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Chair

Mr. Daryl Kramp

Standing Committee on Public Safety and National Security

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● (1530)

[*English*]

The Chair (Mr. Daryl Kramp (Prince Edward—Hastings, CPC)): Good afternoon, colleagues. We will call to order meeting number 16 of the Standing Committee on Public Safety and National Security.

Today we will be dealing with Bill C-483, an act to amend the Corrections and Conditional Release Act, escorted temporary absence, put forward by the member of Parliament for Oxford, Dave MacKenzie.

Before I start with that, colleagues, as chair I would like to thank you for having your witness lists in to the clerk on time. We've been able to proceed with everything all in favour, both for today and Thursday, so I very much appreciate the cooperation.

I will also make note that just at the very end of today's meeting, we will take about a minute or two to consider a request for budget approval for witnesses on this particular bill. I'll be asking for your consideration on that for approval.

Today's meeting is televised, and this is great. I thank all the representatives of all parties for their cooperation and concurrence in having this meeting televised today. In future, of course, it would certainly be good to know a day or two before so that we can potentially avoid any maybe last-minute expenses that come along with the last-minute decision. I thank you for your cooperation in allaying that possibility today.

In the second hour today, we will hear from Sue O'Sullivan, from the Office of the Federal Ombudsman for Victims of Crime; and Mr. Harvey Cenaiko, from the Parole Board of Canada.

At this particular point, we will turn to our first witness, Mr. Dave MacKenzie, member of Parliament.

You have 10 minutes for your opening address.

Mr. Dave MacKenzie (Oxford, CPC): Thank you, Mr. Chair.

I am pleased to be here with you today to discuss private member's BillC-483. I firmly believe this bill provides a good balance between the need to reintegrate prisoners into the community and the need to do everything in our power to keep the Canadian public safe from harm.

Even if we have not been personally affected by crime, it is not hard to imagine the relief a victim of violent crime or their family feel when a criminal is removed from the community and is safely behind bars, or the comfort they must take in knowing this particular prisoner cannot seek out the victim and commit another act of violence. It's also not hard to imagine the stress and concern that same victim feels when they find out the prisoner has been granted an escorted temporary absence from the penitentiary. Even for a temporary absence in which the prisoner is under escort for the entire time, the mere thought of the prisoner being back in the community is extremely difficult.

Regardless of the reason, Canadians want assurances that all possible measures are taken to ensure their safety when a prisoner is out in the community. These safeguards are contained within the Corrections and Conditional Release Act, which outlines the necessary controls and criteria that must be met for each type of absence and that are deemed necessary for each individual prisoner.

Escorted temporary absences can be divided into two main categories: those that are obligatory or necessary, such as for court proceedings or medical treatment; and those that are for rehabilitative purposes, such as for community-based correctional programs. There is no question that there are some circumstances in which a prisoner must leave a penitentiary for obligatory reasons, such as for court appearances. In these cases the releasing authority determines and applies the proper security escort up to and including the use of physical restraints when necessary. These decisions are straightforward; even the highest risk prisoner needs to be taken to a court date if he faces new charges.

It is when we get into discretionary absences, in other words those that are more for rehabilitation, that victims become more concerned about how the decisions are made to allow the prisoner to be absent from the penitentiary. The decision to send a prisoner outside penitentiary walls for correctional programming reasons is made using greater discretion, taking into consideration the prisoner's engagement in the correctional plan and the risk they pose to society. Today decisions on escorted temporary absences for rehabilitative purposes for those serving life sentences are made by either the penitentiary warden or the Parole Board of Canada, based on a scheme outlined in the Criminal Code.

That formula is as follows. For prisoners serving life sentences, the Parole Board is the releasing authority from start of sentence up until three years prior to full parole eligibility. Once a prisoner is within three years of full parole eligibility, Correctional Service Canada takes over as the releasing authority.

For those prisoners who committed murder before they turned 18, the Parole Board is the releasing authority from start of sentence up until expiration of all but one-fifth of the specified number of years the offender is to serve without eligibility. Once the prisoner reaches the one-fifth mark, Correctional Service Canada becomes the releasing authority.

This switch in releasing authority from the Parole Board to the wardens is what concerns victims of crime and many other Canadians. They want to know why the Parole Board isn't the releasing authority for the entire length of a prisoner's sentence. They want to know why they as victims and families are suddenly shut out of the decision-making process for the final years of the offender's sentence. They want to know why an unelected and unaccountable bureaucrat is replacing someone appointed by the crown as a decision-maker. It is easy to understand their concerns.

Over the past several years our government has made a number of legislative changes that place more discretion and authority upon members of the Parole Board of Canada and that give victims a larger role in the conditional release system. For example, in 2011 the Abolition of Early Parole Act gave the Parole Board more authority when deciding if a white-collar criminal is eligible for parole, allowing it to consider an individual's risk of committing a new offence before the end of their sentence. In 2012, the Safe Streets and Communities Act included measures that now enshrine in law the right of victims to attend Parole Board hearings and make a statement, and it expanded the definition of who can be considered a victim.

Measures like these have contributed to a greater public understanding of the conditional release decision-making process. It only stands to reason that victims of crime want every opportunity to use their newly enshrined rights. To this end, they want the Parole Board to remain the releasing authority for all discretionary absences, regardless of the number of years left in an offender's sentence. We may not be able to fully understand the pain and loss that friends and families of a murder victim may experience, but we can certainly appreciate their desire to want to play as large a role as possible in decisions that may allow prisoners to be conditionally released into the community.

● (1535)

This is really the underlying push behind my Bill C-483. Shifting the authority for rehabilitative escorted temporary absences completely to the Parole Board gives victims the opportunity to be part of all of these types of decisions, thereby further empowering them. This is a pledge that our Conservative government has made to victims of crime and to all Canadians year after year, that we will do everything we can to safeguard families and communities. I believe this legislation will help us in these efforts by addressing victims' concerns and providing assurances that their safety comes first and foremost.

Thank you, Mr. Chair. I am now happy to take any questions you may have.

The Chair: Thank you very much, Mr. MacKenzie.

We will start our round of questioning.

First off, we will have Ms. James.

Ms. Roxanne James (Scarborough Centre, CPC): Thank you, Mr. Chair.

Welcome to our committee, Mr. MacKenzie. I would like to thank you for bringing this bill before us. I think it is important legislation, and I think it speaks to your background as well to bring something like this before our committee today. I really commend you for having it come this far. I know how difficult it is to get a private member's bill to committee.

I listened to your opening remarks. We understand the basis behind this and how the Parole Board works with regard to these offenders, but I'm just wondering if you could speak a bit about why you actually decided to take on this bill. What was it that prompted you to want to change the system to ensure that those who commit some of the most serious crimes—first- and second-degree murder—are actually having their cases heard by the Parole Board as opposed to having them simply turned over to the institution's warden?

Mr. Dave MacKenzie: Thank you for the question.

The big issue here, primarily, is police officers and prison guards who are murdered in the line of duty and those who are sentenced to the maximum sentence of life in prison. In particular, my interest in this was raised a great deal by a victim, a police officer's widow. You'll hear from the widow in her words. I think it's important that you hear her.

Kim Hancox's husband was murdered in Toronto in 1997 by two women. Kim is a very astute woman, and you'll hear in her words exactly what that means. She has been through the process with the national parole board. She understands that process and appreciates the opportunity she has to present her feelings to the national parole board. But what happened in this case in particular is that the national parole board said that these people, one of them in particular, should not be released. Then the system, in that last three years, it ends up that this goes to the prison warden, and the prison warden decided that there should be a release.

I think she found that it just wasn't right, that it didn't feel right. I agree with her. For that reason, we have this bill.

Ms. Roxanne James: Thank you. I appreciate that answer.

You said in your opening remarks that, “This switch in releasing authority from the Parole Board to the wardens is what concerns victims of crime and many other Canadians.” I think anyone listening to today's committee meeting would agree with that statement.

You can correct me if I'm wrong, but for someone who is being heard by the Parole Board of Canada up until the last three years prior to eligibility, they could actually, on the day before that three-year period, appear before the Parole Board of Canada, and then the very next day go to the warden and ask for the same thing and be approved, whereas the Parole Board had actually said no or maybe there were conditions applied. Can that actually happen?

Mr. Dave MacKenzie: That's the essence of why I've brought this bill forward. The national parole board is charged with that responsibility. They go through their process, including having people attend before the national parole board, and then the warden releases someone....

This is not meant to be punitive. They release someone that the national parole board has turned down and the victims then get no notification. They don't get the opportunity to appear before the warden and to have their opportunity to explain why they don't think someone should be released. That's the part they find very difficult from a victim's perspective. It's that they have then lost any opportunity to have their feelings known.

● (1540)

Ms. Roxanne James: This is almost a backdoor parole process.

Mr. Dave MacKenzie: Yes. You know, I think you'll hear from most folks that they agree with the process with parole. They agree with national parole. They might not agree with national parole decisions every time, but they've had an opportunity to have input in it. As it is now, the system leaves national parole and goes purely to the warden of the prison, and that doesn't feel right to them.

Ms. Roxanne James: Thank you.

Just for the record, I want to make it clear that not in any way do I think the wardens are not capable of making certain decisions. It's the fact that within this particular case, where it's dealing with first- and second-degree murderers who are actually going through the Parole Board instead of the institution wardens, this bill speaks to that and believes for the last remaining three years they should also be going through the Parole Board. I think most Canadians would agree with that perspective as well.

With regard to the victims themselves, and the fact that they've had the ability to be participating in the Parole Board process, and to attend hearings or provide statements and so forth, do you feel that to suddenly have the authority to release that particular offender given to the warden, and having an individual not be made aware of that, or not have the ability to speak to that, is a further revictimization of that individual?

Mr. Dave MacKenzie: Yes, it is, absolutely.

I'd like to make it perfectly clear that nothing the wardens are doing is wrong. It's the system that's wrong as opposed to the wardens. The wardens are making these decisions based on their reasoning, and it's not.... They're not the wrong people; it's the system that is wrong. We allowed it to...and not only allowed it; it's in legislation that they can do it.

I think most Canadians, not only the victims, relatives, and so on, but I think most Canadians, would be shocked to know that when you get to that final three years, it's up to a prison warden, even though national parole may have said no.

Ms. Roxanne James: Sorry, but just as a final statement again, we're talking about only the most serious of crimes.

Mr. Dave MacKenzie: Absolutely. Yes.

Ms. Roxanne James: Okay.

Thank you very much.

The Chair: Thank you.

Mr. Garrison, you have seven minutes, please.

Mr. Randall Garrison (Esquimalt—Juan de Fuca, NDP): Thank you very much, Mr. Chair.

Thank you very much, Mr. MacKenzie, for being with us today.

Certainly on our side we understand the concerns that the victims of very serious crimes have, but we have several times expressed our concern that we've had a lot of private members' bills that amend various parts of the Corrections and Conditional Release Act. We've become very concerned about unintended consequences of the various things that are happening here.

Something you said in your opening statement, which is a bit technical, I want to go back to. From reading the text of the bill as submitted, it's not clear to me that this only applies to rehabilitative temporary escorted absences. Certainly the summary of the bill does not say that, and certainly none of the sections the bill as presented say that. It makes an exception for medical absences, but this bill as presented makes no reference to things like the court appearances.

Maybe it requires a more complex reading of the Corrections and Conditional Release Act to see that, but I cannot see that in the bill as presented.

Mr. Dave MacKenzie: Mr. Garrison, I don't have that at my fingertips, but I think that is a given, that the wardens always have that for temporary release for medical purposes, and I think I indicated in there, for court appearances and so on—the obligatory options.

Mr. Randall Garrison: With respect, in certainly the copy of the bill that I have in front of me, I don't see it anywhere.

Mr. Dave MacKenzie: Okay.

Mr. Randall Garrison: It only says "medical emergency". It does not say mandatory court appearances. By my reading of the bill, and with the limited knowledge I have of the Corrections and Conditional Release Act, the form of your bill may not accomplish exactly what you intended.

I think that's an important question that we'll perhaps have to get legal advice on, if you don't have that today.

● (1545)

Mr. Dave MacKenzie: No, I would agree with you that you should get legal advice. You shouldn't take my word on it. But if you look at proposed paragraph 17(1)(b) in the bill, I think it does spell that out.

Mr. Randall Garrison: I see the reference to it there, but in your proposed subsection 17(1.1), where you have a new section that deals directly with that limited category of those convicted of first- or second-degree murder, I don't see a reference to it in that fashion.

Proposed paragraph 17(1)(b), which you referred to, says for all those "other than".

Mr. Dave MacKenzie: With all due respect, I think you have to go to where the national parole board can release for those purposes.

Mr. Randall Garrison: Well, I'm going to ask for further legal advice.

Mr. Dave MacKenzie: Yes, absolutely.

Mr. Randall Garrison: On the face of it, I don't actually see that.

Another question I'd like to ask is—I know we have limited time as we go through these—did you consult anyone on the impact of this on the work of the national parole board?

In other words, how many of these kinds of applications from those who're convicted of first- and second-degree murder are received by wardens every year, and how many of those would be shifted over to the Parole Board?

Mr. Dave MacKenzie: I didn't do that, but I do know that murderers of police officers and prison guards are not a large number. National parole is responsible for those releases up to the final three years. It would seem that it will not increase significantly the amount of work that national parole does anyway.

I can't tell you the number of convictions. I should know that number of convictions for people murdering police officers and prison guards, but that number is not significantly onerous, I don't think, to national parole.

Mr. Randall Garrison: But again, with respect, in the bill that we have in front of us, there's no mention of limiting it to those who murder police or prison guards. It says, all of those "convicted of first or second degree murder".

Mr. Dave MacKenzie: But you have to go to the bill.

Mr. Randall Garrison: In the copy of the bill that I have in front of me, I don't see any reference to that.

Mr. Dave MacKenzie: If you look at 17(1), "other than an inmate convicted of first or second degree murder"—

Mr. Randall Garrison: But that's a much larger category than police and prison guards....

Mr. Dave MacKenzie: The purpose is that the warden can continue with that temporary release of people other than those convicted of first- or second-degree murder.

Mr. Randall Garrison: I understand that, but what you have said in your remarks is that this will be limited to those who are convicted of first- or second-degree murder of police or prison guards.

Mr. Dave MacKenzie: That's primarily who it will apply to, yes.

Mr. Randall Garrison: But it applies to everyone convicted of first- or second-degree murder, as in the draft in front of me, which is a much larger category.

Again, we'll have to seek some legal advice, but what I see, as drafted in the bill, doesn't match what you've just presented to us.

Mr. Dave MacKenzie: I think it will only apply to those sentenced to 25 years, which will catch the first- and second-degree murder. You will have other witnesses here that'll have a better answer to that question.

Mr. Randall Garrison: I think that's a significant concern we have of unintended consequences. If there's a shifting of a major number of these kinds of requests over to the Parole Board, which already has concerns with its budget and its staffing, we create an unintended consequence.

The Chair: Thank you, Mr. Garrison.

Certainly, you have made a couple of points that the committee should consider. You still have a minute if you'd like, or we can carry on.

Mr. Randall Garrison: No, we'll carry on.

The Chair: Our next questioner, Mr. Maguire.

Mr. Larry Maguire (Brandon—Souris, CPC): Thank you, Mr. Chair.

Mr. MacKenzie, thank you for your presentation. You mentioned Ms. Kim Hancox in your reply to a previous question. Obviously, you felt her situation was a large driver or the reason for bringing this bill forward. Can you just elaborate on why you felt that was so important?

Mr. Dave MacKenzie: You will get to hear her on Thursday, I believe. She will be here.

The whole incident, this murder, is pretty bizarre, pretty heinous. It was a thrill killing, if you will, by two women who murdered this police officer, stabbed him in the cruiser. He was left to die on the street.

You can see the emotions of the victim here, his spouse. She was expecting a child at the time, who was born after that. So she's gone through all of those things, and then to deal with national parole. I don't want to put words in her testimony, but I think you'll find that she understood that process, and then was somewhat surprised, if not shocked, to find that one of these women was turned down by national parole and not very long after that was released by the warden.

Now as I said, the warden didn't do anything wrong. The warden has the authority to do it and had her own reasons for making that release. All I would say is that the system is wrong that grants that opportunity for these people to be out.

I wasn't involved in policing when Detective Hancox was murdered, but I'm certainly aware of the circumstances. It's been an issue that has been out there for quite a while. I think in this case it's a release that just continues to make Ms. Hancox a victim.

● (1550)

Mr. Larry Maguire: I'd just like to ask as well, in the current system regarding the escorted temporary absences, does the victim have any right to submit any comments to the Correctional Service Canada process at this time?

Mr. Dave MacKenzie: No. I think the committee probably has documentation from the Library of Parliament that sets it out very well.

Temporary absences are made by Correctional Service Canada. No hearings are conducted. ETA decisions are made on an administrative basis by institutional heads and by the commissioner or a head of a region.

The other side of that is that for the decisions made by the Parole Board of Canada, the Parole Board has the discretion to hold a hearing for ETA requests. The access to those hearings is non-existent when it's done within the prison context. With the Parole Board of Canada, the victim can apply in writing to attend, which may be granted. There is no right to make a statement when the prison head grants it. When the Parole Board of Canada conducts a hearing, a victim may present a statement.

I think the other part is that inside the prison system, everything about the release remains within there. Like I said, it's not the prison warden's fault, but the system isn't as informative as it might be when it's the national parole board.

Mr. Larry Maguire: Thanks.

Do you think that a more public process for the public Parole Board of Canada's decision-making process is favourable compared to the secretive process that we're under today with the Correctional Service Canada process?

Mr. Dave MacKenzie: Absolutely.

The national parole board used to be a very secretive system years ago, but I think now that it is far more open, the public understands what the system is and how it operates. I think that's what gives the system some credibility.

Mr. Larry Maguire: Are you concerned in any way that the Parole Board of Canada will not be fit to make these decisions if they're deemed to come forward with this?

Mr. Dave MacKenzie: I think the national parole board is quite capable of making the appropriate decisions.

Mr. Larry Maguire: As part of this bill, the proposed subsection 17(1.1) that we just talked about here as well further establishes the criteria that must be used and considered under the ETA decision-making process, including a lot of things like the risk to society, the purpose of the absence, the inmate's behaviour, and whether a structured release plan has been drafted.

I'm wondering if you can share with the committee why this further establishment is important to clarify for the Parole Board of Canada.

Mr. Dave MacKenzie: You'll have to hear it from the national parole board, but I believe you'll find that those are the standard issues that the national parole board uses when it considers parole for any individual serving a custodial sentence.

The Chair: Thank you very much.

Now we will go to Mr. Easter.

● (1555)

Hon. Wayne Easter (Malpeque, Lib.): Thank you, Mr. Chair.

Thank you, Mr. MacKenzie, for bringing forward your remarks on this particular bill.

I do say in beginning, Mr. Chair, that I have somewhat the same concern as expressed by Mr. Garrison about the number of private member's bills that are coming forward by backbench Conservative members that all have an impact on either the Criminal Code or the corrections act. Sometimes I think they're in contradiction.

The last bill we had, C-479, was actually a bill designed to reduce the number of Parole Board hearings, and we didn't hear from the Parole Board in that case. We should have. This one increases the number of Parole Board hearings.

I just think from a government member's perspective, it would make more sense to tie all this stuff together, all these conditions that people are looking for private member's bills on and bring them forward in a comprehensive way. The last two private member's bills we studied had more amendments than clauses. I submit that for the last one—C-479—I think we actually amended it so that we changed the intent of the bill. That's a concern I have, just so that you're aware.

In terms of the specifics of this bill, can you tell us how many cases across Canada this would actually apply to?

Mr. Dave MacKenzie: Mr. Easter, I already responded to Mr. Garrison. I'm not sure. It will not be a large number, simply by virtue of the fact that there are not that many prisoners in the system who this applies to.

I would say to you, though, sir, with all due respect, that on our side backbenchers can bring private members' bills forward. It may not be true of other parties, I don't know, but on our side you can bring a private member's bill forward, and I'm very pleased to have brought this forward.

The other aspect of this is that I don't know how it would increase to the big number that you may anticipate with national parole. In the case that we're talking about, national parole had a hearing and said that the person shouldn't be released.

Hon. Wayne Easter: Coming to what the parliamentary secretary said earlier, you're saying that there are not many cases. When I listened to the parliamentary secretary's line of questioning, I was sitting here thinking that the system must be inundated with people, with victims, victims' families, who are having a problem with wardens granting this temporary release. That's the contradiction I'm seeing between the two, because to listen to the parliamentary secretary, you'd think it was huge.

The Chair: Ms. James has a point of order.

Ms. Roxanne James: Just for the record, I didn't once say the system was inundated by victims or victims' families. I just want to clarify that. I did not say that. There was no contradiction in our testimony.

Hon. Wayne Easter: That was the tone of questioning from the parliamentary secretary, clearly.

The Chair: Tone is one thing, Mr. Easter. If it was a direct referral, that's another. Please carry on.

Hon. Wayne Easter: Yes, Mr. Chair. Will do.

In this particular case, I'm assuming that the warden did grant the temporary release. Is that correct?

Mr. Dave MacKenzie: I believe that you will find, from witnesses, it's several releases.

Hon. Wayne Easter: Okay, several. Because we're looking at the public safety issue here as well, do you know if any of the offenders who were released by a warden on a temporary release committed another offence? Do you know of any?

Mr. Dave MacKenzie: I'm not aware of that.

Hon. Wayne Easter: A November 2012 briefing document sent to the previous public safety minister, Vic Toews, said temporary absences play an important role in helping offenders reintegrate into society.

It cites the “low rate of failure” arising from temporary absences. It goes on to say, “A gradual, structured, and supervised release process represents an effective means of contributing to public safety”.

Can you provide the committee with any evidence that information provided by the minister was inaccurate, because one has to look at the consequences of this? If you're saying this is needed, then where's the case that shows that what Minister Toews was saying is wrong?

● (1600)

Mr. Dave MacKenzie: I don't think we're saying for one minute that rehabilitative releases are inappropriate. They are appropriate, but in some cases those decisions need to be made by national parole and not by the prison warden. That's all we're saying here, that in these cases national parole should have the decision to say yes or no, whether or not.

Sir, with all due respect, you were Solicitor General at one time and you know that national parole does make releases based on a variety of factors, including conditions and so on.

Hon. Wayne Easter: There's no question.

Mr. Dave MacKenzie: I don't think you or I would disagree with that.

Where we disagree perhaps here is with that role, not because it's taken up by the prison wardens outside of their mandate, it's within their mandate, but what we're saying, and what I'm saying, is that decision should remain with national parole in those cases.

Hon. Wayne Easter: What we're talking about here is the last three years of their sentencing.

We also know, according to Vic Toews and other evidence, that a temporary release actually assists in terms of public safety. The victims and victims' families had the opportunity to appear before the Parole Board in previous cases. All that's accurate. I think I'm correct in that. Do we want to place another burden on the Parole Board when it may not be necessary to do so? In looking at that, can you tell us what you expect the costs to be?

Mr. Dave MacKenzie: I suspect they would be very low, because the national parole board is already hearing these people and the national parole board is saying no. I would agree that there are times when release is appropriate, but we have people in prisons in Canada today who are not going to get released for rehabilitative purposes, and we all know that. Some of these are those same people.

The Chair: Thank you very much, Mr. MacKenzie and Mr. Easter.

Now we go back to Mr. Garrison, please, for five minutes.

Mr. Randall Garrison: Thank you very much, Mr. Chair.

I'm going to return to the points. I've had a bit of advice and I've gone through the bill again. I still don't see that this bill limits this to those convicted of murdering police or prison guards. I don't find that anywhere in the bill, and in the brief advice I've had, we can't find that.

So I was wondering whether it was your intention to limit the bill to that, and if so, would you support an amendment to your bill to limit the effect of your bill to the murder of police or prison guards?

Mr. Dave MacKenzie: I don't know at this point that I would say to you, yes, no, or otherwise, with respect to amendments that you may bring forward. It's my impression that this will apply only to those situations in which it gets into the last three years, and it has to be at that point.

I'm not arguing with you about that situation, but I do believe you're going to find that it is those who murder police and prison guards who find themselves in this situation given the length of time for the sentence.

I have correspondence from people who were victims of rape, and they have the same problem, but the sentence didn't meet this same standard here. I could direct you to correspondence or to newspaper articles from a St. Catharines woman who was brutally victimized and then was shocked when the perpetrator was turned down for national parole, but under the system.... But that's not what I'm talking about here. We're only talking about first- and second-degree murder.

Mr. Randall Garrison: Okay. I'm not trying to badger you on this, but you said it's for first- and second-degree murder. I believe that's what it says. I think you'll find that's a far larger category and that has the potential to increase workload at the Parole Board.

You were asked before about the rate of failure on these temporary escorted absences, which you would make so much harder to get. Everything we have seen from the documents presented by the Conservative ministers shows that the success rates on escorted temporary absence are very high. They're in the 90% range. So what is the threat to public safety that we're trying to address here?

● (1605)

Mr. Dave MacKenzie: I'm not suggesting that's the whole issue. The big part of the issue is that once it goes to the head of the institution, the victims are then out of the system. They've been in the system right up to that point. I think for the purpose of people having confidence in the justice system, we put that in there to deal with national parole, and I believe everybody respects national parole. We may not always agree with their decision, but at least this decision is made under a system that we can understand. When these people end up with the head of the institution, there's no involvement.

Mr. Randall Garrison: Well, with respect, there is, when they come up for full parole. They're not permanently excluded from the process. It's only evaluating the temporary absences in that period, but when the person comes back to apply—

Mr. Dave MacKenzie: No, you're right. I think that the issues are legion out there with respect to people who have been granted temporary absences and/or whatever. People are shocked then to find out that those people are in the community, but it's because the community or the victims have never had an opportunity to have input.

Mr. Randall Garrison: Okay. The second one we looked at was the question of whether institutional heads would still be able to allow temporary absence to attend court. I've reviewed the document again and I do not believe that is there. So my question was whether you would support an amendment—if I'm correct—that would say that institutional heads can still grant approval for escorted temporary absences for court purposes.

Mr. Dave MacKenzie: In my opening address I believe I said that.

Mr. Randall Garrison: Okay, we'll have some professional people look at the drafting, but I believe that is, perhaps inadvertently, not there, and that would create a real problem in the court system. It would simply be impossible for the Parole Board to hold hearings each time someone was going to be called to court.

Mr. Dave MacKenzie: No, I understand that. I believe it's there also for medical reasons.

Mr. Randall Garrison: It's only there for medical reasons, but I think we can seek an amendment to that.

The Chair: Mr. Garrison, I think your point is made.

Mr. Randall Garrison: Okay.

The Chair: I think we all heard our witness offer testimony that this was his intention, but of course should it not be picked up in the wording of the bill, and certainly if an amendment is in order or a clarification is necessary, the committee would certainly look at that, as could the perpetrator of the bill.

You still have another minute and a half, should you wish—

Mr. Randall Garrison: No—

The Chair: Oh, no. Excuse me. You went over.

Voices: Oh, oh!

The Chair: My apologies. We're into a different timeframe now.

Mr. Norlock, please.

Mr. Rick Norlock (Northumberland—Quinte West, CPC): Thank you very much, Mr. Chair, and through you to the witness, thank you for appearing.

Would you not agree with me, Mr. MacKenzie, that one of the reasons people send a member of Parliament to Ottawa is to be a legislator—

Mr. Dave MacKenzie: Absolutely.

Mr. Rick Norlock: —and that a legislator brings forward legislation to Parliament? That is not only his duty, but his right and privilege.

Mr. Dave MacKenzie: Absolutely.

Mr. Rick Norlock: Do you believe that if a member of Parliament is part of the governing party that member of Parliament should have fewer parliamentary rights with regard to legislation?

Mr. Dave MacKenzie: They should not have any less than anyone else. I would welcome the members opposite the governing party to bring forward private members' bills, which they do.

Mr. Rick Norlock: Would you also agree with me generally that most of the time—if not all the time—when a member of the governing party wishes to bring forward legislation that impacts a particular minister, and in this particular case, the Minister of Public Safety, the governing member brings that legislation, that private member's bill, to the minister involved, to the minister, his staff, and his people? In many cases, as I suspect in this case, their lawyers look at it to make sure that it does what the member intends it to do, and this committee, after that process, then has the opportunity to look at it and make any amendments they feel are appropriate, provided it doesn't change the actual essence of the bill. Is that correct?

Mr. Dave MacKenzie: I can tell you that in this case I discussed this with staff members of the former public safety minister, Minister Toews, who has left, and I've discussed it with members of the current minister's staff. Where they take it to, I'm not sure. I can't confirm that, but certainly, you know, it wouldn't be right for me to bring forward a bill that impacts a minister's files without having some consultation, whether it's with Public Safety, or Finance, or Health.

Mr. Rick Norlock: Would you, having been a parliamentary secretary for the Minister of Public Safety, agree with me that generally any of those different pieces of legislation that come before that minister are in keeping with the general thrust and the direction that the government wants to go in and that it's complementary to the government's agenda?

● (1610)

Mr. Dave MacKenzie: Yes, I would agree.

Mr. Rick Norlock: Thank you very much.

Would you agree with me that this piece of legislation is intended to assist victims with regard to the appreciation of the system by which people.... Let's start at the beginning. We have a person. In this particular case, you have said that this legislation is designed to deal mainly with murders of police officers and prison guards, and that those victims, the family members or people who are victims around that, serve a life sentence, or in other words, the person who you're dealing with will be forever without her husband—

Mr. Dave MacKenzie: Yes.

Mr. Rick Norlock: —because he was murdered. This piece of legislation is intended to keep her or other potential victims in the loop. In other words, the Parole Board has a process to keep people informed or to keep victims—I guess we need to be specific here—informed as to what's happening with the person who killed their loved one. When it is the decision of the warden, because that warden currently has a legislative ability and is not required.... You can tell me if I'm wrong, but I don't think the warden usually does keep the victim in the loop and is for sure not required to. That's the essence of your bill, to keep the victim in the loop.

Mr. Dave MacKenzie: Absolutely.

You mentioned that in this case Ms. Hancox is without her husband, but her children are without a father. I think that sometimes those of us who are...you know, if I said “playing the game”, I don't mean that flippantly, but we don't have that same connection, that direct connection that the victims have. I think as long as they have that opportunity to be part of whatever occurs, they understand. It's an opportunity for them to have some input into the system. It adds credibility to the whole justice system.

Mr. Rick Norlock: Would you agree with me that if an inmate has to appear before court and the necessary court papers are received by the prison and the process is followed, the warden has no choice, he must follow the court order presented to him and release that prisoner for the purposes of attending court?

Mr. Dave MacKenzie: Absolutely.

This is not intended to be punitive to prisoners in any way, shape, or form. The whole idea behind the legislation is to make it consistent with what occurs in the early part of the sentence through to the end of the sentence, so national parole, which is the body that sits in judgment of these cases all the time, has that control over it as opposed to passing it off to the institution head. As I said more than once today, it's not critical of the institution heads. That's the way the system operates.

Mr. Rick Norlock: Thank you.

The Chair: Fine.

Thank you very much.

We've now gone through our first round of questioning. We will now excuse Mr. MacKenzie—oh, excuse me. I have one more. My apologies.

Madame Doré Lefebvre.

[*Translation*]

Ms. Rosane Doré Lefebvre (Alfred-Pellan, NDP): Thank you, Mr. Chair.

Thank you, Mr. MacKenzie, for appearing before us today to discuss the bill you are sponsoring, Bill C-483. It's good for us to hear what you have to say. I am finding the discussion extremely interesting.

You said you consulted with the staff of the previous public safety minister as well as the staff of the new minister, before introducing your bill. It would seem that you have special access. What a nice way to introduce a bill. At least the department concerned is made aware and you have the benefit of their input, which is all the more informed because you are a government member.

Who did you consult when you decided to introduce Bill C-483? Did you seek the input of other people, experts, in particular?

● (1615)

[*English*]

Mr. Dave MacKenzie: I'm not sure if I totally understand what you're searching.

I was a police officer for 30 years. I'm not familiar with the whole justice system but I am quite familiar with many parts of it. In this case we're not asking to change the whole justice system. We're asking for a little change. When I spoke with the ministers and both of their staff in the past, it was to be sure that I'm not offside with where the minister is with respect to these things. You're going to hear from some experts, and I think that's appropriate. This is not a big bill. I think what you will hear from the experts—and even if I spoke with them, you would still want to hear from them, so I think it's appropriate that you do hear from them. I think they understand or I would expect they understand the system. They can give you that background.

[*Translation*]

Ms. Rosane Doré Lefebvre: No, I wasn't looking to have any particular point clarified. I was just trying to find out who you had consulted. As members of the NDP, we seek out the opinions of experts before we introduce bills or motions. I was simply interested in hearing who you had consulted.

I will ask you specifically, then, whether you sought the input of the Parole Board on your bill.

[*English*]

Mr. Dave MacKenzie: I did not but I did talk to some other experts and I would call them victims. I think they're experts in the system. They are experts and they know how it affects them. From the perspective of national parole, you'll hear from them. I rather doubt that this is a large number. You can hear from them. As I said I've talked to some of the people in the minister's office who have some background in law. In a broad sense this is not a big bill.

[*Translation*]

Ms. Rosane Doré Lefebvre: I agree with what you said about victims. That's a sensitive consideration. Victims have to be viewed as an integral part of the system. It is much to your credit that you consulted them.

As my colleague Mr. Garrison mentioned, the bill focuses on those convicted of first and second degree murder.

The Parole Board will now be doing the work that the prison warden used to do. Did you take into account that this change would significantly increase the Parole Board's workload? Do you have a plan in mind to help the board implement the changes being proposed in your bill?

[*English*]

Mr. Dave MacKenzie: I guess if I understood, you expect that the national parole board will have additional work. In the situation I am telling you about, the national parole board had this hearing, and they said, "No, this individual should not be released from the penitentiary." But it doesn't matter what the national parole board said. Today, the way the system operates, it automatically then rolls over at this point in the sentence. It rolls over to the heads of the institutions being granted the opportunity to release. It's as if the institution now becomes the quasi-national parole board, but the national parole board has said, "No, they're not eligible for release."

The Chair: We're a little bit over. Thank you very much, Mr. MacKenzie.

Excusez-moi.

Ms. James.

Ms. Roxanne James: Just according to the rules and so forth that govern our committee, we actually have a full hour for the first witness, and I think we still have some time left for further questions.

The Chair: You have some time left, but I would like unanimous consent to have that time spent between a round of questioning, if that's the case. I'm not going to allow one member from one party or the other just to have a round of questioning.

How much time do we have left? We have nine minutes, so let's just go three, three, three, if you wish, otherwise we will—

● (1620)

Ms. Roxanne James: Sorry, Mr. Chair, normally we would continue with the round of questioning, whatever the order may be. I'm not sure whether Ms. Doré Lefebvre had actually finished her allotted time.

The Chair: She had more than finished her time.

Ms. Roxanne James: Okay, so I think it actually comes back to this side for the next round, and I'd like to continue with that structure, please.

The Chair: Fine, but if we're going to go a second round, we will still add parity to it, so you have three minutes.

Hon. Wayne Easter: Mr. Chair, I have a point of order.

The Chair: A point of order, Mr. Easter....

Hon. Wayne Easter: We are going to stop earlier. I think one of our very important witnesses on this bill is the Parole Board, along with the Federal Ombudsman for Victims of Crime, next. That's two individuals. I really do not know what more information we can gather from Mr. MacKenzie. I think he explained himself reasonably well, and I think we need to go to the people who are actually going to be impacted by this bill, rather than promote it at this time.

The Chair: Fine, Mr. Easter, but if you don't wish to follow through with questioning that would be fine, too. We will just simply go to....

Was there another point of order?

If not, you have the floor.

Ms. Roxanne James: I would actually like to continue with this witness for the full extent of the time that we're allotted, and continue with the next line of questioning.

The Chair: Carry on. I'll advise you when the time is done.

Mr. Payne.

Mr. LaVar Payne (Medicine Hat, CPC): Thank you, Mr. Chair.

Thank you for attending, Mr. MacKenzie.

You talked about Kim Hancox, and obviously the difficulties of losing her husband, particularly when she was expecting. I can just imagine the difficulty that she faces, and I'm assuming that she has gone through a number of Parole Board hearings. I wonder if you could confirm that.

Mr. Dave MacKenzie: Mr. Payne, I don't know that whole background. She will be here on Thursday, and I'm sure that she is quite well prepared to give you that information.

I can say to you that in my conversations with her, she understands the national parole board and appreciates the work they do. Her belief is, as is my belief, that when national parole board say no, somebody shouldn't get out, that the prison warden shouldn't be put in the position of being able to allow them out.

Mr. LaVar Payne: I think that's the whole point of your bill, Mr. MacKenzie, in that certainly in the last three years it's been taken away from the Parole Board and the warden has that authority. I'm guessing that the individuals impacted, the victims, aren't even notified that in fact this individual could be out on the streets. Is that in your understanding?

Mr. Dave MacKenzie: Part of the concern is that these people may very well be back out on the street without the victims or the families knowing about it.

Mr. LaVar Payne: They're being revictimized again in the whole process. I find it hard to imagine that someone could get out once the Parole Board has already said that they're not eligible. I think about all of a sudden going to your mailbox and finding something in your mail to say that this individual who murdered your husband or family member is now out on the Parole Board. I'm just at a loss for words.

I think about families who lose individuals and what the impact is for them. It's very difficult. I understand because I've lost family members, but not through this kind of a situation. I understand that in fact those family members take years and years to get through this process. It's a grieving process and the loss of a loved one is extremely difficult. I'm supporting your bill in this to make sure that in fact when the Parole Board says no, that is the statement, nothing happens beyond the Parole Board, because as you stated the Parole Board does in fact do an extremely good job, certainly on rehabilitation and following the processes. I just wanted to make those comments.

Thank you, Mr. MacKenzie.

The Chair: We still have two or three minutes left if there's further questioning?

Seeing no further questioning, thank you very much, Mr. MacKenzie.

We'll suspend now for three minutes while we welcome our new witnesses.

● (Pause)

●

● (1630)

The Chair: Colleagues, we'll start our second hour and in the second hour we have two witnesses before us here. We have from the Office of the Federal Ombudsman for Victims of Crime, Sue O'Sullivan, and from Parole Board of Canada we have Harvey Cenaiko.

You have up to 10 minutes each, if you please. We would certainly welcome your comments now.

We will start with you, Mrs. O'Sullivan, ladies first.

Ms. Sue O'Sullivan (Federal Ombudsman for Victims of Crime, Office of the Federal Ombudsman for Victims of Crime): Good afternoon, Mr. Chair, and members of the committee. Thank you for inviting me here today to discuss Bill C-483, an act to amend the Corrections and Conditional Release Act.

I would like to begin by providing you with a very brief overview of our office's mandate. The Office of the Federal Ombudsman for Victims of Crime was created in 2007 to provide a voice for victims at the federal level. We do this by receiving and reviewing complaints from victims, by promoting and facilitating access to federal programs and services for victims of crime, by providing information and referrals, by promoting the basic principles of justice for victims of crime, also by raising awareness among criminal justice personnel and policy-makers about the needs and concerns of victims, and by identifying systemic and emerging issues that negatively impact on victims of crime.

Bill C-483seeks to amend the Corrections and Conditional Release Act to shift the authority of the warden to authorize the escorted temporary absence, or ETA, of an offender convicted of first- or second-degree murder within three years of full parole eligibility to the Parole Board of Canada. At its core, this bill aims to bring a more transparent and inclusive process to victims of crime. I fully support this shift and the benefits it brings to victims.

I think it is also important to acknowledge that Bill C-483 specifically proposes to remove granting authority from one organization and give it to another. In doing so one might question which of the two authorities is in the best position to decide on the offender's progress and ability to reintegrate into the community. My remarks today do not in any way reflect any judgments or suggestions that one of these authorities has a greater capacity to make these decisions. This is not my area of expertise, and I will not speculate on that aspect of this suggested amendment.

Instead, what does concern me, and what I do see as a clear advantage of the amendments proposed in this bill, is the benefit to victims of ultimately having a more transparent, informative, and inclusive process. It is within these parameters that I will provide my comments.

Through our work we have generally found that at a minimum, victims of crime want to be informed, considered, protected, and supported. Given this, it would not be surprising for you to learn that we have heard from a number of victims who are frustrated by the lack of transparency in the warden's process. They find it difficult to understand why someone who has committed a serious crime such as murder could be granted any type of release without a process that informs or involves the victim.

In contrast to parole hearings, victims have little to no role in a warden's board process. To be more specific, parole hearings are a much more informative and inclusive process for victims. Victims have a right to be informed in advance of a pending parole hearing, as well as the option to apply to attend that hearing. Those victims who do attend a hearing are able to bear witness to a reasonably fulsome account of the offender's progress and rehabilitation. Even victims who are unable to attend the hearing still have access to the decision registry, which, while not providing full information about the offender's progress, does outline the reasons why a particular decision to grant or deny parole was taken.

Victims are more fully considered in the parole process in that they are given the opportunity to update their impact statement to respond to and reflect the specific release decision being made. Without this opportunity, wardens' boards may potentially review an outdated and/or less relevant earlier version of their statement. Additionally, within the parole hearing process, victims are able to present, not just submit, an impact statement outlining the harm they have suffered as a result of the crime. While not all victims choose this option, victims who we have spoken to describe this opportunity to share the impact directly with the offender as an important part of their healing journey. Finally, in addition, there are funding supports available to help victims cover some of the expenses associated with attending the hearing.

None of these same channels of information, consideration, and support are available to victims in the case of a warden's board. As such, I would support the amendments in Bill C-483 that require a more transparent, open, and inclusive process for victims.

That being said, while I am pleased to see these enhancements being made for victims of those serving life sentences, Bill C-483 does not address the need for information and meaningful participation for victims where offenders are serving all other types of federal sentences. In these cases, the warden remains the granting authority for ETAs, including non-medical or court-related; unescorted temporary absences; voluntary transfers; and work releases. In practical terms, this means that these important enhancements will only apply to approximately 18% of the offenders currently in the federal system, leaving the victims of the remaining 82% of offenders with a process that does not sufficiently inform or include them.

While it is my job to encourage the Government of Canada to ensure its laws and policies better meet the needs and concerns of victims of crime, I am also aware that the practical implications of broadening Bill C-483to apply to all federal offenders and not just those serving life sentences would undoubtedly be of concern for the Parole Board of Canada and would need to be examined and addressed.

● (1635)

To address this issue, I would recommend that in amending the bill, the committee consider making all authorities responsible for release decisions accountable for providing a transparent and inclusive process for victims, one that ensures the same opportunities and supports that currently exist for victims attending parole hearings.

These changes are important not only as a means of addressing victims' concerns but in strengthening the system overall. We know that procedural fairness is crucial to increasing and maintaining public confidence in the criminal justice system, which means we need a system whereby all participants feel respected, informed, and heard.

In conclusion, I support Bill C-483 in its move to enhance the release-granting process in order to better meet the needs of victims of crime. I also recommend that these amendments should apply to all victims of offenders currently in the federal system, ensuring that all victims are equally able to access a system that better informs, considers, protects, and supports them.

Thank you very much for your time. I would be happy to answer any questions you may have.

The Chair: Thank you very much, Ms. O'Sullivan.

We will now hear from the Parole Board of Canada.

Mr. Cenaiko, you have up to 10 minutes, please.

Mr. Harvey Cenaiko (Chairperson, Parole Board of Canada): Thank you, Mr. Chairperson.

It's a privilege to appear today before this committee to speak to Bill C-483, an act to amend the Corrections and Conditional Release Act. I'll briefly provide an opening statement and an overview of the bill's effects on Parole Board of Canada operations. Afterwards, I'd be pleased to take questions.

As the honourable members of the committee are aware, the Parole Board of Canada is an independent administrative tribunal with exclusive authority under the Corrections and Conditional Release Act, or CCRA, to make day and full parole decisions for federal offenders. The board also makes record suspension decisions and clemency recommendations. However, since this bill does not affect the Criminal Records Act, I will confine my remarks to conditional release and to escorted temporary absences, or ETAs, in particular.

All of the board's decisions are made in accordance with criteria set in legislation and are based on a thorough and careful assessment of the risk an offender may pose to the public if released under supervision in the community. The paramount consideration in every decision is the protection of society. In this regard, the Parole Board of Canada works closely with Correctional Service Canada, or CSC.

As you know, this bill would transfer the authority to approve ETAs to the board for certain offenders. In my view, it is important to understand how ETAs fit within the corrections and conditional release regime to understand how this bill might affect the board. The corrections and conditional release regime is designed to be a graduated and supervised movement toward increased liberty for an offender, with public safety as the paramount consideration. Its objective is to protect Canadians by returning offenders to society as lawful citizens.

ETAs are short-term releases during which the offender is supervised at all times by Correctional Service Canada, or a person approved by the warden of the institution. At present, CSC has the legislative authority under section 17 of the CCRA to authorize ETAs for all offenders. However, for offenders sentenced to life, including those convicted of first- and second-degree murder, this authorization is subject to board approval until the offender reaches day parole eligibility under section 746.1 of the Criminal Code. In all other cases, CSC has the authority to authorize ETAs.

In addition, all ETAs for medical reasons or to attend judicial proceedings or a coroner's inquest are also authorized by CSC.

So, for example, to put that more concretely, for an offender who is serving a life sentence with a parole eligibility of 25 years, the board would be the decision-making authority for most ETAs for the first 22 years of the sentence. After this, CSC becomes the authority for ETAs for this offender.

There are, if you will, two categories of ETAs. There are ETAs that might be broadly described as rehabilitative. The first category of ETAs may be approved for community service, family contact, parental responsibilities, and personal development for rehabilitative purposes. They may also be approved for compassionate reasons. There are also ETAs that are more administrative, such as those for court appearances or medical care, as previously mentioned. Under law, offenders may apply for ETAs at any time throughout their sentence.

An offender serving a life sentence might start with an ETA and then, if all goes well, that offender could move to unescorted temporary absences and work releases. Next, if the offender's risk is deemed to be manageable in the community, the offender may move on to day parole and possibly to full parole. Offenders serving life sentences, as you know, are either incarcerated or under supervision for the remainder of their lives.

The first time the board reviews a rehabilitative ETA application from an offender serving a life sentence, a hearing is set and two board members review the application. The board considers the reports and recommendations prepared by CSC, as well as all other documentation on the offender's file, including any victim statements or information.

Registered victims would be alerted that a review is scheduled. Observers and victims may attend the hearing, and registered victims may provide and present a statement, if they wish to. Board members must take into consideration the criteria of undue risk to society. The ETA must fit within the framework of the offender's correction plan. It must be structured and include specific objectives to be achieved by the offender.

● (1640)

In approving the ETA, the board must be aware of the nature of the proposed escort, board members may impose any conditions considered reasonable and necessary to protect society, and each ETA is approved on a case-by-case basis on its merits. Following this first hearing and a successful ETA, subsequent reviews are typically conducted in office by two board members.

ETA reviews for compassionate reasons are handled differently. They require two board members and are typically conducted in office. The board works in this way because compassionate ETAs are often requested for unforeseen reasons, such as attending a funeral of a close relative, so decisions are required quickly. According to the law in its current form, registered victims will receive notification from the board that an offender has been authorized for an ETA, and CSC will inform them of the date and destination. This is our current system.

Bill C-483 would amend the CCRA to grant the board almost exclusive decision-making authority for ETAs for offenders serving life sentences for first- and second-degree murder. Under this bill, CSC will retain authority only for ETAs for medical emergencies for these offenders. Over the last five years, under the current law, the board conducted an average of 119 ETA reviews per year. Operationally, if Bill C-483passes, because the board's authority for ETA decision-making will expand, the number of ETA reviews the board conducts will significantly increase. It is also important to note that the Parole Board of Canada will continue to consider all information provided by victims in statements about the harm done to them. For those victims who wish to provide their statements to the board, there will be more occasions to do so. In addition, registered victims will be notified of all board ETA decisions, as well as the date and location of the temporary absence, if approved.

Currently, ETAs have a more than 99% success rate. This is no surprise given the strict risk-assessment criteria and the condition that the offender be accompanied at all times while outside the penitentiary. ETAs are an important element in the corrections and conditional release regime, which serves public safety. When public safety is protected, we serve victims and all Canadians.

I thank the committee for its time and attention, and I would be happy to answer any questions you may have.

The Chair: Fine. Thank you very much.

We will go to the first round of questioning. From the government side we have Mr. Norlock.

● (1645)

Mr. Rick Norlock: Thank you very much, Mr. Chair, and through you to the witnesses, thank you for appearing today. My first question will be to Ms. O'Sullivan.

I know in your former life you were a police officer. I wonder if you would agree with me on the following concepts. First, in order for a member of society to appreciate the law, they should have at least a basic understanding of the law and why it is in place the way it is in order for them to be able to properly comply with social order. Second, to extrapolate on that, in order for victims to understand and appreciate the court system, they should, when there's a finding of guilt, understand the system surrounding the offender's life in prison and their part of it—in other words, the parole process and the temporary absence process.

Would you say that both are somewhat synonymous? In other words, the victim needs to appreciate why the system is in place the way it is—and in this case we're dealing with people who have committed a serious crime, such as the murder of a police officer or a prison guard—and the victim, who is serving a full life sentence until they die, needs to be included in the process. Would you say this particular piece of legislation is one more step down that path of including the victim in the process?

Ms. Sue O'Sullivan: I think you've touched on several key points for victims.

First of all, you touched on the criminal justice system. I've been before this committee and you've heard me talk about how complex and complicated things are for a victim. One of their basic needs is for information to understand their role within that criminal justice system. They need to understand what their rights are, and they need information about the offender who harmed them.

The two other words you hear me use all the time when I speak about victims are “choice” and “options”. Their choice to be involved should be respected, but in order to make those choices and choose those options, they need to be informed as to what is available to them.

In my opening comments I mentioned—and this speaks to your final comments on this—how important it is for victims to have information, to have an opportunity for input into that process, to have an opportunity to update their victim impact statement, and to be informed, at all points along that process, about their ability to participate. Our key points for the agency that's going to have responsibility for this process are that they should ensure that it's transparent, that it's inclusive, that there's an opportunity for victims to participate, and that they're informed.

Mr. Rick Norlock: Thank you very much.

I know—I think in previous conversations and anecdotally—that you hear from victims all the time. Sometimes as the ombudsman you want to do something, but if there's no legislative authority, no legislative ability for something to happen, then all you can do is point them in the right direction and give them some advice as to who they need to go to in order to get that piece of legislation changed, or whatever.

I wonder if you could share some of your experiences with victims surrounding not just this piece of legislation but pieces of legislation like it, where there's a lack in their ability to let the system know, to let the people within the system who make it run, like the Parole Board, know how they're feeling. I know you mentioned there could be changes to their circumstance that they feel the authorities need to know.

Ms. Sue O'Sullivan: Yes, and I think what we're talking about here is to set up at all stages along the continuum, if you will, that they have opportunities to be informed, to be considered, and to ensure...I use the word "protected". In many cases, victims want to know that the governing authorities are considering their safety issues, particularly when it comes to different types of conditional release. So they need to understand that the people who have these authorities to make that are...and one way is through the victim's statement.

I also think that when you look at the role of victims in the criminal justice system—you touched on legislation—well, an agency can only give information that the legislation says it can to a victim. That's why it's so important that we allow them to have a transparent process so they can give input. In my comments when I talk about a decision made by the warden's board, there's no written documentation. At the very least, although you've heard me also say we'd like more, a decision registry allows them at least to have some information around that. It's a closed process if they don't.

If you were to ask me, in terms of recommendations, they need to be informed in advance of a hearing process that allows for their participation, they need to be able to present statements, they need to be able to be informed of their offender's progress, because when you're making these decisions on release, that's what they want to know—that you're considering their safety. They want to ensure that they're allowed to update their impact statement. As we talked about, through the process, they're allowed to do that. Also, as I said, they want access to information as to why these decisions are made.

I will also say that whatever the decision is on the process in terms of this legislation, they should also be financially supported in being able to participate in that.

● (1650)

Mr. Rick Norlock: Well, thank you very much, and I think you've hit on some important parts there.

I was dealing with a victim very recently of a terrible sexual assault on her child, and she was given a piece of a map of the community in which she lived. She and her husband broke up during the time that the child had been...and the child had been victimized by a family relative. They were shown this map of a greyed-out area of their community and told that the perpetrator was given the map and told to keep out of the grey-marked area by the parole officer. So this person said, now I've been targeted.

Is this the kind of situation that you have experienced in the past with victims? Do you have some suggestions for this committee as to how we can improve on the process—parole and temporary absence?

Ms. Sue O'Sullivan: I did, and I have made those recommendations that I just went down, so I won't reiterate those.

But I think what you're speaking about here is the need for victims in the process to have a sense that they have the information they need to make choices and have options, that they are included in that process and fully informed along the way, and also that they can exercise those choices, because, as you know, every victim is unique. Some may choose to participate in the process and some may not, and they need to have that choice.

The other thing you alluded to that I want to build on is that victims may, as well, along their journey—and for many victims it's a lifelong journey—change those choices and options. So they need to have the information in order to make these choices along the way. Keeping them informed and making sure the processes are transparent and that they can participate are key pieces to this.

Thank you.

Mr. Rick Norlock: Would it also be helpful to the releasing agency, because we live in a very mobile society today? So the information the Parole Board may need, if the victim doesn't take part in the process.... Where the legislation permits them to take part, they may have moved, and the Parole Board or the releasing agency may not be aware of their new address, which might impact the temporary release. That's part of the reasons that....

Ms. Sue O'Sullivan: That's certainly one of the challenges that have been identified by governing agencies. If the victim doesn't keep the file updated, they may not know. So that's certainly a challenge that's been identified, and that really speaks to the role that we have to ensure that all victims and Canadians understand what's required in part of that process.

You also asked me, how else can we get the victims' message out? Issues of release into proximity around victims is certainly one we hear in our office quite frequently. So this is an opportunity for us to really ensure that victims are included. That's a challenge, but I think every opportunity that I get as ombudsman.... I've had the opportunity to speak at an occasion where I think all of your Parole Board members were there, and also to participate on a regular basis. So there are many ways we can use the voice of this office to inform agencies. I continue to have regular meetings with Correctional Service Canada and with the Parole Board of Canada as well.

The Chair: Thank you very much, Mr. Norlock.

Mr. Garrison, you have seven minutes, please.

Mr. Randall Garrison: Thank you very much, Mr. Chair.

Thank you to both of the witnesses for your testimony. I'm always appreciative of having Ms. O'Sullivan here to remind us that the voice of victims needs to be heard, and they need meaningful opportunities to participate.

You've made recommendations that go quite beyond this bill, so I'm not going to deal with those today. I'm going to ask you a very limited question. You've made the point that when temporary absences are granted by wardens, there is no notification, whereas when this is done by the Parole Board, there is notification of the date and the location. Is that something that we as a committee should be thinking about in the larger sense of requiring some notification to victims when a warden's board grants a temporary absence?

Ms. Sue O'Sullivan: Absolutely.

Mr. Randall Garrison: I think that's something that everybody around the table will be willing to consider.

Ms. Sue O'Sullivan: Absolutely...that they be notified that this is coming up.

Mr. Randall Garrison: Okay, thank you very much.

Mr. Cenaiko, I really appreciate your presentation for doing a couple of things. You've clarified the difference between parole and temporary absences. I think we sometimes run those together. I understand why victims do. They don't always understand the difference between those two, but I think it's important at this committee that we keep in mind that those are two very different things.

You talked about the rate of success for temporary absences—I'm assuming granted by the Parole Board— is 99%, or is that for all temporary absences in the system?

● (1655)

Mr. Harvey Cenaiko: That's the success rate. I can give you the statistics in relation to—

Mr. Randall Garrison: But are those the Parole Board ones, or do those include wardens' boards?

Mr. Harvey Cenaiko: It's just for the Parole Board of Canada.

Mr. Randall Garrison: Okay. Is there any reason to think that the success rate would be significantly less for those temporary absences granted by wardens' boards?

Mr. Harvey Cenaiko: Only 63% of them are put forward for release, so 63% is the approval rate for the first time they've had a hearing; so 37% don't. But of those 63%, there's a 99% success rate that they won't reoffend, or they don't commit a breach of their conditions while they're out on an escorted temporary absence.

Mr. Randall Garrison: Thank you, that's an important part, I think, for all of us to understand. We've had figures from the minister about the success rate overall. We'd have to take into account, first of all, how many were granted the release, and then the success rate is built on that. I think that's very useful.

When the offender becomes eligible for day parole at that point in their sentence is any notice given to victims that the temporary absence will be handled by wardens' boards?

Mr. Harvey Cenaiko: Wardens have no ability to have a—

Mr. Randall Garrison: No, I'm asking with the Parole Board. You deal with these cases up to this date, and I'm also making a suggestion here. In the existing system, if we don't pass this bill, wouldn't it be useful for the Parole Board to notify victims that, from this point on, ETAs will be dealt with differently?

Mr. Harvey Cenaiko: Right. At present we conduct approximately 120-ish ETA hearings each year. If it's a hearing, which would always be pre-release of an offender out of an institution, two board members—it's a hearing at the institution, normally—and the victims would be invited to attend, if they so wished.

Mr. Randall Garrison: The question I'm really asking you is this. At a certain point you no longer deal with those requests. Those requests would then go a warden, right, for ETA?

Mr. Harvey Cenaiko: I'm not quite sure if I understand your question. Of course after ETAs then they're eligible for day parole. We manage the day parole. We're advised of the timeline, the offender's eligibility for day parole. We set up the date in relation to when his hearing will be. It's a pre-release hearing. It will be in person, and we ensure that the victims are made aware so they can attend and they can provide a verbal statement. They don't have to. They can provide a video statement or a taped—

Mr. Randall Garrison: So again we're making distinctions. It's only these very limited escorted temporary absences where victims would not get a notice, when it's done by the warden's board.

Mr. Harvey Cenaiko: That's correct. As MP MacKenzie mentioned, it's that last three years that is, I think, the greater meaning of his bill.

Mr. Randall Garrison: I had a look at the estimates before I came in today, and what I see is that you don't have additional resources coming to you at the Parole Board in the future, even though we have an increased federal prison population. In your statement you say that BillC-483would add significantly to the work of the Parole Board.

I'm asking you the obvious question, how's the Parole Board going to manage that when you don't have any increased funds in the budgetary allocations?

Mr. Harvey Cenaiko: Mr. Chairman, it would be premature to answer any dollar questions in relation to a private member's bill. However, it would be approximately 900 additional ETA reviews per year. Roughly 25% of those are hearings; 75% are in-office reviews. That would provide victims with an additional approximately 200 hearings they could attend and at which they could provide a statement regarding an individual. These are offenders serving life or indeterminate sentences of life for first-degree or second-degree murder.

Mr. Randall Garrison: So it's clear. I'm not asking you to speculate exactly, but it's clear that it would take significant resources to accommodate this bill.

Mr. Harvey Cenaiko: It would be premature to respond to how much. We haven't done any quantification in relation to dollars as this is a private member's bill, not a government bill.

● (1700)

Mr. Randall Garrison: But at 900 additional per year and 200 that victims could attend, obviously resources are required to do that.

Mr. Harvey Cenaiko: Funds are available through the Ministry of Justice's program for victims attending hearings.

Mr. Randall Garrison: Okay.

The Chair: The chair is looking for some clarification. Is the chair to understand that we have well over 900-plus offenders who are in there for life basically?

Hon. Wayne Easter: Mr. Chair, I have a point of information as well.

Mr. Cenaiko, I thought you said 900 over three years and then you said 900 over a year. Which is it?

Mr. Harvey Cenaiko: It's per year.

The Chair: Thank you very much.

We will now go to Mr. Richards, please, for seven minutes.

Mr. Blake Richards (Wild Rose, CPC): Thank you, Mr. Chair.

I appreciate you both being here today with your perspectives on this piece of legislation. Certainly I want to add my voice to commend Mr. MacKenzie for doing something to try to improve safety and to try to better accommodate victims in their part of the process.

I'd like to start on that vein with you, Mr. Cenaiko, in terms of the Parole Board. Anyone who sits on this committee has heard enough testimony from victims to understand how difficult it has to be to go through that very painful process of a parole hearing or any type of a hearing they're dealing with where they have to relive maybe the murder of a family member or whatever it might be, a very tragic circumstance. I'm sure it must be terrible to have to relive that.

To go through that process and have the offender be denied parole and then to hear only a short time later, in the kinds of instances we're talking about today, that through a really secretive process, I guess you could say, this murderer has then been granted access to leave the institution, it must be incredibly painful and difficult for a victim and their family.

Could you make any comment?

I open it up to you as well, Ms. O'Sullivan, if you have any comment on this.

Mr. Cenaiko, could you comment on that and whether you've had any experiences with similar kinds of situations through your time on the Parole Board. I know you obviously have previous experiences both as an officer and legislator in this area. Maybe you could comment on any previous experiences you have had with a similar kind of situation and how you would feel about the bill and how you feel the board would see that.

Mr. Harvey Cenaiko: Thank you very much, Mr. Richards and Mr. Chair.

The Parole Board of Canada has done additional work these last years in relation to ensuring there is a balance between offenders' rights and victims' rights. We work looking closely at what other agencies are doing, both nationally and internationally, throughout Europe, the United States, Australia, New Zealand. We work closely with our partners regarding parole, regarding other work they're doing with victims. We want to, again, be leaders internationally in relation to ensuring the protection of Canadians and society, but as well, ensuring that victims are provided with the services they require and the services they need, ensuring, again, that there is a balance under law in relation to an offender's rights in an institution and the victim's rights to attend a hearing and/or provide information.

In doing the research behind this and preparing for this presentation, I noted that at present there are 1,782 offenders serving an indeterminate or life sentence and there are 4,062 victims registered with the board for those lifers. Our total number of registered victims at the board is 7,585. It shows you that two-thirds of the victims registered with the Parole Board of Canada are for 1,782 offenders, when we have 15,000 offenders in institutions across the country and another 8,000 offenders on conditional release in the community.

Mr. Blake Richards: So yes, you can obviously see there is some importance to these victims in terms of this, just in relation to what has happened to their family member in these kinds of cases. I can see that's clear in what you're saying with your statistics there.

Just to be clear on this as well, when the board makes decisions about the escorted temporary absences, you're provided with all the same materials in terms of the correction plan, etc., that the CSC officials would have on the ETAs that they're making the decisions about, correct?

● (1705)

Mr. Harvey Cenaiko: I can't answer to how CSC makes their administrative decisions.

I can tell you that the Parole Board of Canada will review the file from start to finish. That file would include the background history of the offender and any societal issues he may have grown up with through his life. It would look at his criminogenic behaviour and criminal activity throughout his life. It would include the judge's comments at sentencing each time, or just the one occurrence when the offender was sentenced. Our board members would review the police reports in relation to the offence and look at the whole picture of the individual—how he got into the institution, the crime, and the nature and gravity of the offence he created.

Then they look at psychological assessments, psychiatric assessments, while in the institution; his institutional behaviour while he is in there; the conduct in relation to the successful or unsuccessful programming that he is taking in the institution. Then they look at his community release plan. It's legislated in the CCRA that there has to be a correctional release plan provided for that, which he in fact has to work on. This is to ensure the protection of society in a gradual, monitored, supervised release back into the community.

So that's how we assess risk, but I can't answer for—

Mr. Blake Richards: I appreciate that. I don't have much time left, and I want to really quickly get one last question in.

I'd like to quote back to you a couple of sentences from your opening statement. First, you said, for those victims who wish to, there will be more occasions to provide their statements to the board. That's what you're talking about with this change. As well, “In addition, registered victims will be notified of all board ETA decisions, as well as the date and location of the temporary absence”.

Obviously, given that, given the fact that your look at this, as a board, would certainly be more open and accessible to victims than obviously that of CSC's when they're doing that, could you maybe just comment on that? I think what that tells me is that this is the more open and accessible process for victims, and that would probably make this a good move in terms of ensuring victims have better access to the hearings. So if we're looking at this, that would be an aspect that should be considered as well.

Both of you could comment, if you'd like.

Ms. Sue O'Sullivan: We have a process. One, you're notified in advance. If you're not notified in advance, which you aren't in a warden's board, then how are you going to know to update your statement? It's the kind of process that's going to ensure that they're notified in advance, that they are given the opportunity to provide and update these statements, that they are going to get information. The frustration we hear from people about the decisions made in a warden's board is that they can't access any information as to why that decision was made. They don't understand it. They don't understand why the decision was made and that kind of thing.

So when you have a process that allows for a decision register, or written information coming out of there as to why that decision was made, they can be informed and they can take the steps they need to take and feel they're being respected in this process.

Mr. Blake Richards: Did you want to comment on that, Mr. Cenaiko? To me, it seems as though that open and accessible process would be—

Mr. Harvey Cenaiko: Well, as I mentioned earlier—

The Chair: Just briefly, Mr. Cenaiko.

Mr. Harvey Cenaiko: —of the 900 additional, approximately 200, or 25%, would be hearings. The other 75% would be office reviews. Some of these would be an ETA for the first time. They could be applying for a second, third, or fourth ETA. However, it would provide victims with approximately 200 additional hearings that they could....

As well, in relation to these offenders, there is usually more than one victim family member or person affected. There is usually a number of them.

The Chair: Thank you very much.

Mr. Easter, you have seven minutes, please.

Hon. Wayne Easter: Thank you, Mr. Chair.

Welcome, Ms. O'Sullivan and Mr. Cenaiko. Those were two really good presentations.

I will turn to you first, Sue. You obviously believe, from your remarks, that the bill is isolated to cases related to the murder of policemen and correctional officers. There is some dispute about that around the committee as to how broad the bill is or how narrow it is.

So is that your interpretation?

Ms. Sue O'Sullivan: My interpretation is that this bill is for all offenders who are in for life or indeterminate sentences. However I'm not a lawyer, so I defer to the people who—

● (1710)

Hon. Wayne Easter: You're suggesting that the bill should be extended beyond that.

Ms. Sue O'Sullivan: We're talking about a point of fine process here that applies to all victims. When we're talking about those basics—and I've said them, the needs of victims—it is my job to ensure that we take all these opportunities, and I think we have an opportunity here.

We have an opportunity to broaden this bill so that all victims who are registered, have offenders in the system, and want to participate have the opportunity to have a transparent process, have an opportunity for input, and have an opportunity to be informed and protected. So yes, it is my recommendation that we expand it.

Hon. Wayne Easter: Thank you.

My question to you, Mr. Cenaiko, is under the.... Let me put it this way. How many current, how many such ETAs or paroles are granted by wardens now? How many have been granted to offenders serving time for murders of police officers and correctional officials? Do you know?

Mr. Harvey Cenaiko: I don't have Correctional Service Canada's statistics here. I just have our own, so I can tell you that last year we conducted 119.

Hon. Wayne Easter: One hundred and nineteen—because we really do need to know how broad or how narrow this particular bill is. My problem is that the bill seems to be based mainly on one case and that is Detective Constable Billy Hancox's murder by two individuals. Maybe you can't answer this question either. As I understand it, one of those individuals has asked for parole.

Can you tell us how many parole hearings that offender was granted over time? This seems to be based on just one case. Do we know how many parole hearings that individual was granted? Was the individual ever granted parole? Do we know how long before the warden granted the individual parole that the previous Parole Board hearing was held? Those are important questions we need answers to.

Mr. Harvey Cenaiko: To disclose that information, we can't have the ability to disclose that. I think it would be improper to talk about a single certain case. However I can say that we worked with CSC in relation to getting our expected numbers of 900 additional. You could infer that it means that they conducted 900. But I can't be certain on that; however, we have hard numbers.

We're saying we're going to have an additional 900 cases to do because they won't be doing any other than for medical emergencies. They'll be continuing to—

Hon. Wayne Easter: But that 900 seems to me to be in the broad aspect. Is it not the narrow aspect of policemen and correctional officers?

Mr. Harvey Cenaiko: That's everything.

Hon. Wayne Easter: That's everything.

Mr. Harvey Cenaiko: That's every lifer and offender convicted of first-degree murder.

Hon. Wayne Easter: So we really don't have the number that really applies to this bill.

Let me come back another way on this then. I'm sitting here wondering if this is a situation where we're looking at a problem in the correctional system that really relates to a warden doing what he or she shouldn't have done. Maybe that warden should have been tuned up by the head of corrections. Maybe this decision shouldn't have been made. We're looking at changing the whole Correctional and Conditional Release Act as a result. I don't know that. We don't have that information.

Let me ask you this. Is the warden required to discuss the granting of a parole with the Parole Board in that last three years? Do they get the file from you? Do they have the file? Do they discuss it with people who are involved in the previous parole hearing?

Mr. Harvey Cenaiko: No. The present legislation allows for the warden to make that administrative decision based on areas that he has. He has to ensure that the offender won't be an undue risk to society. He has to follow what is in the legislation now.

● (1715)

Hon. Wayne Easter: But I mean—

Mr. Harvey Cenaiko: But there's no consultation between—

Hon. Wayne Easter: That seems to be ridiculous. It shouldn't be that way because if you're the Parole Board and you've held hearings, and you base your decisions on certain criteria, and you've said no or you've said yes, in either case, shouldn't the warden be obligated to look at previous decisions made relative to this offender and the issues surrounding that offender?

Mr. Harvey Cenaiko: Mr. Easter and Mr. Chair, I can't respond on behalf of CSC other than to tell you what's in the law today, and that's what we follow, the CCRA.

The Chair: You have half a minute, Mr. Easter.

Hon. Wayne Easter: If I say I'm baffled, which I am, Mr. Chair, someone over there will use it against me sooner or later, but I'm baffled.

The Chair: We could also say frustrated.

For the second round, Madame Doré Lefebvre.

[*Translation*]

Ms. Rosane Doré Lefebvre: Thank you very much, Mr. Chair.

Ms. O'Sullivan and Mr. Cenaiko, thank you for being here. You provided very detailed and valuable information.

Mr. Cenaiko, I have a few questions on some of your comments. One of them has to do with your conclusion. You said the successful completion rate for escorted temporary absences was currently 99%.

To your knowledge, will the changes proposed in Bill C-483 heighten public safety?

[*English*]

Mr. Harvey Cenaiko: That's a very good question. As I mentioned, the success rate was 99% based on 63% of those who applied. Will that remain the same? I suggest that it would, based on the risk assessment we do of offenders in the institution.

[*Translation*]

Ms. Rosane Doré Lefebvre: Fine.

My colleague Mr. Garrison partly touched on something I would like to ask you.

You mentioned that you would be conducting a considerably higher number of ETA reviews. If I heard you correctly, the number would be around 900 reviews a year.

If Bill C-483 is passed, will you have enough staff to deal with those reviews?

[*English*]

Mr. Harvey Cenaiko: You're right. That would be our approximate number because, again, this is not a government bill, it's a private member's bill. They are approximate numbers. We have approximately 900 additional reviews. Approximately 75% would be in-office; 25% would be hearings at an institution.

We haven't done any of the numbers in relation to additional costs, so it would be premature for me to comment on whether we have the appropriate staff because this bill is still in the motion of going through this committee, and we don't have any firm numbers on that.

Obviously, as the bill moves forward and if the bill was passed, we'd be looking at the work that has to be done regarding it, which, again at that point in time, would include looking at the amount of work that would be considered, the additional work that would be required, and taking into account all those questions as well.

[*Translation*]

Ms. Rosane Doré Lefebvre: Very well.

At the beginning of the meeting, when Mr. MacKenzie was describing his bill, he talked about the authority that the Correctional Service of Canada would retain with respect to ETAs. Under the bill, CSC would retain authority only for ETAs for medical emergencies.

Would that mean that when an offender had to appear in court, they would have to apply through the Parole Board? Is that how it would work?

● (1720)

[*English*]

Mr. Harvey Cenaiko: Yes, we would do all those. Now, let's remember that these are offenders with indeterminate life sentences who were convicted of first-degree or second-degree murder. The CSC would continue to do the escorted and unescorted in relation to robberies and in relation to other offences, but for murderers and indeterminate sentences we would do all of those except for the emergency medical releases.

[*Translation*]

Ms. Rosane Doré Lefebvre: Ms. O'Sullivan, like you, we agree with the main thrust of the bill. But I would like to know what you think of one measure in particular. When an offender has to appear in court, they will now have to go through the parole board. Do you have any thoughts on that?

[*English*]

Ms. Sue O'Sullivan: I would certainly defer to the Parole Board of Canada and to CSC as to what kind of an administrative...as to how that will proceed. My understanding is that the warden.... For everything other than murder and indeterminates, right now the Parole Board has all of that and does that. I would defer to them to speak to what challenges they may face. That's really an administrative process, that there has been a legal need for them to appear before or to go back to a court process. On the functioning of that, I would defer to those agencies.

I would like to reiterate that for whatever that process is, for whatever decision is made, here we have an opportunity for whoever holds that process for the three-year period, which is that they make it a transparent process, they make it available in a written format, and they have it so that victims can have input into this. When you ask us about it, I think this is about an opportunity here to be more inclusive of victims in getting their voices heard, in being respected, and in being able to input.

Being notified ahead of time that this is actually taking place, because we hear from victims.... They may be on an escorted temporary access pass, but if you're not aware that they're coming into your community and you come across them, whether they're escorted or not.... I mean, we're talking about I think some basic rights for victims: to be able to be informed, to be able to update and participate, and to be able to, if they can't participate or choose not to, get this information in a written format. That's about accountability. That's about whoever is making the decision being accountable for that decision process.

We tried to find the data around how many wardens' boards.... That was unavailable. How many boards do they actually hold? Again, when you look at accountability and transparency, I think whoever has it would need to have that.

The Chair: That's fine. Thank you very much.

Ms. James, please, you have five minutes.

Ms. Roxanne James: Thank you, Mr. Chair, and welcome to both of our guests.

For the record, this bill is about giving victims more ability to be part of the process. In these particular cases, victims have the access to participate right up until that last three-year period. I think you said it best, Ms. O'Sullivan, when you said that the "clear advantage of the amendments proposed in this bill...is the benefit to victims of ultimately having a more transparent, informative, and inclusive process." I think that's important to note.

I do have a question for Mr. Cenaiko from the Parole Board of Canada. Right now, the Parole Board of Canada has the exclusive authority to deal with ETAs for those serving the most serious of crimes. For all others—lesser crimes, lesser sentences—it's dealt with in the institution and it's by the head or by the warden that the decision is made. Why is that?

Mr. Harvey Cenaiko: It's the law—

Voices: Oh, oh!

Ms. Roxanne James: Let me ask a different—

Mr. Harvey Cenaiko: —and the CCRA is from 1992, so really, it's 22 years old. It probably took three to four years to be written up or drafted up before it went through Parliament. It's an old piece of legislation.

Ms. Roxanne James: Thank you. Let me rephrase that question.

What is it that you do differently? What does the Parole Board of Canada do differently when reviewing ETAs that the institution head or the warden would not be doing?

Mr. Harvey Cenaiko: Their review is based on what's in the legislation as well. However, our risk assessment.... I'm proud to say that we have a very strict risk assessment, as I mentioned earlier, in going through all of those areas when we look at ensuring the protection of the public, which is utmost and foremost in our minds for all of our board members. We have to go through the criteria as we do if we were going to be reviewing them for day parole. We review them the same way that we would for an ETA.

● (1725)

Ms. Roxanne James: Thank you.

You've said that of those who apply 63% get approved and 37% are not approved.

Mr. Harvey Cenaiko: They're denied.

Ms. Roxanne James: That's based on your in-depth risk assessment.

Do you think those same results would have been achieved had that responsibility been with the institution head or the warden? Maybe that's an unfair question, because I suppose that would be speculation. But obviously there's a reason that we go through that risk assessment on the most serious of crimes, for criminals who commit those crimes.

Mr. Harvey Cenaiko: Exactly, and I can't answer on behalf of CSC. However, I can say that any pre-release of an offender is one of the most important releases we're going to look at, because you have to measure and take everything into account—their whole lifestyle, all the issues in relation to societal issues that they may have grown up through, addiction issues. It's a very studious process to go through in assessing risk of an offender.

But this is about protecting Canadians, and we don't take this lightly. So we're going to ensure that we assess the risk, and that the offender, as stated in the release plan...that the risk is gradual, it's supervised, and the offender is following a plan that is in place.

Ms. Roxanne James: Thank you.

You used 25 years as an example. For the first 22 years these individuals are more or less under your watch, and then, bam, you have three years left and all of a sudden everything changes.

What magically happens that determines that you no longer have the releasing authority on those individuals and that all of a sudden it goes to someone else who follows a different set of guidelines?

Mr. Harvey Cenaiko: It's the legislation. That's truly what it is.

Ms. Roxanne James: Okay, because I think at the end of the day this is about the victims being all of a sudden shut out of the process.

I guess my time is probably up.

The Chair: You have another minute.

Ms. Roxanne James: Thank you very much, Chair.

Mr. Harvey Cenaiko: Yes, they are.

Ms. Roxanne James: Going back to Ms. O'Sullivan, talking about victims being shut out of the process, we heard the story of Ms. Hancox and her particular situation. But I think that this particular bill does speak to the need to involve victims in the process from start to finish, not to have them fully participate right up until that 22-year example that you gave, but to fully participate for up to 25 years and be able to be involved in the process and know that they're part of the solution, part of the answer. Something terrible has happened to them, and they have that right.

So here we have the last three years of that particular sentence, and I think it's very important that we don't shut the door on victims or the victim's family. I think it's important that we open up the door and allow them to continue with that process. I know you're going to agree with that, but do you have any final comments?

The Chair: Actually, the time has expired.

Thank you very much.

Ms. Sue O'Sullivan: Thank you.

The Chair: Mr. Rousseau, for a couple of minutes, please.

[*Translation*]

Mr. Jean Rousseau (Compton—Stanstead, NDP): Thank you, Mr. Chair.

Mr. Cenaiko, what are the steps in the review process for conditional release? When do you do the review and who looks at the file? How long does one review take?

[*English*]

Mr. Harvey Cenaiko: Each review is approximately two hours. Each board member is allotted approximately two hours to go through the offender's file. Now, depending on the seriousness of the file—and in this case we're talking about indeterminate life sentences, first-degree murder, second-degree murder—in some of the cases these are extensive files, these are quite large, so it could take longer to review them. However, two to three hours per review would be the approximate time you would allot, depending on the case. It's case by case.

[*Translation*]

Mr. Jean Rousseau: Do the board members have to do any research or gather information on the file they are reviewing?

● (1730)

[*English*]

Mr. Harvey Cenaiko: No, the files are provided to the board by Correctional Service Canada, which, of course, is looking after them. So we have the whole file, which includes the court documents, the judge's comments, the police reports, all of the psychological reports, psychiatric reports. All of those reports are included in that file, including the victim statements as well. All of that is reviewed by the board member in preparing for the hearing. Then at the hearing, of course, they're asked questions by—

Mr. Jean Rousseau: The whole process takes about two to three hours?

Mr. Harvey Cenaiko: In an office review, it would be two hours and then writing up a decision.

Attending a hearing, you would review, study the file, and then prepare yourself for the interview the next day, go to the institution, have the hearing, which could take up to two hours, and interview the offender and make a decision.

The Chair: Thank you, Mr. Cenaiko.

Thank you, Mr. Rousseau.

I thank our witnesses for coming today. We certainly do appreciate your time, your expertise, and your commitment to justice and public safety.

Thank you very much. Our witnesses can be excused.

Colleagues, before we break, I would like a motion from this committee to approve the expenses for the witnesses.

Can I have a motion? Mr. Maguire.

Yes, Mr. Easter.

Hon. Wayne Easter: Just a question, Mr. Chair, is this just done on the calculations from Toronto? There are other places in this country besides Toronto. There are five witnesses listed here from Toronto.

The Chair: Mr. Easter, I can ask our clerk to explain, if you wish, the breakdown of how and why. Do you want that now?

Hon. Wayne Easter: Yes.

The Clerk of the Committee (Mr. Leif-Erik Aune): When planning this with the logistics officer, I advised that the witnesses would all be coming from Ontario, not all from Toronto. I know that some are driving from other regions, but for the sake of costing it out, it seemed to me that approximately $1,000 per witness, from whom we expected expenses, seemed reasonable.

For the sake of calculation, I allowed her to use Toronto as the base. It was only for that reason, sir.

Hon. Wayne Easter: Thank you.

The Chair: Motion put forward by Mr. Maguire.

All in favour?

(Motion agreed to)

The Chair: The meeting is adjourned.