HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Justice and Human Rights

JUST • NUMBER 065 • 2nd SESSION • 41st PARLIAMENT

EVIDENCE

Monday, March 9, 2015

Chair

Mr. Mike Wallace

Standing Committee on Justice and Human Rights

Monday, March 9, 2015

● (1530)

[*English*]

The Chair (Mr. Mike Wallace (Burlington, CPC)): Good afternoon, ladies and gentlemen.

Welcome to our Standing Committee on Justice and Human Rights. This is meeting number 65. We're meeting pursuant to the order of reference of Wednesday, September 24, 2014, on Bill C-587, an act to amend the Criminal Code, increasing parole ineligibility.

Today's witnesses for the first hour are Mr. Head, commissioner, Correctional Service of Canada; and Ms. Suzanne Brisebois, director general of policy and operations, Parole Board of Canada.

With that, Mr. Head, the floor is yours for 10 minutes.

Mr. Don Head (Commissioner, Correctional Service of Canada): Good afternoon, Mr. Chair and honourable members.

As you know, I'm here before you to provide what information you may require of the Correctional Service of Canada with regard to Bill C-587, an act that seeks to amend the Criminal Code to allow for increased parole ineligibility for certain offences.

As you are aware, the Correctional Service of Canada, which I'll refer to as CSC for the sake of brevity, is the federal government agency responsible for administering sentences of a term of two years or more as imposed by the courts. CSC offers a variety of programs for offenders within the institution and those on parole in the community to assist them to successfully reintegrate into society as law-abiding citizens.

Bill C-587 would specifically affect offenders sentenced to a life sentence upon being "convicted of the abduction, sexual assault and murder of the same victim in respect of the same event or series of events".

While a life sentence does not necessarily mean life imprisonment, it does mean that the sentence continues for the rest of the offender's life. If the offender is released on parole, the parole period never ends during the offender's life. The offender must still follow the terms and conditions of release imposed by the Parole Board of Canada and can be sent back to prison if those conditions are breached.

Currently, offenders serving life sentences are eligible for day parole three years prior to their full parole eligibility date. Offenders serving life sentences for first-degree murder are eligible to apply for full parole after serving 25 years.

The courts set eligibility dates between 10 and 25 years for offenders serving life sentences for second-degree murder. Some further exceptions exist if the offender was under the age of 18 at the time the murder was committed. Offenders who are declared "dangerous offenders" and who receive an indeterminate sentence are normally first eligible for parole at seven years, with a review every two years thereafter.

As you know, this bill seeks to grant judges the discretion to increase the maximum parole ineligibility period for offenders who have been "convicted of the abduction, sexual assault and murder of the same victim in respect of the same event or series of events" from 25 years up to a maximum of 40 years.

With regard to the specific offences on which this bill seeks to focus, a more in-depth study would have to be conducted to determine the exact number of offenders whose index offence includes all of the above and thus would correspond to the criteria as described in this piece of legislation.

As of yet, the long-term impact of this bill on CSC's management of offenders is difficult to determine. The two main areas where we see potential change are in the long-term accommodation of these offenders and in the management of their correctional programming to prepare them for the possibility of eventual release.

In the first instance, CSC continues to implement a number of measures, including building new living units and ensuring full use of available beds in order to ensure its facilities provide a correctional environment that is safe, secure, and conducive to both inmate rehabilitation, and ultimately, public safety.

The second area of interest is in regard to correctional programming for offenders. Correctional programs contribute to public safety results by making offenders accountable for their behaviour, changing pro-criminal attitudes and beliefs, and teaching skills that can be used to monitor and manage problematic behaviour.

CSC offers a broad range of correctional programs to offenders in institutions and the community, including programs designed to target general crime, general violence, family violence, substance abuse, and sexual offending.

CSC provides correctional programs of differing intensity levels within each of the principal program areas. Research demonstrates that matching program intensity to the level of risk enhances program effectiveness. Moreover, research indicates that the higher the offender's risk and need, the more intense the program needs to be in order to be effective and reduce reoffending. Higher intensity programs are longer than moderate intensity programs in duration and generally provide offenders with more skills and opportunities for skill rehearsal.

Despite clear and compelling evidence that correctional programs are, overall, associated with considerable reductions in reoffending, for offenders serving longer sentences, the proximity of parole eligibility dates is one of the factors considered by my staff when assigning offenders to programs.

As a result, offenders serving these longer periods tend to begin their correctional program later in their sentence, so that the programs retain a stronger effect closer to release.

● (1535)

As the proposed legislation would lengthen the incarceration period for some offenders, it's possible that it can reduce incentives to rehabilitation and good behaviour, potentially compromising institutional security as well as the safety of my staff and other inmates.

In conclusion, I'd like to thank you for the invitation to appear before this committee and offer whatever help I can with regard to CSC's work in promoting public safety, and fulfilling our mandate to administer offenders' sentences and to assist them to successfully reintegrate into society as law-abiding citizens.

I welcome any questions that you may have. Thank you.

The Chair: Thank you, Mr. Head.

Ms. Brisebois, the floor is yours.

Ms. Suzanne Brisebois (Director General, Policy and Operations, Parole Board of Canada): Thank you, Mr. Chair and members of the committee. I'm here today to speak to how Bill C-587, the respecting families of murdered and brutalized persons act, would affect the Parole Board of Canada.

As you're likely aware, the Parole Board of Canada is an independent administrative tribunal responsible for making decisions on the conditional release of offenders. The board's conditional release decisions are made in accordance with specific criteria set out in the Corrections and Conditional Release Act, or the CCRA. Decisions are based on a thorough review and careful assessment of the risk an offender may pose to the public if released under supervision in the community. In every decision the paramount consideration is public safety.

As you're aware, the proposed Criminal Code amendments in Bill C-587 would serve to mandate a minimum parole eligibility period of 25 years for anyone convicted of abduction, sexual assault, and murder against the same victim; it would also grant the sentencing judge the discretion to extend the parole ineligibility period beyond the 25 years, up to a maximum of 40 years for these cases.

The board is not involved in setting the eligibility periods for offenders. Parole eligibility is determined through the courts and legislation, namely the Criminal Code and the Corrections and Conditional Release Act. With respect to the impact for the board, the proposed amendments would serve to extend the parole eligibility date, meaning the board would conduct a parole review at a later period of time.

Offenders convicted of abduction, sexual assault, and murder against the same victim, serving sentences with a parole eligibility date of at least 25 years, would remain eligible to apply for escorted temporary absences during their sentences. Additionally, these offenders would also remain eligible to apply for both unescorted temporary absences and day parole three years prior to their full parole eligibility date. The process is the same for all offenders serving life sentences.

This concludes my opening remarks, but I'd be pleased to take any questions pertaining to the board's operations. Thank you.

The Chair: Thank you very much for those succinct opening statements.

Committee, if you don't mind, I have one question for Mr. Head, just for my understanding because I'm not familiar with the process. You don't have to be a first-degree murderer to be a dangerous offender, is that correct?

Mr. Don Head: That's correct.

The Chair: Okay, and I'm assuming that the first-degree murder timeframe would take precedence over the dangerous offender one. You say parole eligibility starts after seven years for a dangerous offender, but after 23 years or 25 for first-degree murder. First-degree murder takes precedence over dangerous offender, is that correct?

Mr. Don Head: Yes, we have a few individuals in the system who...for lack of a better phrase I would call it hybrid sentencing, so yes, the more significant offence would take precedence.

The Chair: Thank you, that was just for my understanding.

Madam Boivin, the floor is yours.

Ms. Françoise Boivin (Gatineau, NDP): Excellent question, Mr. Chair. Give me two more minutes—no, I'm just kidding.

My first question is for both of you. Had your offices, the Parole Board and Correctional Service Canada, been in contact with the sponsor of this bill before it came to Parliament?

Mr. Don Head: No.

Ms. Suzanne Brisebois: No, neither for us.

[*Translation*]

Ms. Françoise Boivin: No one contacted you to discuss what was going on in reality. No one contacted the Correctional Service of Canada or the Parole Board of Canada to discuss Bill C-587.

[*English*]

Mr. Don Head: No. Generally with private members' bills, when they come forward, we examine them and look at potential impacts on our organization, so there would be no discussion with us in terms of private members' bills.

● (1540)

Ms. Françoise Boivin: But you do it on your own.

Mr. Don Head: That's right.

Ms. Françoise Boivin: You keep an eye on the legislation that we provide because you are bound by it.

[*Translation*]

If I understood your testimony, Ms. Brisebois, basically, you told us that your organization is subject to Canadian legislation. I would summarize your testimony in this way, in general terms: You are going to live with the consequences of what we will produce, of what will be in effect. In this context, that is how the Parole Board of Canada operates.

[*English*]

Ms. Suzanne Brisebois: Generally, again, with respect to my opening comments, for us, the Parole Board doesn't set the eligibility periods. For us, in these circumstances, the board would see these offenders for full parole reviews at a later period of time.

Ms. Françoise Boivin: The sponsor, when he was testifying, was talking at length about how the rationale of his bill is to try to avoid, for families, for victims, the fact of going in front of the Parole Board.

Maybe you can enlighten us. I'm still without any statistics, any information on how many cases would be really affected by that type of bill. For families, is it what they're voicing to your board? Just give us a sense of what's happening over there on such cases, not every case, but more the ones that are touched by Bill C-587.

Ms. Suzanne Brisebois: I really can't comment on the origination of the bill because it's really the private member who sponsored it who would be able to provide more of the background.

Again, not knowing the specific numbers, because of the large number of lifers we have—and the circumstances in the proposed legislation are going to be specifically determined by the same events, the same victim—we anticipate there would be a very small number who would be subject to this proposed legislation.

For the board, again, for victims where these offenders are sentenced specifically under this piece of legislation, if it passes, it would mean, for instance, for second-degree the minimum time-frame would be 25 years for the first full parole review date, and then up to 40 years for both first and second, determined by the judge. So the victim, for a full parole review potentially, would be observing and presenting a statement at a later hearing time.

Ms. Françoise Boivin: I do understand that.

From your experience, or what you're hearing from your different boards that happen in such cases, what's the feeling of the victims? Because there are some victims I've talked with who want to go—I'm not saying they're counting the days—and I hear also that there are different things done by the Parole Board to make it easier on victims.

Talk to us a bit about that so we have a better sense, because we're not there and at the justice committee level we're less into those types of files than our friends at the public security committee, so make us understand.

Ms. Suzanne Brisebois: We have over 7,800 registered victims who request information, who are registered with the board to receive information, about offenders under sentence.

Ms. Françoise Boivin: Percentage-wise, that would be what?

Ms. Suzanne Brisebois: For the total number of victims...?

Ms. Françoise Boivin: Yes.

Ms. Suzanne Brisebois: I am not able to tell you actually, to be quite honest, because there are victims who are perhaps mentioned in police reports or various court documents who aren't coming forward, so it would be a difficult number to pull out.

But we have over 22,000 contacts with victims a year. We have specialized staff who are trained and who work with victims. They're called regional communications officers and they work individually with victims to provide information specific to the offender reviews that are coming up. Victims can present statements at our hearings and they can also observe our hearings. They are also eligible to receive copies of our decisions under the decision registry.

We work quite closely with victims in our work as part of our mandate.

Ms. Françoise Boivin: I guess that Bill C-32, the victims bill of rights act, will also have an impact on the way you're dealing with victims at your level.

Ms. Suzanne Brisebois: Yes, we share information with victims right now under the Corrections and Conditional Release Act, so there are a number of different types of information, both discretionary and mandatory, that the board is required to share, similar to Correctional Service Canada. We work quite closely together to work with victims as the offenders go through their sentences. Again, it's something the board has been doing for some time.

Ms. Françoise Boivin: To Commissioner Head, I know it's hard for your organization to be able to foresee the consequences of Bill C-587, but you did do the analysis. I noticed in your remarks to the committee that you talked about some of those programs that are offered, and the timing.

Let's take the scenario that it would be 40 years before somebody would.... Would you take some special measures with that person inside, because I've heard from security guards that they are a bit afraid? They're often the ones we forget about with all the legislation. For somebody who has absolutely or close to no hope of making it out at some point in time, are you thinking of certain measures on that impact?

● (1545)

Mr. Don Head: Thanks. It's a really good question.

As a result of some of the other recent sentencing under other changes in the Criminal Code—we have an individual right now serving life, 40 years, and another one serving life, 75 years, for some very heinous crimes—we've had to rethink how we deal with those longer-term life sentences.

For the first part of their sentence we really need to look at how we stabilize those individuals. I know the time is short and I can probably answer more as we go forward, but we have to rethink the way we deal with the long terms.

Ms. Françoise Boivin: Thanks.

The Chair: Thank you very much.

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

Mr. Bob Dechert (Mississauga—Erindale, CPC): Thank you, Mr. Chair.

Thank you to our witnesses for joining us today.

Madam Boivin mentioned Mr. Mayes' speech in the House of Commons, which was really quite good, and some of the points he made were quite poignant with respect to the pain that victims and the families of the victims, who can be many in number, actually suffer at parole hearings and in preparing for parole hearings. It is important to remember that there may be one convicted person, but there are usually multiple family members. It's not just one person on the other side who is experiencing pain and reliving the horror of how the family member was murdered and tortured. It could be dozens of family members. It could be friends. It could be members of the community.

A couple of meetings ago we heard from Susan Ashley, whose sister was brutally raped and murdered in 1978, and she made some very strong points. She said:

> Our family began attending parole hearings in 1997—

This was after the sister's murder happened in 1978.

> —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.

She went on to say:

> 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.

It really struck me that there are many people who are affected by these kinds of crimes, and every time a parole hearing happens, all those people are affected again.

Ms. Brisebois, I wonder if you could take us through how parole hearings are conducted, and in particular, how families of victims prepare for meetings and what role they have in these hearings.

Ms. Suzanne Brisebois: As I mentioned before, the legislation says that victims can receive specific types of information. The process would be that a victim would register with the board or the Correctional Service of Canada to receive information about the offender's sentence—length of sentence, eligibility dates, the review dates—and also they can attend our hearings. They can ask to observe our hearings. They can observe our hearings without presenting a statement. They can just be at the hearing and listen to the board members.

Again, it's an important process for them to understand the different types of questions that the board members ask the offender and understand the process. In advance of that, we have regional communications officers who contact the victims and work with the victims so they understand what that would entail. Again, in most instances, they'd have to attend the institution where the offender is located, so our RCOs would work them through that process and would be on hand and sitting with them throughout the hearing. Following the hearing, the officer would debrief with them to answer any questions about what the decision entailed and explain specific aspects of that.

Victims can also present statements at our hearings. Not all victims choose to do that, but some of them choose to write a statement. At any time the board will consider victim statements, and in addition to that, victims can present in person at our hearings. In those instances, victims will verbally provide their statements, or they can do it by audio recording or video recording if they don't feel comfortable with that.

● (1550)

Mr. Bob Dechert: How much notice of a parole hearing are victims given?

Ms. Suzanne Brisebois: Typically we look to provide as much notice as possible in advance of the hearing, because there is also the justice fund, which enables victims to be compensated for the travel that's required. In some instances, victims might be in other regions or other provinces, so we try to provide as much notice as possible.

Mr. Bob Dechert: Have you consulted with victims' families about parole hearings? Have you personally done that?

Ms. Suzanne Brisebois: We conducted a questionnaire back in 2007 about our services in general. When we looked at the results, we saw it came out fairly positive. Again our RCOs work with the victims one on one, so if there are any questions or issues that they have, they work specifically with our staff.

Mr. Bob Dechert: Do you remember any comments they made about the process in that survey?

Ms. Suzanne Brisebois: In general, they had some questions about the legislation. There were instances where they weren't sure with regard to providing a statement and some of the limitations of the information sharing. For instance—again, this is part of the principles of natural justice—the legislation requires us to share the statement with the offender in advance of the hearing, so there were questions relating to that. In general, with the board, and CSC actually, the results were fairly positive in terms of our services, but that was back in 2007, if I remember correctly.

Mr. Bob Dechert: In his speech in the House of Commons, Mr. Mayes said that the families of the victim of a first-degree murderer might have to attend as many as eight parole hearings. That would be if, for example, the person were held beyond the 25-year period for up to 40 years, so every two years. Do you agree with that, and do you think that's a reasonable number?

Ms. Suzanne Brisebois: Every case is very different, because there are different types of reviews the board would conduct, and whether or not a hearing is required is another factor that would be taken into consideration. Also, with respect to hearings and/or reviews, in certain circumstances the offender may waive their hearing and they may even waive their review. Each case is very different.

Mr. Bob Dechert: Thank you.

To Mr. Head, from the perspective of Correctional Service Canada some people have mentioned that correctional service officers would be concerned about first-degree murderers having less eligibility for parole than they currently have. Ms. Ashley, interestingly, pointed out that her husband is a correctional service officer and he's told her that he, personally, would not be concerned about the passage of this kind of legislation. What have correctional service officers said to you about this?

Mr. Don Head: It varies. I started my career as a front-line correctional officer, as well. It varies with the individuals.

There is some potential concern with certain types of individuals who have a persistent violent nature that this kind of sentence will basically allow them a free pass to do whatever they want in the institution, knowing that their sentence is really not going to be any worse than what it is. However, I rely on my staff, who are trained and equipped to intervene with people, to use the system and the various levels of security that we have to manage behaviour.

It's like anything. There are always two points of view, and I really rely on well-trained staff to manage any individual in the system.

The Chair: Thank you.

Thank you for all those questions and answers.

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

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

Ms. Brisebois, to whom is the Parole Board of Canada accountable?

Ms. Suzanne Brisebois: Our board is an independent administrative tribunal. There's a very rigorous competitive process that prospective board members have to go through, and upon qualifying through that process they're appointed as Governor-in-Council appointees.

We're responsible to the Canadian public. Again, the protection of the public is our paramount consideration. It's part of our mandate.

Mr. Sean Casey: Why do we need the Parole Board? Why couldn't the cabinet just do your job?

● (1555)

Ms. Suzanne Brisebois: I'm probably not in a position to debate the position of the board with respect to cabinet. It's probably beyond my ability in my role here at the committee.

Mr. Sean Casey: Is the board less well-equipped to deal with the most serious cases than the rest? Could you comment on whether they're particularly poorly equipped for the most serious cases?

Ms. Suzanne Brisebois: Our board members undergo rigorous training as part of their induction, both at national office and in the regions. They're trained on various aspects of the legislation, our policies, our procedures, risk assessment, and the various actuarial tools, so they undergo a very rigorous training period.

Mr. Sean Casey: We've heard that the primary motivation for this private member's bill is the trauma associated with victims' families having to come back before the Parole Board every two years. What has been your experience with respect to the families of those who have had someone murdered, abducted, and sexually assaulted? What's been your experience, in terms of those families having to appear and reappear before the board?

Ms. Suzanne Brisebois: I don't have any personal experience dealing with those types of victims, but I think generally we can comprehend how difficult it can be for victims, who are at a hearing, to listen to the offender speak about the offences and to have to listen to aspects of the offence that have been very traumatic for them.

Mr. Sean Casey: So you can't point us to any statistics or even any anecdotes of families in the position that is the subject of this legislation.

Ms. Suzanne Brisebois: I know of victims who have had some serious experiences, cases where family members have been murdered, but I wouldn't be able to specifically relate their personal experience, no.

Mr. Sean Casey: Thank you.

Mr. Head, you also mentioned in your opening statement that you would require more in-depth study to see what the real impact would be in terms of numbers. Can you help us in terms of the number of offenders who would be affected by this legislation?

Mr. Don Head: This requires us to go back and do a full file review. The way this legislation is crafted, it's abduction and sexual assault and murder. Those events may have occurred in the cases of some individuals who have been sentenced to life imprisonment, but through the normal court processes, the abductions and sexual assaults may have been dropped, and the trial would have dealt just with the murder. Our best guess at this point in time in terms of those three events, each one of them having conviction—we just very quickly went back over the last five years—is between three and five individuals, so about one a year.

Mr. Sean Casey: That's for the last three to five years.

Mr. Don Head: Yes, for the last three to five years that we looked at. We'd have to do a much more in-depth file review to get you the exact number. We have just over 4,800 individuals serving first- and second-degree life sentences, and to be honest, I just haven't subjected my staff to doing a complete file review.

Mr. Sean Casey: Okay. You also mentioned in your opening statements that there are two main areas that would be potentially impacted within the correctional system, one being the accommodation and the other being the programs, I guess.

Have those changes already started? Have you started to put the measures in place, with respect to long-term accommodations?

Mr. Don Head: Yes, as you may be aware, we undertook construction projects over the last number of years and we added 2,752 cells to the overall inventory. When we take into account the closure of Kingston Penitentiary and Leclerc Institution, it actually left us a net of 1,752 cells. Our population, since March of 2010, has gone up by about 800. So if I was able to put everybody in a single bed, I have enough flexibility, more than what our initial projections are here. But part of the problem for us to project going forward here is that we'd have to guess as to how judges would act, and at this point we have no basis for making that determination.

My best answer to you at this point in time is that, from an accommodation perspective, we would be able to manage what we would see in the foreseeable future.

● (1600)

The Chair: Make this your last question, Mr. Casey.

Mr. Sean Casey: You reference full use of available beds, but I think I heard in your last answer that all of the cells are full, if not all of the beds. What is the situation with respect to capacity and/or overcrowding in the prison system today?

Mr. Don Head: With the last of the new units opening up over the next two months, I will be back down to the normal levels of double-bunking that we had in 2010. So that's around 8% to 9%, and that's really not because I'm short of cells. It's that I have to manage a number of individuals who are incompatible with others, and I can't have them in the same range or the same institution. That's been the pattern of double-bunking that we've had for the last 10 to 15 years.

The Chair: Thank you for those questions and answers.

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

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

Thank you for your testimony. It's very helpful.

I think most people around the committee have captured the essence of what this bill is: to stop victims from being revictimized, from living the trauma again and again of having to appear before the parole hearings, having lived the horror of the death of somebody close to them. While it's very good and fine to say that there are not very many instances of this happening, isn't one too many? That's a rhetorical question, but let me give you an example, the Clifford Olson example.

The case in question was Daryn Johnsrude, who was 16. He was murdered on April 21, 1981, by Clifford Olson. Olson applied for parole hearings in 1997, 2006, and 2010, and he was denied parole every time. Daryn had been brutally raped, tortured, and killed. He was one of the 11 murder victims of Clifford Olson. Three of the victims were boys and eight were girls. All were between the ages of 9 and 18. What was subsequently discovered was that Olson's tactic while in prison was to try to cause the victims' families as much suffering as he could by using the system to apply for parole and forcing the families to attend these very difficult hearings. Wouldn't you agree that the experience that Clifford Olson has put these people through is enough of an injustice to very much go to the side of victims, to stop them from being revictimized?

Even though it may be only three to five people, one's too many. What are your thoughts?

The Chair: Who are you asking?

Mr. Robert Goguen: I'm asking both of them.

Ms. Suzanne Brisebois: I'm not in a position to comment on specific cases, but again, we can understand that victims can find hearings very difficult. We also have victims, though, who are interested in attending the hearings. Again, every victim is different, but I can't comment on the specific case you mentioned.

Mr. Robert Goguen: Go ahead, Mr. Head.

Mr. Don Head: There's no question, the way you framed the comment, that it is truly traumatizing and upsetting for any family member of the victim.

One of the things we try to do regardless, both the Parole Board of Canada and CSC, is to make sure we provide as much support as we can to the family members of victims. Even for those who choose to attend hearings, we make support staff available to help them through that. Even the ones who choose to come to those hearings, as you can well imagine, are retraumatized. They've chosen to come. They want to be a part of it. They want to have their voices heard. Between the Parole Board and CSC, we make sure we can provide the support so that those who choose to have their voices heard can continue to have their voices heard.

Mr. Robert Goguen: We're truly fortunate that there may be only three to five offenders to whom this applies, but my point is that, if this protects one victim, that's enough. That's one of the objectives of this government, to lean to the side of the victims.

Now, Mr. Head, you pointed out that you did some sort of an impact study on this—you don't have the complete impact—and you seem to indicate that the felons who would create these types of heinous crimes are felons who perhaps don't adapt as quickly to the rehabilitation process. I assume there's an enormous amount of time, as you said, used to try to stabilize their situation. I suppose, you know, when you're there for a long time there would be thoughts of suicide or otherwise. But there's some benefit to having a longer period of time to work toward their rehabilitation, is there not?

● (1605)

Mr. Don Head: Yes, there's no question, depending on the level of need of the individuals, that it gives us more time to work with them. I don't want to necessarily advocate that you should be always striving for the longest sentence possible, because there's enough research that says that itself can also be detrimental, depending on individuals, but there is no question. We need to look at how we stabilize those types of individuals and how we get them prepared for what the rest of their life is going to look like. We need to work on some of the problem areas that they bring into my institutions, based on their life experience, and we need to try in the best way possible to get them to lead a law-abiding life within the walls before they are even considered for release into the community.

Mr. Robert Goguen: You know, granted that each case is different, each case is particular to its facts, and certainly with the heinous nature of the crimes that this addresses, there's an important discretion given to the judge on this to impose a longer sentence. With that discretion in mind, doesn't this bill strike a balance between the victim's right of not having to go through the numerous hearings, being retraumatized, and the offender's potential of being rehabilitated over a longer period of time because of, basically, the nature of the offender? Does that not strike a balance in your mind, Mr. Head?

Mr. Don Head: I think one of the opportunities this bill presents is discretion at the judiciary level. In terms of consideration for amending the Criminal Code, the more you keep discretion in the hands of judges...I think it's a good thing. If you were to narrow it down and say it automatically has to be this, that would be even more detrimental from a rehabilitative perspective.

Mr. Robert Goguen: Do you have any thoughts on that, Madam Brisebois?

Ms. Suzanne Brisebois: I have nothing further, really, to comment on.

Mr. Robert Goguen: That's it for me.

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

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

[*Translation*]

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

I thank the witnesses for being here today.

You are giving us an insider's view. Often, we discuss things with lawyers or experts, but it is good to hear the viewpoints of people who will actually apply this bill if it passes.

Mr. Head, my first question is for you.

I had a look at the Corrections and Conditional Release Act. Section 76 talks about the reintegration of offenders into the community. The mission of the Correctional Service of Canada is to incite, encourage and help people to become law-abiding citizens. The act also lists all of the ways of doing this, in particular through school programs—you referred to those briefly. It also refers to the fundamental values that are an inherent part of the program.

In the next-to-last paragraph of your presentation, you mention that the proximity of parole eligibility dates are one of the factors considered when assigning offenders to programs, and that a bill like this one could have certain repercussions.

Could you tell us a bit more about that point?

Thank you.

[*English*]

Mr. Don Head: Sure, most definitely. It's a very good question.

One challenge we have right now, particularly with any long-term offender, including those serving a life sentence, is that when we have to prioritize the available resources and the programming capacity we have, we're going to invest in those who have shorter sentences and who have parole eligibility dates coming sooner rather than those who have them coming 25 years from now, so that is a bit of a challenge. It means that somebody who's serving a longer sentence may not necessarily, under the current regime we have, be initiated into meaningful programs for quite a number of years.

We have actually had to retool the manner in which we deliver programs so that we're able to start initiating programs for any offender, regardless of sentence length, within the first 50 to 70 days that they come in. About 40% of my institutions currently have started that new regime, and over the next year, or year and a half, the remaining 60% will be doing the same.

Right now in those other institutions a long-term sentence is basically being put aside so that we can deal with the shorter sentences. On any given day about 23% of my population are serving life sentences, and about 25% of my population are serving between two to three years—so you can see the competing priorities there—and then the rest fall within the other range.

● (1610)

[*Translation*]

Ms. Ève Péclet: My next question is addressed to both witnesses.

You enforce the act, and I know that you cannot comment on the political aspect of things. My question has to do with the enforcement of the act.

Under the Rome Statute, an offender must be eligible for parole after 25 years, regardless of his sentence. This is an international treaty which Canada ratified.

I won't go through the history of parole since the 1800s when this was adopted. However, I would like to know whether this principle is included in the enabling legislation. In your opinion, should that principle regarding the 25-year period be a part of the legislation you enforce?

[*English*]

Mr. Don Head: The overall Corrections and Conditional Release Act basically has enshrined the principle that good public safety can and will be achieved through a strong conditional release system. That's why you see that, even with the more serious offences and the life sentences, there is parole eligibility. It doesn't mean you automatically get it, as you know. Individuals have to earn it. They have to show that their behaviour has changed and that they have become law-abiding citizens. Our legislation in Canada has enshrined that principle. Conditional release is one of the key elements of public safety when you're dealing with offenders.

Ms. Ève Péclet: Do you have something to add?

Ms. Suzanne Brisebois: No. I agree with Mr. Head in the sense that, in the conditional release process and system, the fundamentals are public safety and looking at the specific case factors, and as an offender goes through the sentence, whether or not some of those factors have changed. Again, public safety is the paramount consideration in all decisions.

The Chair: Thank you for those questions and answers.

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

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

Thank you, Don and Suzanne, for being here today.

I wonder if you could perhaps just expand a little bit upon the programs that are available to these people in the federal institutions, based on the fact that—and correct me if I'm wrong—under the two-plus-a-day system, these programs are available but not mandatory. Am I correct in saying that?

Mr. Don Head: Yes. When offenders come into the system, we do a series of assessments and we develop what's called a correctional plan. We ideally develop that plan with the offenders and encourage them to participate in the programs, but we cannot force any offender to take the programs that are identified.

Mr. David Wilks: To take that one step further, if inmates are brought to one of your institutions and are convicted of first-degree murder but don't have any additional convictions—that is, the ones related to Bill C-587, sexual assault, etc.—they would not be compelled at all to look at any of those programs because they were never convicted. Is that correct?

● (1615)

Mr. Don Head: We would continue to pursue them.

For example, if an individual convicted of murder came in, and just assuming for a moment that the other charges were dropped or bargained away, whatever the case may be, we would still look at the complete history of the individual. If sex offending had been part of it, although the final charge was just murder in the first degree, we would identify that as a need for the offender and encourage him or her to participate in the programs.

This is probably a good example because, as you're well aware based on your own background, individuals do not like having a sex offending label on them for all kinds of reasons, and individuals such as that will resist every effort by my staff to get them involved in sex offending programming to address that need. But we will continue to note it and pursue it, and it will be brought to the attention of the Parole Board at whatever time for decision-making as well.

Mr. David Wilks: Could you tell me if there are any repercussions, not necessarily to inmates but in general, when looking at a parole hearing if they have turned down opportunities to take programs that would better enhance them for release?

Ms. Suzanne Brisebois: This speaks to what's been done since their incarceration to mitigate the risk and whether or not the offender is actually actively looking to address the risk factors. That's a part of the consideration the board is looking at in terms of the program, whether or not the offender has successfully completed it and made some advancements as part of the sentence.

Mr. Don Head: What you would see, more than likely, based on the way you described it, is that the Parole Board would probably not grant a release. It may make recommendations for us to do other things to try to show that the offenders are addressing their needs, but more than likely they would not be granted their release.

In the same case, internally we have other levers we can use. For example, an offender who is not following the programs would be unlikely to be eligible to be transferred to lower levels of security, down to medium and minimum level. So there are other levers we can use in encouraging offenders to take the programs they need.

Mr. David Wilks: You mentioned an interesting point just a minute ago with regard to inmates not liking to be labelled with regard to sexual charges and specific to the general population and the segregated population. I would also assume, and correct me if I'm wrong, that most inmates who are convicted of charges of a sexual nature are put into protective custody more times than not, or are not put in the general population, to protect them from grievous bodily harm. But when putting them into segregation is there an opportunity to have group therapy for those who have been convicted of sexual crimes?

Mr. Don Head: Just very quickly, when I started 37 years ago you probably saw more of those sex offenders in protective custody kinds of settings. Nowadays that's not so much the case. We've actually worked hard to integrate them in the population. Having those kinds of separate operating systems is very costly and not very efficient in terms of doing programming.

Having said that, we'll have some cases who we may have to put in segregation for their own protection and in some cases for protecting others because their behaviours are aggressive to other inmates who are vulnerable. While they're in segregation we'll work with them through the psychologists, the social work staff, the programming staff, and the parole officers to try to modify their behaviours so that we can get them back into the general population and into the full stream of programs.

Mr. David Wilks: Thanks.

I have nothing further.

The Chair: Our final questioner is Madam Boivin from the New Democratic Party.

Ms. Françoise Boivin: Commissioner Head, just so I am clear about some of the answers that you gave, when you were talking about the three to five this would apply to are you saying that is the number of cases that actually are in your system that would fit the criteria? We all know it won't be retroactive because it can't be, but it gives you an idea of what you could encounter in the near future. Was that what you were saying?

● (1620)

Mr. Don Head: Yes. We went back and looked over the last three to five years, just as a quick way of getting an approximate. What we found was that it averages out to about one person per year who meets that full definition: abduction, sexual assault, and murder. It averages about one per year.

Ms. Françoise Boivin: You were also prudent in stating—and this might be a case that some legal scholars will make with us—the fact that when a new case of that nature would proceed in front of the court it's quite possible that in view of Bill C-587 being in effect, the crown and the defence could have some type of deal that will make it so that the person would end up pleading guilty to one of the three offences so as to avoid the impact of this bill. I think you did mention that fact, so that could also show how the impact of the bill would be close to zero.

Mr. Goguen was talking about the fact that the whole concept of Bill C-587 is built on the discretion of the court and for once everybody on this committee agrees that it's a good thing. That's not the problem with the bill in my opinion, but he said something about longer sentences with the bill, but it's not a longer sentence because the sentence is life. Am I correct? It's life. It's just the possibility of parole and when it will happen that will change.

When somebody leaves the incarceration system, Ms. Brisebois, after successfully going through the Parole Board and they are lifers, is it the end of their attachment to the system or are they still lifers? Am I correct?

Ms. Suzanne Brisebois: Yes. You're correct.

They continue to be serving a life sentence. They continue to be under the supervision of the Correctional Service of Canada and they're subject to conditions, and special conditions in certain instances, and their parole can be revoked so that they can be returned to the institution.

Mr. Don Head: Can I just add something? I just want to make sure that one of the statements you made gets full appreciation.

For most of the first-degree life offenders with 25-year parole eligibility, the average amount of time they stay inside with us is about 28 years before they get parole, so a couple of years after their 25-year parole eligibility date. However, under this bill if somebody were to get life with a 40-year parole eligibility, I would actually have them physically taking up space for another 12 years before they're eligible. Although the sentence isn't longer, the period of time that they're incarcerated and taking up a cell is longer.

Ms. Françoise Boivin: Thank you. That's clear.

It's almost tempting, Ms. Brisebois—I know Mr. Casey was alluding to it. I wish I could be at the water cooler of the Parole Board this Monday morning or the day after the announcement by the Prime Minister that life means life. I know we'll discuss it later if we continue with this bill or we suspend it for a bit, because it seems there might be things that will have some type of impact. The same offence seems to be on target for the government.

I seem to understand that the Parole Board was not the correct organization to discuss or decide on the actual eligibility because there would be a choice. Could you have done the same type of review, after 35 years, as the cabinet or the public security minister? If the law would state it, would you be able to do the work? I guess the criteria should be the same.

Anyway, I don't know if you have any.... I was insulted for you, but you know, that's me.

The Chair: Madam Boivin, I don't know if the Parole Board could answer a question about legislation that hasn't even been presented to the House of Commons.

● (1625)

Ms. Françoise Boivin: Well, it's coming.

The Chair: I don't think it's really a fair question to be asking you. If you'd like to respond at all, it's up to you.

Ms. Suzanne Brisebois: As you mentioned, it hasn't been tabled, so I'm unable to.

The Chair: That's correct.

Ms. Françoise Boivin: It's the same for us. We're all talking, but we'll suspend the bill in virtue of it.

The Chair: Thank you very much.

First of all, thank you for coming today and talking to us about this private member's bill. I think I say on behalf of everyone here that both the Correctional Service and the Parole Board do very tough work for Canadians. Not always does everyone understand exactly what you do, and often you get criticized for different things, but from our political side we understand, we do appreciate what you and your staffs do, and we want to thank you for that.

With that, I'm going to call on the mover of the motion, Mr. Mayes, to talk to us. We have had some discussion. There was an announcement last week about a future government bill. We chatted on the phone about what we may want to do with clause-by-clause, so I leave the floor to you, Mr. Mayes.

Mr. Colin Mayes (Okanagan—Shuswap, CPC): Thank you, Mr. Chair.

In light of last week's announcement by the Prime Minister and the Minister of Justice of our government's intention to bring forward a bill that would say life is life, to mean life, I would ask the committee to defer the clause-by-clause until I have an opportunity to see the bill and make an assessment of whether I'd want to continue with this bill.

The Chair: Just for the committee's information regarding this bill, Bill C-587, we have until May 1 to report it back, so we do actually have lots of time. Based on the discussion, I'd take a motion to defer the clause-by-clause until future notice.

Mr. Bob Dechert: So moved.

The Chair: We can just talk about it.

Ms. Françoise Boivin: Can I just say a few words? I think it's wise on your part to do so because I was really wondering what we would be doing on clause-by-clause. More power to you to have noticed that it might contradict a future bill that is coming, but we'll see it when we see it. I have no problem. The NDP doesn't have any problem with suspending it.

The Chair: Is there anybody else?

(Motion agreed to [See *Minutes of Proceedings*])

The Chair: Just so you know, here's what's happening.

Ms. Françoise Boivin: We're not travelling.

The Chair: No we're not travelling; it didn't get approved.

On the 11th, which is this week, we are continuing our discussion of the fetal alcohol study. Thank you to everyone for submitting witnesses. We've contacted them all. We will have committee meetings on March 11, 23, which is the Monday, and 25. That will cover off all the committee members' witnesses whose names were submitted.

There are a few, if you are interested, who have turned us down, not wanting to appear. You can check with the clerk whether they were yours. Even with that, we can still accommodate them if they change their minds.

The issue I need to bring forward is this. The request from the House is that we report back by the 26th, but if we finish seeing witnesses on the 25th, having a report done by the 26th is virtually impossible. So with your indulgence, I'm going to ask that we get that date extended to the first week back after the two weeks in April. Is that okay? I think if you all talk to your whips, we can maybe do it with unanimous consent in the House and get that done.

Those are the two things that we have. We have that and then we have March 30 and April 1 still not taken, and obviously it will depend on what we see with this bill. So we have Quanto's law, Bill C-35; the drunk driving bill; and the mains that we could deal with.

Ms. Françoise Boivin: You must have been so happy.

The Chair: I was happy.

My suggestion is that maybe we'll get through the fetal alcohol study, we'll have the subcommittee on agenda, and we'll pick one of these three things. So have a thought about what you want to do, and we'll do that.

With that, the meeting is adjourned early today. Thank you very much.