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Chair

Mr. Anthony Housefather

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• (1700)

[English]

The Chair (Mr. Anthony Housefather (Mount Royal, Lib.)): Hello colleagues, ladies and gentlemen. It is a pleasure to proceed with this session of the Standing Committee on Justice and Human Rights as we continue our study into counselling and other mental health supports for jurors.

I want to apologize to both our witnesses today. There were unscheduled votes in the House of Commons beyond the control of any members of this committee. I deeply appreciate your patience and your willingness to stay and wait for us because I'm sure your input will be very valuable to the members of the committee.

We're joined by two witnesses for this panel.

First is Mr. Daniel Cozine, who is on video conference from Regina. Welcome, Mr. Cozine.

Mr. Daniel Cozine (As an Individual): Thank you very much for having me.

The Chair: It's a pleasure.

We also have Ms. Michaela Swan, who is here with us. Welcome, Ms. Swan.

We're going to start with Mr. Cozine's testimony, then Ms. Swan's, and then we'll proceed to questions from the committee.

Mr. Cozine, the floor is yours.

Mr. Daniel Cozine: First of all, I'd like to thank you all for taking the time to do this important study. It's obvious that a gap needs to be filled, so thank you for taking the time to do this.

On January 18, 2016, I was chosen to be part of a 14-person jury in a murder and abuse trial of a four-year-old and a two-year-old, little girls.

I'll start with the selection process. There were hundreds of people in a room. Everyone was very nervous and not wanting to be selected, with things going on in life and being busy at work and having to be away from things. We didn't know what trial it was going to be until we got there, and it became very apparent that people really didn't want to be part of this jury for the obvious reason of it being about children.

The jury selection took about a morning. We were told right about lunchtime that the trial would start at approximately 1:30 that afternoon, so we had about an hour and a half over lunchtime to get

affairs in order and be back at the courthouse, which is not an easy thing to do.

Our trial was relatively short, three weeks in duration. As with all trials, there were lots of very qualified and expert witnesses, police officers, DNA people, forensic pathologists, doctors, police personnel, things like that. I tried to take part of that as an opportunity to learn more about what these people do outside of what we see on TV, on shows, on *CSI* and things like that, and what actually goes on. But it doesn't take long to understand that what they're going to apply their expertise and knowledge to is not going to be easy.

For three weeks, we heard testimony and were shown photographs of the injuries to two little girls, the stories were told of what and how it happened and near the end, autopsy photos of a four-year-old girl. I don't think any of the 14 people in that jury box would be particularly ready to see those kinds of images.

There were 14 of us from every walk of life, from the unemployed to educated professionals, an 18-year-old girl, a 74-year-old grandmother, parents, non-parents alike, so in a way it was a nice cross-section of society but you also had many people in there who might not have been ready for what they were about to see and might not, at the conclusion of a trial, be able to access services, which is part of what we're here to talk about today.

I'm a teacher in Regina. I've been a teacher for 18 years. I'm now a principal of an elementary school. I think part of this process was difficult for me in that working with children every day over 18 years, I've worked with thousands of families. We see lots of kids maybe have some tough days sometimes, but to have to see what these people subjected these children to was particularly hard for someone who tries their best to make kids' day every day, so that was particularly difficult.

I mentioned the trial was three weeks away from work and things like that. It impacts family life during those three weeks, and not just you but your spouse and your family. It is substantially longer than that when you come out of a trial and you're trying to get your bearings again.

For me, I wanted to go back to work and be back with kids who were well and healthy and happy. I should never have been there. It was a waste of a week, and then we had a spring break. During that spring break, I finally took the advice of the people around me to seek counselling.

Through that counselling, one of the things I talked about was... The trial ended late on a Friday. I mentioned 14 jurors. We were told 14 jurors so that if anybody dropped out, there would still be 12 to make decisions. All 14 were there at the end, and they needed to pull two jurors out of the deliberations.

Unfortunately—I say “unfortunately” purposefully—I was one of those who were pulled out and not allowed to make those decisions. That was extremely hard, because after seeing what happened to these little girls, for three weeks, to have no say, to have no part in the decision-making process was very tough. At the start, everybody jokingly said, “I hope I’m the one who gets pulled out,” and I obviously said it as well, but that last day, leaving the courtroom with “Thanks for three weeks. See you later” was exceptionally hard. I found out the verdict via Twitter the next day. To see what happened and be subjected to that, and then not be part of the decision-making process, was one of the most difficult things for me throughout that.

I don’t want—and I’ve never wanted—for this to be something where people feel sorry for me, for people to say, “Poor you, you had to do that.” I believe in our justice system, in that we have juries for a reason. We need good, smart people to make decisions that will affect not only the accused but their families and the law in the future. You need juries to do that, but all along I’ve said that we need to have mechanisms in place to support people, if they should need it, after a trial.

I sought counselling. After about four appointments with the counsellor, who does a lot of work with first responders—EMTs and police specifically—he diagnosed me with PTSD. After what we had talked about... I told him what we had seen and things like that. The way I was talking about it and the way I was carrying on daily life, he absolutely felt that this was the case.

It comes up every now and then in certain ways, ways you don’t expect. Everyone has a bit of dark humour, so when I am at a family gathering and the baby is crying and someone says, “Just duct-tape him in the crib” or something, I have to leave. When you see what actually happened to children who were duct-taped, it’s not a funny thing. That happened on a number of occasions, until people started to realize that they shouldn’t be talking about that in that way.

● (1705)

Going back to work, the remaining part of that school year, I did not have a lot of trust in things that were happening with kids. A student would come to school with a bruise on their arm, and it might have been from soccer practice or a basketball game, but immediately I would be angry and questioning whether a parent or a sibling did that, how that bruise came to be, when really it was a very natural thing. Kids fall and scrape their knees. Kids do that all the time, yet I had a lot of distrust in what was going on with those kids.

I’m extremely lucky, and I’ve said this in a number of forums, privately and in the media. I’m very lucky to have an employer who provides assistance, monetary assistance to people who need counselling or other things. I have an exceptional wife who is brilliant and took a lot on in this process, although that’s not her job, so there was stress for her as well in trying to make sure I was well. It takes a toll on a family.

For now, as I say, the issue comes up in different ways, at different times. I have gotten past some of that distrust, yet there are times where, for example, I may be lying in bed, and if my feet cross over, I have to immediately uncross them, because of pictures I’ve seen. This is now two years out, and those things are still coming up. I can’t watch things like *CSI*, as I mentioned, or even *20/20*, and *W5*, the investigative shows about these kinds of things, because it comes back.

I guess, in the end, what I’ve always wanted was a way for jurors to get help, should they need it. I understand that not everybody sees these things the same way, and that not everybody reacts to them the same way. There were people at our trial who may have gone back to work the Monday after, and said, “You know what? I’m glad that’s over” and life goes on.

But I know there are people who come out of these trials, and it’s months or maybe years afterward that they’re still struggling with what they’ve seen and what they’ve heard. When people have to do jury duty, I think it’s an omission to not support them afterward. I don’t think it’s anything purposeful. I don’t think it was anybody deciding that, but I feel this is an opportunity to close that gap and make sure jurors are supported.

I open it up to questions, if anybody should have any.

● (1710)

The Chair: Thank you very much, Mr. Cozine. We’re going to hear from Ms. Swan first, and then we’re going to go to questions, but I want to take this opportunity to thank you, and in advance, Ms. Swan, for telling us some very personal stories. I understand it’s difficult. There are a lot of emotions involved and it’s hard to recollect, but it’s also so important for all the members of the committee from all parties, who take this issue very seriously and really want to make sure we recommend the right things. It’s important for us to hear the kinds of effects that being on a jury can have.

Thank you so much for sharing such personal experiences.

Mr. Daniel Cozine: Thank you.

The Chair: Ms. Swan, the floor is yours.

Ms. Michaela Swan (As an Individual): Thank you.

Good evening. Thank you for the invitation to share my experience of serving as a juror in Canada. I want to thank you for conducting this study. I truly believe it will improve the experience for jurors in the future.

In June 2016, I served as forewoman in the Supreme Court of British Columbia. A teenager was charged with first-degree murder under the Youth Criminal Justice Act. He was 16 at the time of the crime.

But let me backtrack to share my full experience.

I’ve always been interested in the Canadian justice system. I took additional studies during my university education to learn about the history, structure, and rationale for the processes of justice in our country. I am proud of the doctrine of innocent until proven guilty by a judge or a jury of your peers.

The day I received my jury summons on the green piece of paper, I was nothing short of ecstatic. It was my turn to serve. I was fortunate in that navigating the process to get time away from work was relatively seamless and without a financial impact to my family. I attended two jury selection dates during my summons period. The process was relatively smooth and was supported by friendly and informed sheriffs at my local courthouse in Kamloops. When my number was called, I walked before the judge and counsel. The crown referred to his notes, the defence just looked me up and down, and I was accepted as a juror. Not a single question was asked. We were provided paperwork to fill in, and were told to report back for jury duty in about two weeks' time.

For nearly three weeks, I listened to evidence of how a normal teenager's first love turned into a complicated and manipulative love triangle. Eventually the girlfriend lured her second boyfriend to an elementary school field. She ran into the bushes, as planned. The innocent boy, 22 at the time, was shot from 50 feet away and fell to the ground. As the co-accused ran to check on the victim, they put two more bullets into him—one into his back and one into the back of his head.

I listened to the pathologist explain the damage of each one of those bullets and how they led to his death. I looked at autopsy photos and crime scene photos. I listened to undercover RCMP officers explain their detailed investigative techniques. I watched hours of undercover video of a "Mr. Big" operation. I read hundreds, if not thousands, of text messages between young lovers trying to make a relationship work, with accusations and facts of cheating. I watched as the accused in my trial sombrely walked officers through an exact crime scene re-enactment.

While all this was happening, I watched the accused in the box. He was just a kid, clean-cut and gently spoken, with what seemed like a great family. It was very easy to feel empathy for him. I watched his father, mother, and brother sit in court nearly every day. I saw the pain of the victim's mother as she testified. Every day I drove home and processed what I heard or saw that day. It was gut-wrenching, and hard not to feel sympathy for the accused.

The need to process and balance the emotions during trial and deliberations was significant. I think it's natural to think like a parent, to put yourself in their situation, but I was still trying to be 100% clear in my role to judge the facts and, as forewoman, to lead a jury to also just judge the facts. We aren't allowed to feel. I believe the fact that the accused in my trial was a highly relatable kid created extenuating circumstances and increased the intensity of jury deliberations and post-trial impacts.

For me, the most difficult process in serving as a juror was that of deliberations and the resulting post-trial discharge. The charge to the jury is provided by the judge. Sheriffs escort jury members to the jury-room and remove our cellphones and all contact to the outside world. Twelve strangers are locked in a very small room with two adjoining bathrooms. We're essentially told not to come out until everyone agrees.

I can't go into the specifics of deliberations, as that's the unspoken jury code, but it's an intense situation with opposing views, values, personalities, and inflamed tempers. As individuals are going through, all the normal comforts of life and most coping skills are

removed. You don't sleep in your own bed, you don't eat your normal food, and you don't have your friends or family for comfort or to talk to. It's confusing and highly complicated, but there is an immense drive to do the right thing. At times there can be a sense of hopelessness.

• (1715)

Speaking as a forewoman, I believe there is extra stress in the position. Once back at the hotel room, I would lie awake at night thinking about how to bring 12 people to agreement. It was my only time alone to think. What questions could I ask? How could I get passionate people to listen to their peers and dig into the rationale for their thinking processes? It was exhausting.

I still process this as a small price to pay for the duty I was to provide. There were two families who were also deeply impacted by the crime that occurred. The decision by the jury would impact them for life.

On a late Saturday evening, I opened the jury-room door and advised our sheriff that we had a verdict. The court was called to order, and the jury walked in. All eyes—from the families, the lawyers, the judge, the accused, and the media—were on me. I announced the guilty verdict. I will never forget the sound of the courtroom in that moment.

Following that, we on the jury were thanked for our service and dismissed. We waited in the jury-room and had a brief conversation with Madam Justice. She was appreciative of our service and reminded us of the confidentiality of what happened in the jury-room.

At this time, I did ask what supports were available to jurors following our experience, because I knew I needed help. I was shocked to learn that there was likely nothing. Within 20 minutes of delivering a verdict, and after four days of being sequestered, I walked through an open parking lot with 11 other strangers and returned to normal life. I had Sunday to reconnect with my family and was back to work Monday.

That week I did have a message from our sheriff's office that they could arrange a debrief if enough jurors were interested. I can tell you that I wanted to debrief, and I certainly wanted to talk, but there was nothing in me at that time that really wanted to see my fellow jurors. That was the last time I heard from the court.

I did seek help. I spoke in roundabout ways with friends and with professionals paid for by benefits through my employer. From my previous experience in the fire service, I know that immediate support is needed to process your thoughts, ensure they are compartmentalized appropriately, and dealt with as they arise—immediately and over time. I still think of my experience weekly, sometimes daily. I have to make a conscious effort not to transfer what happened to these teenagers into how I parent my kids. Around town I see the family of the accused, and the lawyers, judge, and sheriffs involved in the trial. I smile and make eye contact, as do they, but it's like walking around with this deep secret that can't really be talked about.

I will be okay. I have a great support system, and I am very proud to have served as a juror in Canada. But I strongly believe that mental health and counselling support immediately post-trial for jurors are required to provide early intervention and avoid long-term mental health damage.

From my own learning, I have a few recommendations, which I'll summarize. There should be pretrial education and an explanation of what the experience may entail. I believe it's important that jurors make an informed choice to serve. Compensation needs to be considered. Although my employer covered my wages, this was a significant stressor for other members on our jury.

Jury-room configuration is worth a consideration. When spending 12 hours a day or more confined in a very small room with two adjoining bathrooms, a breakout room or an extra space to spread out would be beneficial.

A standardized jury discharge process is needed. It should include a debrief, with information to take home for future reference that identifies what an individual may or may not feel, maybe what's normal, and when and where to seek help. I mentioned a formal debrief. I would like consideration of a peer-led debriefing process. Can former jurors be trained to provide this care to future jurors? From my experience, I still wish I could safely talk to people who understand and who lived the experience without the feeling that I'm breaking the law if I have a conversation.

• (1720)

Lastly, I believe follow-up to jury members on the conclusion of sentencing would help to close the experience. My sentencing went on for a year after we delivered our verdict. The only updates I would get were in the media, and it was always bringing it up. It would have been nice to hear from the court.

Thank you again for the opportunity to contribute my experience and recommendations. Canada has a criminal justice system to be very proud of, and continuous improvements, such as those under consideration, will make a difference.

Thank you.

The Chair: Thank you very much.

Again, I have the same comments as I made before. It's really appreciated that you're telling your personal story and you summarized it incredibly well.

We'll move over to Mr. Cooper for the first questions.

Mr. Michael Cooper (St. Albert—Edmonton, CPC): Thank you very much, Mr. Chair.

Thank you to the witnesses for your testimony, for being here, and for relaying your experiences as jurors. It's obviously very, very difficult. I guess no matter what, at the end of the day your lives will never be the same, having gone through and witnessed what you witnessed during those respective trials.

Ms. Swan, I thank you for some of the recommendations that you put forward. I think they're very helpful.

Mr. Cozine, are there any specific recommendations that you have—programs, supports, or other things—that, had they been in place,

would have made your experience as a juror a little easier to deal with?

Mr. Daniel Cozine: You know, I would echo Michaela's comments.

As time has gone on, you get a little clearer thinking on these things. Peer support, having other jurors who have been through the process and have been in the tiny jury-room, as Michaela mentioned, and have been in those deliberations, the stress of watching the families in the courtroom, things like that.... Only jurors really know what that's about and can maybe give some advice on how to deal with that.

I've said from the beginning that some type of group debrief afterwards is essential. We do that all time. We have a meeting. We have something that has happened—even at school, where we have an incident, a lockdown, something like that—and we debrief those things. To debrief it with the people who were in the room with you, to get an idea of what everyone else is thinking and feeling about these things, I think is absolutely essential.

Employers have employee assistance programs. I don't know if there's a way for each province to have some type of program like that specifically for jurors. I know that becomes a budgetary item, but I would suggest that the budget that would go into that may be far less in terms of the mental health care that could come days, weeks, or years down the road.

As an educator myself, I absolutely echo what Michaela said about pretrial, going in and standing in front of the prosecution and defence, not one question is asked, and they just say, yes, you're in. We talk a lot about mental health in our day and age. There are people who may be struggling with mental health who should never be on a jury, but by virtue of having a health card, they're selected to go. Also, some way to educate people before they go into these trials to have some forethought about what they're going to be doing....

• (1725)

Mr. Michael Cooper: Thank you. That's very helpful.

I assume that in your case, when the trial concluded, there was no contact from the court—or was there?—in terms of a follow-up or the offer of some support.

Mr. Daniel Cozine: I had none, but again, I was pulled out of the jury before deliberations. It was essentially, "Get your backpack that you've packed for a number of days for deliberation and go, because we have to get deliberations started."

After that, I got one correspondence. I can't say for certain what the 12 jurors in that trial had. I'm assuming some type of contact with the judge afterwards, but nothing formally, no.

Mr. Michael Cooper: Thank you.

Another issue that was raised by a number of witnesses during our last committee hearing, which neither of you touched on in your presentations, related to a concern or a feeling of being intimidated by encountering sometimes the accused or friends and family of the accused—everything from going for a coffee break to parking one's vehicle at the courthouse.

Was that something either of you experienced as a concern?

Mr. Daniel Cozine: If Michaela would like to go first, that's fine. I could also speak to that.

Ms. Michaela Swan: I did not experience intimidation during it, but the sheriffs were with us everywhere. They walked us out to our vehicles or they would watch and oversee. They were always there. You could see the family of the accused or the victim's family walking to their cars. You're in shared...but I didn't take anything as intimidation. We did use separate doors entering and leaving. If we did go out for dinner, which wasn't often, we were escorted.

I never had that experience myself.

• (1730)

Mr. Daniel Cozine: For me, we had about two days of trial leaving the courthouse essentially out the same doors as the families of both the victims and the accused. We asked for a separate exit. They were very accommodating in that regard, but coming in, we had to go through the security checks into the courthouse and of course there were the family members.

I wouldn't call it intimidation. I would call it very awkward, at least for me and a few others as we walked down the hallway to the jury-room. You don't know if you should be making eye contact with these people or not, and how that's going to go. I wouldn't say I felt intimidated. It was just a very awkward few moments getting to the courthouse every day.

The Chair: Thank you very much.

Mr. Fraser, go ahead.

Mr. Colin Fraser (West Nova, Lib.): Thank you very much, Mr. Chair.

Thank you, both, very much for your service as jurors but also afterwards, for the work that you've done, for being here today and trying to make things easier for jurors in the future. Your testimony is very much appreciated and will hopefully lead to some good recommendations from our committee.

Ms. Swan, I will begin with you, if I can. You talked about counselling and perhaps a debriefing session being made available after the trial. We heard in previous testimony about the possibility that counselling could be made available to jurors during the trial, or at least having some person available, confidentially, to discuss things after a particularly tough day for a certain juror. What do you think of that idea?

Ms. Michaela Swan: I think it's reasonable. There is a significant sense of loneliness as you are going through the process. I don't know if it makes a difference whether it's a day of deliberations or four days of deliberations. You are in the room for hours on end with these people, trying to come up with an answer or a verdict.

For me, as the forewoman of the trial, it was the hardest to try to navigate the relationships of the room and what people were thinking. It would have been nice to have somebody to talk to about that. I don't know if I was processing the material at the time, besides the decision ahead of me and the group in terms of the job that we were charged to do.

I don't know if I needed somebody, for me personally, to process the material or things I had seen at that point in time. It was more just somebody to talk to, to go through the process we were in, if that makes sense.

Mr. Colin Fraser: Okay, sure.

With regard to the code of silence that's on jurors, section 649 of the Criminal Code doesn't allow discussion with anybody in the public or even jurors about what happened during the deliberations.

Ms. Swan, you described the difficulty you had as the foreperson to try to come up with a unanimous position. Do you think that having an exception in the Criminal Code to allow discussions of deliberations with a mental health professional after the trial would be of any assistance? Would that have helped you? Do you think it might be a useful thing to do?

Ms. Michaela Swan: I think it absolutely would have helped me. Even in my sessions or with things that were happening, there was always a sense of the things I couldn't do. It wasn't even about the contributing factors that made me think guilty or not guilty. It was just the feelings or the emotions or the empathy that I just wanted to talk about. I still want to talk about them, but I feel that doing so would be breaking the law so I personally just don't talk about them.

Mr. Colin Fraser: Fair enough.

Mr. Cozine, I understand that your experience with the jury was completed before the deliberations took place. You said that if there were a debriefing session, it would be available for all jurors. I assume you mean for anyone who served as a juror through any part of the trial.

Mr. Daniel Cozine: Yes, if you were going to have a debrief session.... Obviously I was not one of the people deliberating, but I would want to be part of that. I understand what Michaela is saying. There becomes, whether rightly or wrongly, a very tight kind of bond with jurors who have deliberated. I've talked to other jurors who have deliberated, and it's a very different kind of feeling. For me, I know I would feel awkward about going back in with those 12 jurors, when I'm number 13 or 14.

Having said that, not having been able to be part of that process and that decision-making, I have so many questions about how they came to the decisions they came to, but because I am not able to contact or talk to other jurors about them, I don't know if those questions will ever go away. I think it is very important to be able to debrief, including for jurors who have left during a trial, for whatever reason, and especially if they are pulled off before deliberations.

●(1735)

Mr. Colin Fraser: Given that the experiences of jurors are different depending on the individual and, as Mr. Cozine explained, depending on their background perhaps—which can be quite varied in a trial—and also that some jurors will have served through the entire period whereas some will not have, do you think it makes any sense for any kind of debriefing program to be an individualized thing rather than a group exercise?

I'll open it to you, Mr. Cozine, and then to Ms. Swan for her thoughts.

Mr. Daniel Cozine: I think it would be important to also be able to talk to somebody from court services individually. We had an amazing bailiff who guided us throughout the whole trial. It would have been very interesting to take some time with him when the trial was over, for him to tell us as individuals that here is what you can talk about and here is what you shouldn't talk about, and those kinds of things. I think that for individuals that would certainly be valuable.

The Chair: Ms. Swan.

Ms. Michaela Swan: I would agree. I think there's a need for a group discussion at some point. Even having the judge come in after we delivered our verdict was a healthy thing for us just to decompress. It was almost 11 o'clock on a Saturday night and we wanted to get home to our own beds and our families. But I would have liked to come back even the next day or week. I went through a period in which I wanted to be with that group, and then I thought I needed some space, and then I wanted to come back.

There are things or questions you think about after, that you just need to process. I think that just the option to talk to somebody or to speak about it individually needs to be there.

Mr. Colin Fraser: Very good, thank you.

That's probably my time.

The Chair: Thank you very much.

Mr. MacGregor.

Mr. Alistair MacGregor (Cowichan—Malahat—Langford, NDP): Thank you very much, Chair.

Mr. Cozine and Ms. Swan, I want to applaud both of you for coming before us today and lending your incredibly important testimony to this study so that we may come forth with some serious recommendations.

What I was really struck by in both of your testimonies was the professionalism with which you approached your jury duty. I've had the privilege of meeting a number of first responders in my job as a member of Parliament, and the discussion of operational stress injury and PTSD has been a frequent topic. But it's important to remember that these people are people who volunteered to enter their service. They are professionals and they have those professional supports. A lot has been learned over the last 10 years about, as you alluded to, the need to address PTSD and mental health at an early stage with strong supports.

Mr. Cozine, maybe I'll start with you, and then get Ms. Swan to comment.

Mr. Cozine, you alluded to the costs that can come later on, especially when you were referring to the investment that should be made in mental health supports. You were lucky enough to have those supports through your family and your work, but other jurors may not have been as fortunate as you. Can you just explain to this committee what the cost to society could be later on if those mental health issues stemming from a juror's experience at a particularly gruesome trial are not addressed?

Mr. Daniel Cozine: I think it's important to note that not everybody sees and reacts to these things in the same way.

I'll take one individual on our jury as an example. She was an 18-year-old girl who had just graduated from high school and did not have a job at that point. There was no chance for her to have any outside work to help pay for anything.

Having said that, if I hadn't had support through that and family and things early on.... When you do this, I know that there's a very real questioning of yourself, and I would suggest, even a bit of depression that comes along with not being able to talk to anybody. I think that when you have someone like this 18-year-old girl, who really struggled.... She went to the media also and talked about it very briefly, but after any chance of trying to contact her went unreplied to, you always wonder how she is doing now. Has she been able to seek that help?

You may have people who are completely mentally well, as I was, and who are coming out at the end of it not mentally well. If you don't have that support, maybe that depression takes hold of you or her or anyone, and it can continue down the line in terms of doctors' visits, prescriptions, and those kinds of things. I think there is a cost later on. As you say, we need to get these things looked at right away so there aren't costs down the line.

●(1740)

Mr. Alistair MacGregor: Thank you.

Ms. Swan, can I get you to comment, too, please?

Ms. Michaela Swan: Yes, I certainly agree with some of the things Daniel had to say about the costs down the line of having just a quick intervention, of going into depression, and the impacts on your family, your career, and your employment.

I'll backtrack just a bit. In my career in the public service, I was in wildland firefighting. I can look at some of the critical incident stress debriefings that we went through in some of our situations there. You show up to work and you think it's a normal day, and the next thing you know one of our air tankers has crashed and your colleagues have been killed. You're responding to the fire and you're also dealing with that. We go through the process, but it is just expected that you attend your critical incident stress debriefing. You look your friends and your colleagues in the eye. You go through it, you check in with each other, and you take care of each other.

I was in that jury-room with some of the intensities of the conversations and the emotions, and the different backgrounds of the people in the room, and I equate serving as a juror with the exact same emotional response that I had from dealing with those types of serious incidents. It just needed to be talked about and processed to take you away from any of that PTSD. Just a proactive response...it may still happen, but if we can just get a way to work through some of those feelings in advance, it would be better.

Mr. Alistair MacGregor: I have just one last question, and I'll get a comment from both you. I'll start with you, Ms. Swan.

We ultimately want to arrive at a place where this committee makes some solid recommendations. We have a situation in Canada where the administration of justice falls under provincial jurisdiction. We have the Province of Ontario, which does have a counselling program for jurors, but it's non-existent in our home province of British Columbia.

Can you both comment, please, on what you perceive the role of the federal government to be when you potentially have a patchwork quilt with 10 different provincial jurisdictions?

Ms. Michaela Swan: That's a good question. I don't know. I guess part of the reason I'm here today is to tell my story and listen. I don't know if it's an oversight or somebody made an intentional decision to not provide these services to jurors. I genuinely think that it was probably an oversight. The provincial government supplies this to their employees, and I think that jurors for a short time maybe are employees of the provincial government in doing justice for our country. If the federal government can summarize some of the experiences across our country and influence change, that's ultimately why I'm here.

Mr. Alistair MacGregor: Mr. Cozine.

Mr. Daniel Cozine: That question came up a lot when I first started this. I had written some letters to MLAs and MPs early on, and all the replies from federal MPs said that it falls to the provinces to make these things happen.

I guess for me to be part of a forum like this is to ask the federal government to make a type of framework where.... Health care is a federal thing, but it's administered by the provinces. Education is a federal thing, but it's administered by the provinces, as is justice.

It's to have something like this, where the federal government says that provinces need to have something, in some way, shape, or form, to help jurors after these trials. As you say, some provinces have nothing. Some provinces have the start of something that could be very good. It should not be that a juror in Ontario gets support when

their trial is done and a juror in Saskatchewan or B.C. or P.E.I. doesn't have any.

I think it's important that the federal government, in a committee like this, recommends that provinces need to have something. "Here are some examples of what can be done in your province. Here are some ways you can work it." Ultimately, it is up to the provinces, as that's the way our system works. However, for the federal government to say they have to have something in place to help jurors.... How that looks provincially is up to each of the provinces.

• (1745)

The Chair: Thank you very much.

Mr. McKinnon.

Mr. Ron McKinnon (Coquitlam—Port Coquitlam, Lib.): Thank you, Chair.

Thank you to both witnesses for your testimony and for being here.

As Mr. MacGregor alluded to earlier, the support for jurors across this country is a patchwork, so I have a bit of information from some online research about Quebec, Alberta, and B.C.

In B.C., it looks like if at least six jurors from the same trial ask for help, you can get a one-hour counselling session. In Quebec, a judge can approve the cost of five one-hour sessions with a psychologist, if jurors present a prescription. Alberta has a program that provides jurors with free access to mental health services during the trial, or up to two months after the conclusion of a case, and counsellors are available in person or over the phone.

Mr. Cozine, are you aware of what's available in Saskatchewan?

I would appreciate it if both of you could comment on which of these choices—and I'm guessing it's going to be Alberta—would be the best approach.

Mr. Cozine.

Mr. Daniel Cozine: As far as I know right now, Saskatchewan does not have any supports that are not mandated by the judge. If the judge doesn't say, yes you need to go and get something, there's nothing.

You're right, Alberta probably has it.... I don't want to say right, but it has the best steps forward. Again, as Michaela said, and I would say too.... I didn't start counselling for a number of weeks after, so to say one week out of trial or you're out of luck, that isn't long enough. These things can come up months later.

I can understand putting a time frame on it. I wouldn't say years and years later that I was a juror a long time ago, I need counselling, and I think the province should pay for it.

If it is specific to being on a jury, I would say that Alberta is probably an option that I would like to see in Saskatchewan. I did have some contact with the justice minister and his head bailiff in the province to talk about some of these things. They talked about looking at a way to start, but that's pretty much where it ended.

Mr. Ron McKinnon: Thank you.

Ms. Swan, would you care to respond as well?

Ms. Michaela Swan: I didn't know what B.C. had to offer until after I served on jury duty, and nothing ultimately was offered to us. However, I think Alberta has a structure in place that may be of assistance.

When I think of the cost, to some degree I still narrow in on that peer-to-peer...to be able to have a conversation and talk about it.

There is a big grey area. You're told that what happened is confidential, but I think not all of it's confidential. There are emotions and thoughts and things that you can process that potentially aren't risking the confidentiality of what led to a decision.

It's to be able to talk to somebody and look them in eye—it doesn't even have to be from the same trial or your jury—somebody else who has been through it, a comrade who could probably just intervene there. It may not even need to get to a professional level in terms of the additional support services that would be required. Some people may need that, but not everybody. If there could just be some conversations and debriefing, it would be helpful.

Mr. Ron McKinnon: Ms. Swan, you said in your testimony that the jury deliberation phase was the most difficult for you. In your testimony and in your answers to previous questions, it seems to me that you suggest that much of that stress had to do with managing the jury and trying to bring them to a conclusion. In addition to that, it seems to me there may be a different kind of stress relating to the content, to the evidence. You also mentioned a need for compensation, so there are three different areas of stress here.

Would you say that counselling is needed for all of these different kinds of stress? Would you deal with each of these kinds of stress in a different way?

● (1750)

Ms. Michaela Swan: Again, I think they're going to land on every juror very differently. For me as the forewoman, it was processing the material and the evidence I was seeing. It was processing it and providing space in my own mind to come up with my own decision, because that's still my own individual decision, not that of the other jurors around the room. Then still, when there's silence in the room and everybody's is sort of staring at the walls, how do we continue to plug through the job that we have to come up with a verdict at the end of the day?

I bring up compensation because it was stressful to some people, especially as you keep going and going. There's a sense of hopelessness that we may be a hung jury, or things like that. It's Saturday and people want to get back to work or back to their family lives. Everybody processes that differently.

Mr. Ron McKinnon: Would you say that, as a forewoman, your attention to managing the jury gave you a little bit of space to kind of stand aside from the evidence? Do you think that gave you a little bit of—I don't know—protection?

Ms. Michaela Swan: No, I would say quite the opposite. I didn't have space to process the decision that I needed to make, because I was worried about the people in the room. I don't know that it's just being a forewoman, maybe that's being a mother, taking care of the needs of people in the room, and knowing, and listening. You become quite tight-knit when you've spent over three weeks together.

There just needs to be a little bit of time. It's an intense situation in a small space. You know, maybe there could be consideration for breaks or time away. You can't just get up and go for a walk by yourself. They say, "Who wants to go for a walk?" and the whole group goes for a walk. You're always supervised. You're supervised when you go to the bathroom if you're at dinner; a sheriff goes with you to the bathroom. There's no time just to be, and not everybody has a coping skill that way. For me, sometimes I just need my own space and that came lying in bed at night awake, which was the only time I was alone.

The Chair: We have about seven minutes while Mr. Cozine's video conference link will still be live.

Now that we've done one round, I'm just asking members if you have any very short questions that you'd like to ask.

Mr. Liepert first.

Mr. Ron Liepert (Calgary Signal Hill, CPC): I have quite a few.

The Chair: Try to keep it down to two or three.

Mr. Ron Liepert: I'll try to get them in as quickly as I can.

One is for clarification. Mr. Cozine, did I hear you say that on the day you were selected for jury duty, your trial started an hour and a half later?

Mr. Daniel Cozine: Yes. Our jury selection was concluded about, I'm going to say, 20 minutes to noon. By the time you then go into your jury-room, meet with your bailiff, and you're out of there, it's about noon. We were told to be back by 1:30 for the trial to start that afternoon. Yes, it was tough to get things in order over a very short period of time.

Mr. Ron Liepert: To confirm that I heard both of you correctly, please answer this question. If appropriate pretrial education and counselling was provided so that jurors were prepared for the worst, let's say, do you think that would help the post-counselling need? In other words, would it help to act preventatively versus dealing with the issue after?

Ms. Michaela Swan: I said in my recommendations that I believe that jurors should have an informed choice to serve, and I said that because I genuinely think that in life there are different times when you can take on more, and then there are times when things are already sort of at the end and you can't take on any more.

To serve as a juror, you need space, because it's going to take time in your life to process, to be involved, and to be away from your career and your family and personal pressures. I don't know that you need to necessarily get into the details of preparing for the worst, but just even a Coles Notes version of what your experience may be, and that it's normal to feel like this is an intense, crazy situation that you would never have prepared for, would be helpful—just some of those things.

• (1755)

Mr. Ron Liepert: Thank you.

Mr. Cozine, do you have anything?

Mr. Daniel Cozine: I would absolutely echo that. I don't think you want to tell people that this will be “the worst”, because then they'll say they're out and they won't do it, and you need people to do it. I think you can just speak in generalities to people.

You can tell them that there will be stresses, and you can give them some ways to deal with these stresses throughout the trial. As Ms. Swan said, you can give them some good mental health tips, i.e., “Over the next few weeks, you're going to be experiencing some of these stresses. Here are good ways to deal with them.” It's never a bad idea to do that.

Mr. Ron Liepert: I have two things, just quickly, that you don't even need to comment on. I just want to throw them on the table.

Would a change to the EI system where the minute you're selected for jury duty you're eligible for EI be a reasonable compensation model that could be considered?

Secondly, Mr. Cozine, you had a unique experience by being the 13th or 14th person. Do you have any recommendations on how that could be improved on? As an example, does it make sense that they select 12 for a jury and then select two additional ones, where you know you're a reserve or something like that?

If you have any quick comments on either of those things, please feel free to answer. If not, I will just throw them on the table.

My chairman is probably waving his finger at me, if I have the courage to look at him....

The Chair: I never wave a finger.

Mr. Cozine, did you want to answer that?

Mr. Daniel Cozine: Sure.

About having two people designated as reserve, I think it would help, in the end, to know if you're going to be off. As well, I wasn't in that deliberation. I can't understand the stresses that Ms. Swan had, and I don't want to add two more people to that. But if people are going to be on a jury and stick it out through those awful things that they have to see, for that long, I honestly don't know why they wouldn't be able to then be in the deliberations.

I understand if there's an odd number and those kinds of things. In our case, there were 14 left at the end. Would it be possible to have 14 people deliberate? I guess that would mean a change to the jury act and those things, but it's one thing I've often thought about.

The Chair: Thank you so much.

Does anyone who has not asked a question have a question?

Mr. McKinnon, you can ask a very brief last question.

Mr. Ron McKinnon: Mr. Cozine, I believe you said in your testimony, about being selected for the jury, that you “should never have been there”. I'm curious about that. Would you like to elaborate on that?

Mr. Daniel Cozine: When you go into jury selection, you're in a room with hundreds of people. You think, “You know what? I have to go. I have lots to do. Why am I here?” You get up to the front, you're the next person in line, and the next thing you know you're in the jury box. You're going, “How did I get here? I'm not supposed to be here. I should be back to work by now.”

There are hundreds of people, but 14 are chosen. The odds are not good that you will be chosen. You think, “Why should I be...? This shouldn't be me.”

Mr. Ron McKinnon: Thank you.

The Chair: Before the video conference link breaks, I want to thank you so much, Mr. Cozine, for being here with us.

Ms. Swan, thank you very much for being here with us. It was greatly appreciated. Your testimony was enormously helpful to us.

I'm sorry we were so late. Again, we really appreciate it.

The meeting is adjourned.

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