decision to effectively leverage the great work that had been done and the importance of this bill with our government to make sure that we realized some benefit, and in my mind this committee is that benefit.

When you talk to the stakeholders, and I'll let them speak for themselves, but they certainly spoke to me and indicated what a positive evolution this is. They're very excited about this opportunity, and I encourage you to give them the world on this one, because they think the step you're taking is probably the most significant step, in their words, that you've taken so far.

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

Our next questioner is Monsieur Goguen, from the Conservative Party.

**Mr. Robert Goguen (Moncton—Riverview—Dieppe, CPC):** Thank you, Ryan, for bringing this important issue forward.

Certainly championing the issue of fetal alcohol spectrum disorder before Parliament is to be commended. Your testifying here again today is another move forward toward resolving an extremely complex issue.

I want to take up on what Ms. Pécelet was asking about, your willingness to open the field of study to different areas of mental health. You testified that as a corrections officer you were exposed to a number of inmates who had mental disorders. Of course, once they're in there, they're not always diagnosed. Certainly some of them would have fetal alcohol syndrome. Many are probably overrepresented there, but certainly other inmates have other disorders, whether it be schizophrenia or paranoia or what have you. Certainly that had to be at the heart of your motivation to widen the study: why not do something which is possibly all-encompassing for those who suffer from mental disabilities? That had to be a very large motivational factor in your decision to field this study, is it not?

**Mr. Ryan Leef:** It's a good point. At this bill's introduction, I realized that there would be that interesting challenge right away: why this group and why not another group; how do you provide, dare I say, benefits of the judicial system and discretionary approach to one group and not another; and then, how do you sort that out?

That certainly was in part the motivation, because what we want to provide with the legislation we're putting forward is obviously what is going to be fair and equal to all groups, as best we can manage.

Some other conditions were raised. You raise a couple that are very poignant, and a couple of others were raised. I was able to offset those by saying that in all reality our correctional facilities aren't chock full of people with Down's syndrome or autism, as an example, but they are of people with FASD. But equally, there are other neurological development disorders, other mental disorders, other mental health issues that warrant some broader level of consideration, and I think you can engage in that as a committee.

Just to tie back into some of the discussion that has come up, there still is a mechanism today for courts to use judicial discretion. They can deploy it at this point; it's not as though they can't do it. I was trying to tighten it up a little bit to make it a little sounder, for lack of a better word, in law. But I'm very much excited about this broadened discussion, because I think we're going to be able to benefit the community far more largely than I ever anticipated when I started this bill.

•(1600)

**Mr. Robert Goguen:** I really believe you're well served in seeing the scope of the study widened, because the bill you presented was by and large well accepted by all parties. It would be a springboard for a further and greater study, so I thank you for it.

You talked a while ago about the causes. Obviously, we know that it is consumption of alcohol while the mother is pregnant. Can you elaborate a little bit more about the sociological causes? Most people would recognize that drinking alcohol is unhealthy and that it causes damage to your child. Could you talk to us a little bit about that?

Also, you talked about costs that were rather significant. Could you give us some practical examples of what those costs actually translate into? What are the factors that drive these costs?

**Mr. Ryan Leef:** I'll start with the first part of your question, and it's a good opportunity to really talk about FASD on a broad base.

You're right. The cause of FASD is prenatal exposure to alcohol. There are social factors that can contribute to it, such as addictions, mental health, the mother having FASD herself. There are also conditions that exist in which a lady may not even know she's pregnant. We don't know at the present day at what point of pregnancy and how much alcohol consumption can be detrimental.

There's a lot of stigma that comes along with FASD, and it creates different challenges later down the road in terms of identification, diagnosis, treatment, and support. Understandably, there's a lot of stigma around this. This is why it's so important to talk about this openly in Parliament now: to start moving the stigma away from it and understand clearly in Canada that there is not and should not be blame here. There are things we can do to help educate and to make this somewhat avoidable, but there are also circumstances that aren't necessarily avoidable and are nobody's fault. This is part of a great national discussion: making sure that the stigma and the shame start to move away for this. Then we can have an intelligent discussion about it.

Concerning the costs, they range from housing support—people with severe FASD never have true independent living, as it's always supported living—to education challenges, some one-to-one support.... Misdiagnoses cost a lot of money in this country as well, as there are different levels of treatment or people going untreated. Clearly, there is the cost of the criminal justice system, when people get mixed up and involved in it, and a lot of times it starts right at the youth criminal justice level. You can just imagine that these costs start to balloon, from social support, education, and health care needs right up to the costs any time a person ends up in the criminal justice system. I couldn't break them down on every scale for you, but they are alarming.

**Mr. Robert Goguen:** You touched on one point.

In your experience in the area where you live, is FASD truly generational? Is it passed down from generation to generation? Do you see a prevalence of this issue?

**Mr. Ryan Leef:** It can be. That's one factor.

But to break down another myth, we link into the Gladue decision and we start talking about generational.... One of the big myths around FASD is that it's a northern Canadian aboriginal issue. FASD knows no social bounds, and it knows no community bounds. It is affecting people in high social classes, and in rural and urban Canada.

The diagnoses are a bit different. We can talk about the stigma a little differently and that presents some challenges, but it is not an aboriginal issue. It is not a poor person's issue. FASD is alive and well in every community and social group and in every ethnic group you can think of.

**Mr. Robert Goguen:** It doesn't discriminate.

**Mr. Ryan Leef:** No, it does not.

**The Chair:** Thank you for those questions and answers.

Our next questioner, from the Liberal Party, is Mr. McKay.

**Hon. John McKay (Scarborough—Guildwood, Lib.):** Thank you, Mr. Chair.

Congratulations on moving it.

You've basically taken a bill that had significant support across all party lines, I should think, and turned it into a study. Not only did it have great support across party lines, but it also had support from the Canadian Bar Association.

I guess I've been around here way too long. Some might say that's probably true. I can remember back to 1997 when Paul Szabo was championing this issue and there was a huge pickup from a whole variety of people. I think my colleague Kirsty Duncan has a number of bills that are related.

It's kind of a curious decision on your part to turn what I think would have been a winner bill into a study where the conclusions have probably already been drawn.

• (1605)

**Mr. Ryan Leef:** That's a good question so I can help you out with that.

That decision obviously wasn't made in isolation, as I said. As I wrestled with what I saw to be the timeframe left—and let's be honest here; we're coming up to June and it's not likely the House is going to resume after that—I wanted to be a realist about the time I had. That was something I had to juggle on my own and determine whether or not I thought it was going to get through all the stages in the House and all the stages in the Senate.

As I said earlier, I just wasn't going to be prepared with a symbolic victory run to the end and to say, "Yay, we got it this far. We can feel relieved". I was going to be satisfied with it passing in absolute terms, or I wanted to leverage up and find a different win.

I didn't make that decision in a vacuum. I didn't make that decision by myself. I spent a lot of time speaking with the key people who have been involved in this with me: folks at FASSY; Rod Snow and Heather McFadden with the Canadian Bar Association, who have been deeply invested in this for a long time; CanFASD; FASD Prevention; family members who had reached out to me; and local first nations experts who were right here in Ottawa within the week that I was trying to finalize the reality of this.

**Hon. John McKay:** Still, it makes for a curious decision, because in the fall you withdrew the bill, or turned it into a study. But in the fall you had essentially a year left; we'll say to June of this year. You have broad party support. You could likely trade the bill up once you got through.... You'd actually be at least here, possibly here even earlier, and I'm pretty confident you would have had a lot of cooperation in getting it back on the floor of the House.

It's not as if the Liberals are giving you a lot of opposition in the Senate.

**Mr. Ryan Leef:** I didn't think there were Liberals in the Senate.

**Some hon. members:** Oh, oh!

**Hon. John McKay:** I would have thought, just doing the time calculation, that you had a real shot at royal assent. That would have settled the law and that would have been a big time win as opposed to a study. You don't want to turn down studies, but I wonder whether anything really new will come out of this sort of thing.

I appreciate that there are potential things you can get, but an amendment to the Criminal Code is a big deal.

**Mr. Ryan Leef:** Absolutely. I don't disagree with you and I think I've said that all along.

First off, your assessment and my assessment are clearly different, not just in terms of the time but in terms of the value of the study. The results of this are no longer in my hands. They are in your hands, so whether this works out well or not has a whole lot to do with how hard and how diligently you work at this. I wish you all the best and I hope it does go well, and I hope there are great results out of this.

The community, I can tell you, is very excited. They don't see this as a loss at all. In fact, I can read you e-mails I received from them when we finally came to this conclusion and how excited the groups and organizations are about this broad study—

• (1610)

**Hon. John McKay:** There are people in my riding named Bonnie Buxton and Brian Philcox—in fact, they are just around the corner from my constituency office—who I have known for years, and they are the national organization. I think I can say with some confidence that they are disappointed that this didn't end up in legislation, and it was a real shot. There are no sure wins in this business, but it was a real shot.

Does that mean therefore that, if a bill comes to the House, such as that of my colleague, Sean Casey, which is very similar to your bill, you will support that bill?

**Mr. Ryan Leef:** You touched on a few things, so I'll answer your last question first. If it actually gets anywhere, I'll support it.

Now you named two people, and not to minimize their opinion on this, but I have 200 people who are clearly supportive of this study and the work that you're about to undertake, so I urge you not to dwell on the past but to focus on the task at hand, which is to do a great study, provide those recommendations, and work for them.

We can second-guess decisions all day long, but here we are. It's well embraced by the community. As I said, I appreciate the NDP support in getting it here. I was really surprised that the Liberals voted against bringing it to a study, but here we are.

You have the possibility to do good work, and I urge you to do that.

**Hon. John McKay:** The issue, as I've articulated it, is that to trade a bill for a study is somewhat disappointing, because, as I said, I've been here for 17 years and this issue, frankly, has been studied to death. I'd be interested in actually knowing that the Canadian Bar Association decided that this should be studied. They wouldn't advocate for an amendment to the Criminal Code if, in fact, there wasn't some inconsistency in the application of sentencing principles across the country, and that would have been the core success of your bill, that a judge would have had specific direction from the Parliament of Canada that FAS is to be a mitigating factor in sentencing. Frankly, that would have been huge.

It's a pity to sort of walk away from that opportunity, especially in the context of a majority government.

**The Chair:** You have one minute left.

**Mr. Ryan Leef:** Thank you.

I appreciate your opinion on it. I don't think I've seen anywhere, in any literature I have, any correspondence from any of the groups, the organizations, the families, or the professionals who have worked on

this, any reference to this issue being studied to death. No one has ever characterized this issue as being studied to death.

I would invite you to ask every single group and organization that sits before you if they think the issue of FASD in this country has been studied to death. I'll guarantee that you're going to get an emphatic no.

**Hon. John McKay:** But if we ask the question: what would you rather have, a study or an amendment to the Criminal Code? That's the question.

**Mr. Ryan Leef:** Sure, and I think the answer you're going to get from those groups is that if you're prepared to do good work and not just dwell in the past, they very much would invite this study if there are going to be concrete recommendations, if those recommendations are going to be taken seriously, but that starts first with the work that you do, sir, on this committee.

I guess if you are going to focus on a decision that was made to not actually ask relevant questions about FASD itself and learn about the topic, then we're going to hit an unfortunate roadblock, but if you're going to turn your mind to the topic of FASD and the needs of the people, I think you'll be pleasantly surprised that the work you can do will be tremendous for this committee.

**The Chair:** Thank you for those questions and answers.

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

**Mr. Bob Dechert:** I want to thank my colleague Ryan Leef for bringing forward what I think is a very important study that this committee needs to do.

Following on the earlier discussion with Mr. McKay, I note for the record that Mr. McKay mentions he's been here 17 years. A number of those years, quite a few in fact, were as part of a majority Liberal government. I guess he could ask himself why the Liberals didn't move forward on this when they had the opportunity to do so, especially since he thinks it has been studied a lot.

From my perspective, Mr. Leef, although I've been aware for many years that there are people who suffer from fetal alcohol spectrum disorder, I had no idea the extent and the cost and the depth of the issue with respect to the people who suffer from this disorder. So I've already been enlightened quite a bit by that, and I thank you for that.

You probably are aware that in our last meeting the committee passed a motion to travel to Yukon to hear from some people there who are experts on this issue. I wonder if you could tell us whether you think that's a good idea and whether you think it would be a productive use of the committee's time in advancing our knowledge and understanding of this topic, and tell us what you think it would mean to the people that we would potentially be meeting in Yukon.

•(1615)

**Mr. Ryan Leef:** Thanks for the question, and at the risk of sounding Yukon-centric, I think most members would always applaud travel into their ridings as there's a net benefit to that. The Yukon in my estimation is broadly recognized as a leader in FASD research. I talked a little earlier about stigma. The one advantage the Yukon has is I think we've pushed over that stigma barrier. We're prepared to talk about it publicly. In a larger sense than in other regions of the country, I think we're starting to brush away the shame, which allows us to get down to the issues at hand, have those hard discussions, and come up with the solutions.

The Yukon has a well-organized group with FASSY, Fetal Alcohol Syndrome Society Yukon. The government is engaged in some innovative strategies there from prevalent studies that are ongoing right now at the correctional centre on the options for independence, independent housing units that have been funded there by the Government of Canada.

The social support strategies are well embedded and growing. We have educated people in the Yukon who are deeply invested in this topic, who I dare say are not just national experts but would be recognized as international experts. I think from that point of view, there is a direct benefit. When you reach into ridings that are as far west as you can possibly get from the nation's capital, obviously the people of those regions are clearly supportive and appreciative of the attention. I think that sends a larger signal to Canada generally that if you are willing to reach out into those locations in our country, you have the best interest of the entire country at heart when you do that.

**Mr. Bob Dechert:** You mentioned in your opening statement some of the research that has been done, some recent research and recent breakthroughs. Diagnosis was one of the things you mentioned. Can you take us through a little more detail about some of that research and tell us if you think more research needs to be done?

**Mr. Ryan Leef:** I think you'd hear from the broad community that more research needs to be done. NeuroDevNet is a great example of an organization that's doing a lot of work. They're trying to identify biomarkers. There is some positive evolution, but it's far from perfection. That's where investment is required. The Government of Canada did invest, I see here, \$1.1 million into NeuroDevNet to help with FASD and autism research.

Those things are important in terms of diagnoses, understanding behavioural research. I think there is also value if you're looking for some direction in where else we can support research, understanding the required support services, be that housing, education, or human resource skills development. I think some research would be beneficial on that end so that when you do make the investments, you know they are the best investments that can be made, instead of just putting money into something and hoping you get a positive outcome. I think there is some value to having research ahead of time so you know what you're investing in. Any of those social support network stages are evidence based and are going to provide the best results.

**Mr. Bob Dechert:** You mentioned also that there are some estimates of the costs to both society at large and the individuals who suffer from this disorder. You mentioned the amount of \$1 million per person. Is that loss of income, or is that some other...?

**Mr. Ryan Leef:** That's the estimate based on care. That's direct cost to the individual or to society with respect to what it costs. As I said, you never get to the point of independent living with severe FASD. Assisted living always goes with it. Some provinces and municipalities do a better job of support, but the estimated cost is all around what that involves in the lifespan of a person with FASD. Some of those costs are going to vary, if you start extrapolating.... If they're in the justice system or costs they might create through misbehaviour, those sorts of things are very hard to measure and not tangible.

**Mr. Bob Dechert:** I understand. You mentioned that some courts are now considering the impact of fetal alcohol spectrum disorder on convicted accused at time of sentencing. I think you also mentioned that it wasn't necessarily consistent throughout the courts in Canada. Can you tell us a little about the history, how long the courts have been considering this, what the prevalence is in your view of the courts that do consider when somebody has this disorder and when they don't?

•(1620)

**Mr. Ryan Leef:** I couldn't tell you. Somebody far more professional than I would have accurate numbers, but anecdotally from working with the groups and reviewing this, there are some courts and some judges that are very alive to this and familiar with it. A lot of them tend to be in local areas that see that revolving door, repetitive client where they're able to identify and recognize FASD. Some have obviously educated themselves and trained well in this. Some of that comes from the FASD support community, helping judges understand. When you consider the prevalence in the Canadian institutions, it would be clear that more often than not we're not even recognizing from a diagnostic standpoint that people have FASD to use judicial discretion in the first place.

**Mr. Bob Dechert:** I know you have experience in your professional background as a deputy superintendent of operations at a correctional centre. How did that experience inform your view of this topic?

**Mr. Ryan Leef:** That was an eye-opener. As a front-line police officer, when I was working with people who I knew had FASD and I knew I was going to see them on a repetitive basis, it was frustrating. It was frustrating to see that revolving cycle and know there could be some level of support in the community but it just wasn't there. Different communities have different reasons for that. It's not a fault of the particular community. It's the Canadian context at times.

Once I got into the correctional environment, I saw how important my operating strategies in working with people with FASD were. This may confuse the topic a little, but I can say in some instances that the correctional environment worked out to be better for the people with FASD. They found routine, schedule, direct support, medication support, mental health support, and treatment; that correctional environment was a calming and stabilizing influence. Sometimes even bright colours—and this sounds challenging and this is why this topic is hard and at times very sad—can stimulate the brain and overactivate somebody with FASD. Prisons tend not to be very colourful environments, so at times they have a calming influence. I'm not suggesting that's the appropriate environment because of that, but at times that's the net result.

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

Our next questioner is Ms. Crowder from the New Democratic Party.

**Ms. Jean Crowder (Nanaimo—Cowichan, NDP):** I want to thank Mr. Leef for coming before the committee.

I want to echo Mr. McKay's statement. Certainly the NDP was prepared to fast-track the bill. I would argue that with six months left at the time of that sitting in Parliament, there was a good chance of having that bill passed. I think it's a bit disingenuous for the member to indicate that the committee is master of its own fate and can do something with this study, when we're fully aware that we have roughly 11 sitting weeks and in that period of time a number of justice bills are going to be coming before the committee, and so the committee will have limited ability to conduct the study you're suggesting.

However, I want to turn to this for a moment. I have been around since 2004, so like Mr. McKay, I've been around long enough to see things come and go here. Back in 2005, Mr. Szabo presented a bill before the House of Commons which ended up at the health committee. His bill was about labelling of alcoholic beverages. We did an extensive study at that committee. Unfortunately, his bill was killed by a vote of 11 to 1. I was the only person who supported his bill on that committee. The net result was that the committee agreed to kill Mr. Szabo's bill but immediately move forward on a national strategy for FASD.

Now I want to turn to 2006. You seem to indicate that the 2006 study needs to be dusted off and updated because so much has changed. Well, just let me read a couple of the recommendations, and I would argue that any change in the science or new information would not have impacted on these recommendations, if anybody had chosen to act on them.

There are things like:

that Health Canada lead and coordinate both the national and federal perspectives of the FASD action plan

—I don't think you need new information to update that one—

that the FASD action plan be complementary to provincial and territorial initiatives

—I'm pretty sure that, if we had an action plan, we would have been doing that in the last 10 years—

that Health Canada include the First Nations and Inuit Health Branch in its work on the FASD action plan

—and so on. I won't read all of the recommendations, but I would suggest that we would be far further ahead in this country if we had acted on that health committee report instead of waiting nine years for a study that isn't going to result in anything because the House is going to adjourn in June.

One of the key pieces of this recommendation was:

that Health Canada ensure that federal departments—

—which would include Justice and Corrections and any other department—

—and agencies responsible for specific client groups immediately begin to collect and make publicly available data on the incidence and prevalence of FASD within their respective populations.

Can you tell me how many recommendations from that health committee have been implemented since 2006?

• (1625)

**Mr. Ryan Leef:** Well, I can tell you this. As I said before, I wasn't here in 2006, so I wasn't actively following the government's initiatives—

**Ms. Jean Crowder:** Excuse me, Mr. Leef. In this process, did you actually look at the health report to see how many of those recommendations had been implemented when you undertook your bill?

**Mr. Ryan Leef:** Actually, yes, I did, and I have a copy of that health report here, but I'm going to tell you this. I'm not as cynical about the future of this study and I'm not as cynical about the approach we're taking to it. I mean, I get what you're saying, but I'm here to focus on what your task at hand is now and what I'm hoping we're going to generate out of this study.

I hope that history doesn't prove me wrong, if what you're alluding to is that history hasn't been kind to us, but I'm not going to come here and be negative about our opportunities we have with this study. I think we have a great opportunity. I think the groups and organizations that have invested in this feel the exact same way. I don't want to pre-empt that or steal that from them.

I'm looking forward to what you're going to decide, in terms of recommendations, and how those recommendations will get implemented before June.

**Ms. Jean Crowder:** I'm a very practical, pragmatic person, so if I were in charge of the universe, what I would suggest is that the committee, first of all, look at any of the studies that have been done—and there are a number of them. I would take a look at what recommendations were made and what had been implemented, and I would take a look at any gaps in those implementations and why they hadn't been implemented. If we wanted to shorten up this study, that's exactly what we would do. It wouldn't require travel to Yukon, because we already have this study. We already have very critical key recommendations that we could move on that would make a difference for people with FASD and their families.

Did you have a chance to talk to Mr. Sapers, the correctional investigator? He has indicated that he suspects many offenders in segregation probably have FASD. However, the Correctional Service of Canada has limited ability to diagnose mental illness, which would include FASD, and we know that there is no reliable data on the number of federal prisoners who have FASD. Did you talk to Mr. Sapers?

**Mr. Ryan Leef:** There are two things. One, you made some recommendations for the record that I think are valid in terms of looking back at past reports and by all means I would encourage you to do that. Two, I didn't talk to Mr. Sapers, largely because my bill was designed to deal with the Criminal Code of Canada and not the Corrections and Conditional Release Act. In part, to address him, you're not inaccurate with what you're saying. You're right in those comments. The diagnoses and understanding of the prevalence rate in Correctional Service of Canada is not known, and there is some work that could be done there.

I focused on the Criminal Code of Canada, which I recognize was a narrow scope to a degree, but you run a risk of trying to be all things to all people and not getting anywhere. Ultimately, there's another reality. The Corrections and Conditional Release Act doesn't influence the provincial institutions, and it's in the provincial institutions where we're finding most people being caught up in this revolving cycle.

This is an opportunity for the committee to talk to people who manage provincial institutions. We're dealing with people who are incarcerated for less than 45 days, but on a continuous cycle. Some of them will spend three, four, or five years incarcerated, but at 45 days at a time, and never enter the federal system. That invites a really good discussion around that.

**Ms. Jean Crowder:** Again, I hate to come back to the 2006 report, but that was one of the specific things in the report, that the FASD action plan be complementary to provincial and territorial initiatives, which one would presume would include speaking to the provincial and territorial initiative. If we had acted on this back in 2006, we wouldn't need to be having this conversation today.

I think it's unfortunate. A number of people have pointed out the ramifications of not dealing with FASD, whether it's social, educational, health, correctional services, not to mention the lost opportunities for people to become productive members of their communities. I just think it's unfortunate that we're here nine years later still having this discussion, with very little action.

•(1630)

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

We have our final questioner, and I'm asking for committee's permission on this. Because of the vote, we started five minutes later, at 3:35, so I'm going to go to 4:35 if that's okay.

**Mr. John Rafferty (Thunder Bay—Rainy River, NDP):** Mr. Chair, if I could interject, are you not doing a complete round so everybody gets an opportunity?

**The Chair:** No, it doesn't work that way. It's based on the schedule that's set out by this committee.

But you're welcome to join us any time, Mr. Rafferty.

**Mr. John Rafferty:** I will speak to Mr. Leef privately about—

**The Chair:** You can come to other meetings.

Mr. Wilks, the floor is yours, for about five minutes.

**Mr. David Wilks (Kootenay—Columbia, CPC):** Thank you, Mr. Leef, for coming today.

Certainly I understand and share your concerns with regard to FASD from my tenure as a police officer for over 20 years and what I will define as a revolving door for those who are put into the system. As you said, a lot of them don't hit federal time, or for that matter long periods of time.

What I do want to hear from you is on some of your personal experience with regard to FASD while you were in the correctional service, what was available and not available, and the frustrations you had.

Then, if I could, just quickly, with regard to what was said by the opposition.... I haven't had an opportunity to read the 2006 report, but I follow the Criminal Code and read it closely. I know, having done some research here quickly, that there's a Supreme Court case, *Regina v. Gray*, and under section 672.12 of the Criminal Code at the time, the judge quashed a request by crown counsel to have a person looked at from a medical perspective in regard to FASD. Every time the court will quash it, even though the crown applies for it, because they say you're tromping on victims' rights when it comes to doctor-client privilege.

I would ask you to speak to that as well, but certainly your own personal experience.

**Mr. Ryan Leef:** Thank you, Mr. Wilks.

You clearly know the challenges that are faced on a front-line level. Some of those translate perfectly in a correctional environment, and they're diverse.

Regarding the second part of your question, diagnosis is always a challenge, as is privacy. The reality is that nobody is actually standing up saying, "I have FASD. I want mitigation here." It's not something people want to volunteer, particularly if they're heading into a correctional environment, because they don't want that stigma on them. It becomes a real challenge to provide support when people are reluctant to stand up and acknowledge their condition. It only happens through some tremendous leadership and support from the community, justice, the crown, policing, and people in that community who work directly with the client to get them to realize the benefits of having a diagnosis, and of receiving treatment and support. It's tough to get them to go down that road.

Frustrations in the correctional environment relate in part to the trick of providing a safe and secure environment. A lot of times people with FASD are manipulated by factors of FASD. They tend to be impressionable. The bullies in the correctional environment don't miss that opportunity. They often use them to kite drugs, move notes, do all their illicit bidding for them within the environment. They then suffer the consequences for that bad behaviour after thinking that it's a way for them to fit in. They don't appreciate the long-term consequences of their actions, which are largely what brought them into the correction environment in the first place and then they're manipulated within it. There are often struggles to give them the headspace, the quiet space, that they often need. A lot of times, that translates into segregation. Segregation is not necessarily a healthy situation, but it's the only viable, safe location.

That becomes frustrating for staff. It's frustrating for the inmates. It's frustrating for the people who want to help them. Much like in front-line policing, you feel like your hands are tied while trying to help people you know need help. In other cases though, as I said, you see a different situation, where that structure, routine, and environment actually work out well for them. You end up wrestling those demons in your own head from a front-line client service delivery person in law enforcement as to what is the best route to take when you see some definite pros and definite cons around this. There's no easy answer to this, but I think, through your study, you're going to pull some of those things out.

• (1635)

**Mr. David Wilks:** I just wanted you to continue with your conversation with regard to stigma, because I think the largest issue with regard to FASD is those who fall into the stigma of not wanting to be identified. I wonder if you could talk about that for a few seconds.

**Mr. Ryan Leef:** That's big for people living with FASD. It's obviously a challenge for parents, and misdiagnosis is huge. There are a lot of diagnoses of ADD and other conditions than FASD because of that stigma. But when you translate that to the people who have it, as I said, they're not volunteering and saying, "I have FASD. Can I be treated differently?" or "Can I receive different levels of support?" or "Can courts consider some mitigation for me?" Starting to provide the social support that we need is a really important piece, because we can't force this on people. We can't make people subscribe to the support that we're able to provide them. That's why, contrary to some of the opinions that I'm hearing, this discussion here in this committee is so important, because it

acknowledges that members of Parliament in this country are prepared to bust this out of the shadows.

If we have to do this every year for the next 10 years, I won't regret that and say, "It's a shame we're here talking about this." We should be here talking about this every single year, to help Canadians understand that there isn't blame for this. There shouldn't be stigma. It's only by pushing it out of the shadows that we can offer the education and support that is needed to try to bring this to a close.

**The Chair:** Thank you very much.

Committee members, for your information, I would like to remind you that on the Monday we get back—obviously the break week is next week—we're going to be back to Bill C-587. We have witnesses for the first hour, and clause-by-clause study—there are only four clauses—for the second hour.

The next one was scheduled for C-590. My suggestion, which I think we'll follow, is that we'll continue to deal with C-583 at that meeting. If we're approved to travel, we'll be travelling the next week and having two meetings. Otherwise, after the break week, if we're not travelling from the 16th to the 18th of that week, we will have two more meetings at least on this subject. So we'll bump C-590 until after we've done this study. There is no use having three things going on at one time, in my view.

With that, I do need witnesses. Whether they're witnesses we're going to see in the Yukon or here, we need witnesses from all parties.

Thank you very much.

With that, we're adjourned.

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