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

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**Wednesday, November 29, 2017**

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**Chair**

**Mr. Anthony Housefather**



## Standing Committee on Justice and Human Rights

Wednesday, November 29, 2017

• (1545)

[English]

**The Chair (Mr. Anthony Housefather (Mount Royal, Lib.)):** I call the meeting to order.

Good afternoon, everyone. It is a pleasure to reconvene the Standing Committee on Justice and Human Rights. As we continue our study on mental health support for jurors, we have the pleasure today of being joined from Medicine Hat by Ms. Shauna Jobagy, who is a deputy clerk of the Court of Queen's Bench of Alberta.

Welcome, Ms. Jobagy.

Ms. Dora Newcombe, who is representing the Alberta juror support program, is joining us from Edmonton.

Welcome, Ms. Newcombe.

Ladies, what we're going to do is hear from you—about eight minutes for the two of you—and then what we really want to do is ask you questions. We're going to start with the questions as soon as you've finished your opening statements.

Ladies, the floor is yours. I'm not sure who's starting.

**Ms. Shauna Jobagy (Deputy Clerk of the Court, Court of Queen's Bench, Alberta Juror Support Program):** I will start.

Good afternoon, Mr. Chair and honourable members. Thank you for the opportunity to present this afternoon on behalf of Alberta Justice.

As a bit of background, I have been employed with Alberta Justice for 35 years. I have been part of the process of summoning jurors, clerking the jury trial, clerking the selection, and scheduling the jury trials. Most recently, I was the team lead in implementing the Alberta juror support program.

Years ago, Alberta was concerned about the effect on jurors of both toxic evidence and of being in a very confrontational jury room, as most jurors come with no experience with regard to either. In fact, I still have the mental health package that we used in our jurisdiction, dated 2008.

Each court in Alberta was providing juror counselling assistance in their own unique way; however, there was no unified approach. Our concern was the result of our own experiences, which was supported by the research that follows.

In 2009, Madam Justice Elizabeth Hughes and her team produced a report wherein one of the recommendations was to implement a juror support program as a result of her research in the field. Justice Hughes' research included references to the study by the University of Leicester in the United Kingdom called “Vicarious Traumatization as a Consequence of Jury Service”, which includes earlier studies from Canada, the United States, and New Zealand.

This study revealed that for the more vulnerable candidates, jury duty can lead to severe stress or post-traumatic stress disorder, or what the researchers refer to as “vicarious traumatization”. The findings showed that some 23% of the jurors reported dealing with traumatic events; 5% reported that they had responded with intense fear, helplessness, or horror; and one juror was diagnosed with post-traumatic stress disorder.

She references literature from “Stress and the Canadian Criminal Trial Jury” by Sanjeev Anand and Heather Manweiller, which includes American case studies that conclude that if juries are to continue to play a role in the administration of criminal justice, the impact of trials on jurors cannot continue to be largely ignored.

Her research identifies the program already implemented in Queensland, Australia, where their Jury Act indicates, “A former member of a jury may disclose jury information to a health professional who is treating the former member in relation to issues arising out of the former member’s service on the jury.”

As a result of this research, counselling has been recognized as a necessary and important part of our system to support jurors on all criminal trials, notwithstanding their nature. As you've heard in your recent committee meetings, not only can trial evidence impact a juror, but what happens in the jury room itself may also affect a juror's emotional health.

The report made four recommendations. The first three were to provide juror counselling, to update our current handout mailed to prospective jurors regarding the process, and to create one consistent general information sheet to be provided to the selected jurors in all Alberta locations. It also made recommendations regarding jury comfort, an increase in fees, reimbursement for lost wages, escorts, and so on.

To implement the recommendation for a juror support program, the team developed a process to ensure that all jurors who required assistance could access it, that program information was provided to all jurors regardless of subject matter, and that the same services were being offered consistently province-wide. The judiciary can now rely on court administration to ensure that this practice is being followed, no matter which jurisdiction they may be sitting in.

Justice Hughes also recommended that jurors be enabled to access this counselling at any time after the commencement of a trial, including mid-trial; however, the sessions have to be focused on emotional issues and not on the evidence.

Through the procurement process, an invitation to tender was circulated, wherein Shepell-fgi was the successful service provider.

The team had recommended that four sessions be offered per juror, to be utilized within two months of the conclusion of the trial, with a clause added that should the counsellor determine that more sessions were required, an application for an extension could be submitted to our department for consideration. This figure was a result of consultations with our Shepell contacts—Dora Newcombe, who is joining us, and Claude Bourque—and Madam Justice Hughes, through Corinne Jamieson, our Court of Queen's Bench executive director here in Alberta.

Shepell drafted two handouts to be provided to jurors at the beginning of the trial, one providing information regarding the impact of a court case and another with contact information on how to cope when a difficult court case has concluded. Jurors can access the toll-free number provided on the handout that will connect them directly with a counsellor.

As a side note, it is important to mention that some of our judiciaries do take the time to meet with the jury panel in the jury room after the trial has concluded, when it's appropriate. At that time, they also remind them of our counselling offer.

In Alberta, for a one-year period from September 2015 to August 2016, 68 jury trials were conducted. They impacted approximately 816 Albertans, and seven contacted Shepell for counselling.

Thank you. That's my presentation.

• (1550)

**The Chair:** Thank you.

Go ahead, Ms. Newcombe.

**Ms. Dora Newcombe (Alberta Juror Support Program):** Members, thank you for this opportunity to appear before the committee this afternoon to talk about an important subject, mental health support for Canadian jurors.

At Morneau Shepell, we're proud of the work we've done with our provincial partners and pleased to see this committee take an active interest in ensuring jurors are provided high-quality support, especially after challenging and graphic trials.

As a leader in the mental health field and mental health solutions since 1979, we have experience and expertise in helping individuals and their families deal with a range of traumatic events. It was through our partnership with Alberta Justice and Ms. Jobagy and her team that we were able to start the dialogue around support for jurors

following the research that had been done by Madam Justice E.A. Hughes.

It's really important that we look at the impact of a trial on a juror. I don't believe that many times people understand what jury members go through. They're getting called to do their civic duty, which is quite honourable, but in being part of a jury, they don't really know what they're going to be in for. As a result, what may happen is that they're exposed to graphic information, as you heard during your earlier hearings, and it can lead to higher risk of longer-term adverse experiences.

When we started having these discussions with Alberta Justice, the nature of all the impacts wasn't really clear. There wasn't a clear blueprint or outline regarding best practices, so we really were on the cutting and leading edge of this whole initiative.

I need to point out that it was a long journey to get to this point of launching this program, but we really wanted to do our due diligence, whether that would be from Morneau Shepell or the Alberta Justice team, to look at all the key issues.

We have a program that is available to support jurors right from the very beginning, because they're given resource information to help them prepare for what they might experience. Also, they have access to counselling support during and after the trial, because we recognize that when jurors are coming to participate in a jury trial, they may already have challenges in their lives. That can also impact them and add additional stress during the jury and trial process. It's not just for the juror; we also have to understand that when one individual is participating in a jury, it also has an impact on the family.

We looked at offering counselling, as has been mentioned. It is four sessions of counselling, either in person or via telephone counselling so people don't have to travel to access the counselling support. We also know that we can offer extensions to individuals, should they need additional counselling support.

We also recognize the need for the involvement of family members. We can also offer an extension or include family members. Typically, it would be the spouse or partner of the jury member as part of the counselling process. The programs provide that clinical support, but we're very focused on ensuring the integrity of the court process. Should a jury member access the program during the trial, the boundaries and parameters of what can be discussed during the counselling sessions are clearly laid out.

In closing, let me thank you for giving both of us this opportunity today to discuss this jury support program. It's a program that we're both very passionate about. I would be happy to answer any questions.

Thank you.

**The Chair:** Thank you very much to both of you for your testimony.

You're not in the room with us, but we're going to move around the table for questions.

We will start with Mr. Liepert.

• (1555)

**Mr. Ron Liepert (Calgary Signal Hill, CPC):** Thanks to both of you. I have a couple of questions of clarification.

If I understood you correctly, Alberta Justice has a contract with Morneau Shepell to provide these services. Is that the way it works?

**Ms. Dora Newcombe:** Yes, you are correct. We went through a formal RFP, a request for proposal process, and we were awarded the contract.

**Mr. Ron Liepert:** Can you tell us in rough figures how much that is? The reason I'm asking the question is that I'm trying to get at what roughly the cost is to Alberta Justice and if there are additional costs beyond the contract with Morneau Shepell. It's just so that if the committee has an idea of what it costs in Alberta, it gives us a sense of what it might cost for a national program.

**Ms. Shauna Jobagy:** Mr. Chair, I'd like to respond to Mr. Liepert.

**The Chair:** Yes, of course.

**Ms. Shauna Jobagy:** There are statistics regarding the cost. In the contract that was negotiated, the hourly cost was \$140 an hour. In your next session, Claude Bourque will be appearing on behalf of Morneau Shepell, and he will have more statistics on the actual dollars.

**Mr. Ron Liepert:** Okay. Are there other costs that Alberta Justice absorbs in this program, or is it a totally contracted-out initiative?

**Ms. Shauna Jobagy:** It's a totally contracted-out initiative. The only other costs are not related to the program but are in regard to the juror expenses and fees. That's part of our legislation.

**Mr. Ron Liepert:** No, I'm talking about the counselling part of it. Morneau Shepell does all of the counselling on behalf of the Alberta government.

**Ms. Shauna Jobagy:** Correct.

**Mr. Ron Liepert:** Okay.

You mentioned a couple of numbers at the beginning of your presentation. What kind of tracking mechanism do you have in place that would determine the success or non-success of the program? I would like to know a little more about how you determine whether or not it's money well spent.

**Ms. Shauna Jobagy:** Dora, do you have a response?

**Ms. Dora Newcombe:** Mr. Chair, I'd like to respond to that question.

We do offer and provide statistical reporting back to the Alberta Justice team that is managing the program. A part of our counselling programs is always to look at asking the client to complete a satisfaction survey to ensure the services that are provided are adequately meeting the needs. That quality assurance piece is a standard part of our clinical process as well.

If I can also add to the previous response, the costs to administer the program are included, so the overall administration and support are all part of the program we offer to Alberta Justice.

**Mr. Ron Liepert:** Without getting into privacy issues, is there an ability for you to provide this committee some sort of a report that would outline how you do the follow-up, the measurements, and that sort of thing?

Is that fair to ask, Mr. Chair?

Could you provide something to the committee that would give us a sense of how it's working and what parts of it are working?

**The Chair:** I think, Ms. Newcombe, that he's asking for the standard form that you ask the juror to complete to determine their satisfaction—and blank, so it wouldn't have privacy issues.

**Ms. Dora Newcombe:** Yes. Thank you, Mr. Chair. I will—

**Mr. Ron Liepert:** Well, that, Mr. Chair, plus a bit more.

Do you have something that would be a summarization of what the clients have responded to you? Do you provide that on an annual basis to Alberta Justice?

**Ms. Dora Newcombe:** We provide a statistical report on a semi-annual and annual basis that outlines the number of individuals who have accessed the program. I would be happy to take your request away and work with Ms. Jobagy to look at providing those statistics, as well as the satisfaction survey, the feedback mechanism that we use with our clients.

• (1600)

**Mr. Ron Liepert:** I would appreciate that. Thank you.

**The Chair:** You still have another minute. I didn't want to cut you off. Thank you.

Just for clarity, I fully understand that for confidentiality reasons you don't have the right to choose to provide it. It's the Alberta ministry that would make that determination. If you could work with them, that would be wonderful.

Thank you very much.

Mr. McKinnon is next.

**Mr. Ron McKinnon (Coquitlam—Port Coquitlam, Lib.):** Thanks, Chair.

My question is for Ms. Newcombe. I'm trying to get a sense of how much counselling is available.

I have previous information that said counselling can be accessed by jurors during a trial or up to two months after the conclusion of a case, and I think you indicated they get four sessions. Is that standard, or is it as long as they need?

**Ms. Dora Newcombe:** The program parameters target four sessions of counselling. Typically, the period of time in which the jury member can access support is up to two months following the conclusion of the trial. However, should a particular individual require additional sessions of support, with approval we can provide that as well.

**Mr. Ron McKinnon:** If they think they're okay, but six months later they say, "I've got these issues that I have to work through", is that too late? Can they still get into the program after, say, six months?

**Ms. Dora Newcombe:** As far as I know, we haven't had individuals who have accessed or requested access for support after six months, but I believe that the agreement we have with the Alberta Justice team would be to look at those individuals, consult, and present the request for additional support, without necessarily revealing the name of the individual juror to ensure confidentiality. We would work with Ms. Jobagy and her team to ensure that the member gets the support they need.

**Mr. Ron McKinnon:** Are the four sessions just a number for costing purposes? Is it an estimate of what someone might need? What is the normal number of sessions that an individual might need? Is four enough, or do they generally need more? If so, how much more do they need?

**Ms. Dora Newcombe:** Working with the Alberta Justice team, we were looking for literature or research that gave a guideline on the amount of support that would be needed for someone who had been part of a jury trial. That data just didn't exist. Some individuals may be coping better following a trial than others.

**Mr. Ron McKinnon:** What is your experience with the service you're offering? How many sessions are typically needed?

**Ms. Dora Newcombe:** At this point in time, when we review the statistics, on average it's been three sessions of counselling per individual juror.

**Mr. Ron McKinnon:** Thank you very much.

I'd like to move on to Ms. Jobagy. From the testimony I've heard and the information I've already seen, it sounds as though Alberta is doing a lot of things right. You mentioned such things as counselling. Do you do pretrial counselling? You have a brochure that says what's available, but do you give any kind of heads-up to jurors that tells them to hold onto their hats because this will be a rough one, or do you give them some kind of indication so they are aware of the issues they might encounter?

**Ms. Shauna Jobagy:** Mr. Chair, I'd like to address Mr. McKinnon.

In Alberta, as you have heard from some of your witnesses in previous meetings, they are not given any notification prior to the trial as to what they are about to encounter, other than a handout with their jury summons that talks about the process. It doesn't give them any indication as to what the trial is about.

At the very beginning, when they appear for their prospective selection, most often the justice will address the panel then. If they feel it's appropriate, they will provide some details about what they might expect in this particular case.

•(1605)

**Mr. Ron McKinnon:** In terms of receiving counselling during the trial, there are of course legal issues there. Have you found any difficulties around those issues, and would you foresee a need for adjustments to be made to the criminal law to allow better access to counselling during the trial and after the trial?

**Ms. Shauna Jobagy:** As you heard from your previous witnesses, the deliberations or even what happens in that jury room is just as hard on them as the evidence itself is, and I think that is why Justice Hughes recommended offering counselling mid-trial because of what happens in that room, which none of us is really privy to.

Does that answer your question?

**Mr. Ron McKinnon:** I guess I'm wondering about the legal constraints on people with regard to talking about what they're encountering. I guess they can't talk about the deliberations and they can't talk about the data. It's going to be hard to talk to a counsellor because they'll be talking around the issues they're dealing with. I'm wondering if they have enough scope in the current law to do what they need to do with counselling. If not, I'm wondering if you might be able to recommend any changes to the law.

I realize that's a big question.

**The Chair:** Just to make it more precise, I think in your opening remarks you spoke to Australia's law, in which there's an exception for mental health professionals for jury disclosure. I think Mr. McKinnon is asking you whether that type of an exception or a similar type of exception would be something you'd ask us to consider in our Criminal Code.

**Ms. Shauna Jobagy:** Yes.

**The Chair:** That's a very clear short answer. Thank you very much.

Go ahead, Mr. MacGregor.

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

I'm very glad to hear that clear answer, because I was going to follow along that same line of questioning from Mr. McKinnon.

There is that section of the Criminal Code that allows for a judge to provide supports for jurors who have disabilities. It could be very easy for this committee to make a recommendation that an additional section be added to the Criminal Code that allows for mental health supports to be provided. I'm glad to hear that could be a possibility for us.

Ms. Jobagy, I'm curious, because we have heard some testimony at this committee about how there are concerns that our justice system and the supports for it could turn into a bit of a patchwork quilt, with jurors in one province being eligible for some great support while others would have nothing at all.

Has Alberta Justice had any inquiries from other provincial governments or officials in other justice programs inquiring about the strengths of your program? Is there some curiosity? Can you tell this committee anything about inquiries from other provincial governments?

**Ms. Shauna Jobagy:** Mr. Chair, I'd like to address Mr. MacGregor.

I was contacted by Ontario first. The second contact was Saskatchewan. The third contact was Yukon. I was told British Columbia was reaching out, but I have not been contacted by British Columbia yet.

**Mr. Alistair MacGregor:** Thank you.

In terms of what this committee can come forward with in recommendations, we've had former jurors talk about establishing a national standard for jurors. From your viewpoint as someone who is really integral to how the Alberta juror support program works, what other roles or supports from the federal government would you like to see? Is it more the Minister of Justice coordinating with her provincial counterparts, or is it something like what we did with our legal aid study, wherein we made recommendations that the federal government be more involved in providing financial resources? Can you elaborate on anything for us that would help us make those very clear recommendations to the federal Minister of Justice?

• (1610)

**Ms. Shauna Jobagy:** As I said, I have listened to a couple of your committee meetings. All of those comments were very accurate. I was making notes as they were speaking. Their recommendations regarding what they would like to see included in the program are very accurate as well.

Just because Alberta launched first doesn't mean that we have it right. Some of the things that they were recommending are excellent ideas to be incorporated. I think it would be beneficial for them to be the same Canada-wide. I must be careful to note that I'm speaking personally and not on behalf of Alberta Justice.

**Mr. Alistair MacGregor:** Absolutely.

Ms. Newcombe, from your position with the company and the expert services you provide, what has your experience been with other provincial jurisdictions? Can you elaborate a little bit on that? Also, do you have any thoughts on the suggestions for a federal role in this context? Is there anything you can add that might be helpful to us in our deliberations?

**Ms. Dora Newcombe:** I truly am very proud of the work that has been done to recognize the impact of trials on jury members. It appears this is not exclusive to Alberta, so perhaps we should be looking at a broader scope of supports for all citizens.

Speaking on my own behalf, it seems to make sense that what is being done in one part of the country should perhaps be replicated in all jurisdictions. On behalf of the organization, Morneau Shepell, we have worked with individuals who have experienced a range of trauma, whether derived from natural disasters or other types of traumatic events. We recognize that the experience of a jury member is very similar to other types of post-traumatic stress that individuals experience.

Perhaps we need to recognize that traumatic events are not always black and white. With these discussions we are having, we're broadening our horizons as to what people are experiencing these days and how it can impact them.

**Mr. Alistair MacGregor:** As I've mentioned before, I've met with a variety of first responders in my job as a member of Parliament, but these first responders are trained professionals, while jurors are essentially plucked from civilian life and thrust into this situation.

I am wondering if either of you could comment on something my colleagues and I have been discussing. We're in amazement that a study like this has not been completed before and that jurors have been overlooked this long. I'm curious to know why you think that is. Why have we taken so long to recognize the incredibly important service of jurors?

**Ms. Shauna Jobagy:** Some of the reports have indicated that there's a great deal of inertia in the system and a resistance to change. If it's worked for hundreds of years, the thinking goes, why should we alter it? However, there has been an increase in awareness and sensitivities, and we know a lot more about human processes and behaviours now than we did in years gone by.

**Mr. Alistair MacGregor:** Mr. Chair, I'm good with that. Thank you.

**The Chair:** Ms. Newcombe, did you want to add something?

**Ms. Dora Newcombe:** I'd like to add a comment to Mr. MacGregor's question. I think we now have a greater appreciation and understanding of mental health issues in general. We now recognize that just because some people—say, first responders—have chosen to work in certain fields does not mean they are immune to the impact of dealing with difficult situations.

I think that now, as a society, we have a greater understanding that people can be exposed to certain difficult situations whether they asked to participate in those events or not, and that these situations can have an impact. I think it's all part of the dialogue we have been having nationally and globally around mental health in general. Perhaps we also see this because of some of the recent court cases and trials that have been more graphic or widely reported.

• (1615)

**The Chair:** Thank you.

Mr. Fraser is next.

**Mr. Colin Fraser (West Nova, Lib.):** Thank you, Mr. Chair, and my thanks to you both for attending today and for the good information you have provided.

Ms. Newcombe—and maybe Ms. Jobagy can assist—you were just talking about high-profile or particularly gruesome cases. I wonder if post-trial there is a heightened awareness of the trauma some of the jurors may have faced that might cause them to require counselling. Are all cases treated the same, or is there a heightened awareness in cases that would be more likely to cause mental distress?

**Ms. Dora Newcombe:** Sure.

**Mr. Colin Fraser:** I think we've lost the audio there of Ms. Jobagy.

**Ms. Shauna Jobagy:** Can you hear me okay now?

**Mr. Colin Fraser:** Yes.

**Ms. Shauna Jobagy:** The judiciary would be the ones most aware of the evidence and how it's impacting them. After watching the jurors throughout the trial, as one of my justices from Lethbridge said, where appropriate they will go into the deliberation room at the end to speak to the jurors and remind them about the counselling. I think that's because of what they're feeling, and if the judiciary is feeling it, you can imagine what these poor jurors are feeling.

I wouldn't say it would be in every case that there would be more awareness of the gruesome testimony and the impact. It would be case by case.

**Mr. Colin Fraser:** Okay.

Ms. Jobagy, can you walk me through what would happen at the end of a trial if it were a high-profile murder trial? Would there be an actual post-trial debriefing with all of the jurors, to go through the information and ensure they're aware of all of the services that are available to them?

We've heard testimony that some of the jurors couldn't believe that basically when the trial was over, out the door they walked, and there was no wrap-up to put their minds at ease. What can you say about that?

**Ms. Shauna Jobagy:** Thank you, Mr. Chair. I'd like to answer Mr. Fraser.

Yes, they are correct. They are ushered out of the courtroom and into their jury room, they pick up their backpacks, and they go home. What we have been doing in certain jurisdictions is have a clerk to kind of oversee the jury. She will meet with them at the end to remind them about the package, but there's no debriefing.

Ms. Newcombe and her team and my team talked about having a counsellor, or whoever, come in at the very end for a debriefing. Your witnesses identified the need for that in these hearings, but it has not been implemented.

**Mr. Colin Fraser:** Okay.

At the courthouse itself, Ms. Jobagy, we heard some testimony about there being a concern for jurors' protection and safety and interacting with perhaps family members or people known to both the victim and the accused. Do you see any difficulty right now with the way it works in Alberta, in particular with interactions in the parking lot or in break rooms or anything of that sort?

**Ms. Shauna Jobagy:** Yes, it could be an issue. So far the Province of Alberta has not been made aware of any altercations.

They certainly could go through security at the same time, so there's the possibility. In the larger centres of Calgary and Edmonton, there's not so much possibility of parking in the same parking lot or anything, while in the smaller centres it could happen that they all use the same parking lot. We simply try to be more aware with the sheriff escorts and the clerk escorts about keeping the jury as protected as possible. They would use secure hallways, not the public hallways, but they still have to go through security.

**Mr. Colin Fraser:** Can you speak for a minute about jury compensation? I think you touched in your opening remarks on the fact that a review was done and that jurors are compensated differently right now. How does it work in Alberta?

• (1620)

**Ms. Shauna Jobagy:** In Alberta our jurors are compensated by a daily fee of \$50, and their meals are reimbursed. Breakfast is \$9.20, lunch is \$11.60, and supper is \$20.75. Mileage is at a rate of \$0.505 per kilometre and parking is \$12.75 per day, unless they have a receipt that's more. Babysitting is covered with a receipt, and day care, but there is no coverage for lost wages.

**Mr. Colin Fraser:** In the post-trial, if somebody is to access counselling services and they live in a rural area and have to drive to the counselling services, do they get their mileage paid for?

**Ms. Shauna Jobagy:** That has not been discussed yet. What Ms. Newcombe and I had discussed was that in rural areas the counsellor will go to them.

Could you address that, please, Ms. Newcombe?

**Ms. Dora Newcombe:** I'd be happy to, and thank you for your question, Mr. Fraser.

One of the things we recognized when we looked at the counselling network is that some people might be in more rural areas, so it would not be feasible for them to drive an hour for counselling. Also, in Alberta, winter roads may make it more challenging. With the counsellor network that we're using, we have counsellors people can see in person. They can make an appointment and see them in person, as well as use telephone counselling. That is where the counsellor would call the individual in their home, or another place that's more convenient, and proceed with the counselling appointment in that manner. That would give people flexibility and options to meet their needs.

**Mr. Colin Fraser:** Okay.

Do I have time for one more?

**The Chair:** We'll take one more quick question.

**Mr. Colin Fraser:** I'll be very quick.

With regard to the four counselling sessions that are provided, you said that they can ask for more if they need it. Who decides that? Who decides if they get it?

**Ms. Dora Newcombe:** They can ask for additional sessions, but it also could be the counsellor who suggests that an individual really needs more support. We have an agreement with the Alberta Justice team that we can provide additional counselling sessions. We can go from four sessions up to six sessions. If there is a need for even more, we have a process to go back, talk to Ms. Jobagy, indicate that we have a juror experiencing some additional challenges, with maybe something that's triggered in their personal life, and say that they require two or three more sessions. That's how the approval process would go—without revealing names.

**Mr. Colin Fraser:** Thank you.

**The Chair:** Thank you.

Does anybody have any short questions?

Go ahead, Mr. Nicholson.

**Hon. Rob Nicholson (Niagara Falls, CPC):** Thank you very much.

Thank you very much for your testimony. You can and should be very proud of the fact that Alberta seems to be what could be described as the cutting edge in moving forward in providing assistance and counselling to members of the jury. You're ahead not just on the counselling; you're even compensating with respect to a number of the expenses that jurors have. It sounds like your system is a little more complete than those of a number of other provinces.

Let me go back to that \$50 a day. In an eight-hour day, that's a little over \$6 an hour. You also mentioned the strain on families from these things. Have you ever had any feedback that this kind of payment adds to the stress that families go through? I would imagine that not many people could support themselves on \$6.33 an hour.

**Ms. Shauna Jobagy:** It definitely is an issue. In fact, the jurors can require to be excused because of financial hardship. Prior to the selection, we do have lots of applications to be excused because of financial hardship.

**Hon. Rob Nicholson:** As you say, most of them, when they're called to do their civic duty, are there to do it with honour, so it's too bad that this is the case. Do you think part of the reason for this low compensation is the inertia in our justice system that you talked about earlier? It's actually what I suspect. Maybe these prices were set in 1969 and nobody has reviewed them since. Is that part of the issue, do you think?

**Ms. Shauna Jobagy:** I don't have permission on behalf of Alberta Justice to address that, but I can tell you that Justice Hughes' report does recommend an increase. Her recommendation was from \$50 to at least \$80.

• (1625)

**The Chair:** That report was in 2009, correct?

**Hon. Rob Nicholson:** Was the report of Justice Hughes in 2009?

**Ms. Shauna Jobagy:** Yes, sir.

**Hon. Rob Nicholson:** Then it was almost 10 years ago that \$80 was recommended.

**The Chair:** There you go.

Mr. Iacono, you wanted to ask a brief question.

[*Translation*]

**Mr. Angelo Iacono (Alfred-Pellan, Lib.):** Thank you, Mr. Chair.

I would like to ask a question about the conditions of jury duty.

Do you think that the requirements and the exemptions for participating on a jury should be different with long and complex cases, such as the megatrials that have been held in Quebec?

[*English*]

**Ms. Shauna Jobagy:** I don't know how to answer that.

**The Chair:** Are you getting Mr. Iacono's translation when he is asking the question?

**Ms. Shauna Jobagy:** I understand the question. I wouldn't have the experience to answer that except to give my personal opinion.

The reasons for jurors to be excused today are already extensive. They do encompass prior health conditions or mental health. There are several reasons to be excused. I don't see that right now that part needs to be enhanced.

Does that answer your question?

**Mr. Angelo Iacono:** Yes. Thank you.

**The Chair:** Thank you.

We'll go to Mr. MacGregor, then Mr. Fraser, and then Mr. Liepert.

**Mr. Alistair MacGregor:** Ms. Jobagy, you informed this committee on the compensation that's offered to jurors. You talked a little bit about some of the stresses they may experience from a significant drop in income. I know that employment standards in each province allow for jury duty and that it's not supposed to affect a person's employment: at the end of their jury duty, they're supposed to just slip right back into their job.

Do you know of any cases in which jurors have made complaints that they may have missed out on opportunities to advance in the work, or missed out on skills training, or had friction with their employer as a result of their service? I'm wondering if Alberta Justice has any statistics on that.

**Ms. Shauna Jobagy:** No, there are no statistics available.

I am aware that in certain courthouses there have been complaints about having to go to work before the jury trial, and then coming in and doing the trial, and then going to work. It is similar to what your previous witnesses testified, but I'm not aware of any statistics.

**Mr. Alistair MacGregor:** Thank you very much.

**The Chair:** Go ahead, Mr. Fraser.

**Mr. Colin Fraser:** Thank you.

Ms. Jobagy, I'm sorry for mispronouncing your name earlier. I realize now it was incorrect on my notice of meeting.

With regard to the jurors that are allowed to access services for counselling, is that all jurors, even those who didn't see it all the way through to the final conclusion of the trial? Is that any juror who served for any period of time?

**Ms. Dora Newcombe:** Mr. Chair, I'd like to answer that question for Mr. Fraser.

We have discussed those situations of a jury member needing to leave the trial for whatever reason and not participating through the full trial, and yes, we would consider them to still be eligible for support. Those might be those special circumstances that we would discuss with the Alberta Justice team.

I do recall that being one type of scenario that was discussed when we were looking at implementing the program, but I do not believe we've had any of those cases or situations occur.

**Mr. Colin Fraser:** Thanks.

**The Chair:** Go ahead, Ms. Jobagy.

**Ms. Shauna Jobagy:** Mr. Fraser, I would like to add on behalf of Alberta Justice that you may be referring to the situation of having 14 jurors initially, and two get dismissed prior to the end of the trial. Yes, they would still be part of the program.

**The Chair:** Yes, that was it.

Go ahead, Mr. Liepert.

**Mr. Ron Liepert:** Ms. Newcombe, I have a quick question.

Are all of the counselling services provided in-house at your firm, or do you find that sometimes you have to go outside to contract with medical professionals that you can't provide in-house?

• (1630)

**Ms. Dora Newcombe:** Mr. Chair, I'd be happy to answer Mr. Liepert's question.

Through Morneau Shepell we have a network of counsellors who work for us in various contractual arrangements and agreements. They range from full-time salaried counsellors to counsellors that may be contracted, especially in smaller communities where they might not see that many clients. It might be a small hamlet where there aren't a lot of customers. There is the option for individuals to access counselling through a method that works for them.

**Mr. Ron Liepert:** Okay, thank you.

**The Chair:** If there are no further questions, we're going to now change panels.

I want to thank both of you ladies for your testimony. It was extremely helpful to all of us. We learned an awful lot. I congratulate Alberta on, as Mr. Nicholson said, being really avant-garde and a leader in this area in Canada. Thank you again so much for joining us.

We'll adjourn for a second as we change panels.

• (1630)

\_\_\_\_\_ (Pause) \_\_\_\_\_

• (1635)

**The Chair:** I will call this session back to order.

We're very honoured to be joined by our next panel as we continue our study into mental health supports for jurors.

We are joined, from the Ontario Juror Support Program, by Ms. Julia Bielecka, manager of operational support, court services division, Ministry of the Attorney General. Welcome.

We're also joined, through video conference from Toronto, by Monsieur Claude Bourque. Monsieur Bourque, *bienvenue*.

[*Translation*]

Welcome, Mr. Bourque.

**Mr. Claude Bourque (Ontario Juror Support Program):** Thank you very much.

[*English*]

It's good to be here.

**The Chair:** From Yukon Court Services, we have Ms. Shannon Jensen, who is the manager of court operations. Welcome, Ms. Jensen.

**Ms. Shannon Jensen (Manager, Court Operations, Yukon Court Services):** Thank you.

**The Chair:** We'll start with Ontario and then move to Yukon.

Ms. Bielecka, the floor is yours.

**Ms. Julia Bielecka (Manager, Operational Support, Court Services Division, Ministry of the Attorney General, Ontario Juror Support Program):** Thank you very much.

Good afternoon, members, and good afternoon, Chair.

On behalf of the Province of Ontario and the assistant deputy attorney general of court services division, Ms. Sheila Bristo, I thank you for inviting me today to this important discussion about supports for jurors.

My name is Julia Bielecka, and as the chair mentioned, I am the manager of the operational support branch in the court services division of Ontario's Ministry of the Attorney General. My area is responsible for providing policy guidance and support to the jury process in the province.

In the time allotted to us today I will provide a high-level overview of the jury process in Ontario and the types of supports that are currently in place for jurors, including information about Ontario's juror support program, through which we provide counselling support for jurors.

We believe that serving as a juror is an important public service. Juries are drawn from a broad cross-section of society, and because of that, they can act as the conscience of the community. Those who participate often feel a heightened sense of community involvement because they have done their part to make sure justice has been served.

What does jury service look like in Ontario right now? Each year approximately 500,000 questionnaires are mailed out across the province to prospective jurors, who are selected randomly from the most recent municipal voters lists. For people living in a first nation community, other lists, such as band lists, are used. The juror questionnaire is used to determine whether a questionnaire recipient is eligible for jury duty. The questions in the questionnaire are based on eligibility requirements in Ontario's Juries Act.

Upon completing and returning a juror questionnaire, if an individual is eligible for jury duty, he or she is placed on a jury roll. The following year the individual may be randomly chosen from the roll to receive a "summons to juror" notice, which tells them that they must attend court on a specific date to be considered further for serving on the jury. They may also be chosen to serve as jurors at a coroner's inquest.

If an individual is selected to sit on a jury for a trial or inquest, they will be advised of the estimated length as part of the selection process. Some jurors may be required for several days and others for several weeks. There's no set time limit. Informing the juror of the estimated length as part of the selection process helps them gain an understanding as to how long they may need to be away from family and work.

In Ontario we provide a number of supports to jurors. First, to help potential jurors understand the jury process, Ontario created a jury duty video. It is called *Jury Duty and You*. Jurors can view the video when attending court for their summons or they can view the video online on our website or on YouTube.

We also currently provide financial support to jurors in certain circumstances. A juror may be paid for daily travel expenses, accommodation, or when serving on a trial for more than 10 days. There is currently no allowance for child or elder care. The ministry is carefully considering how best to address this issue, as we understand that this may be a hardship for some jurors. The payment of jurors is made in accordance with the requirements of Ontario's Juries Act and regulation 4 of the Administration of Justice Act.

If a potential juror needs accommodation for a disability, they are encouraged to contact the court office as soon as they receive their summons. Every effort is made to provide necessary accommodations for people with disabilities to participate fully in the jury process. For example, a judge may allow an individual to use technical, personal, interpretive, or other support services to enable that person to serve on the jury. If a juror is receiving employment insurance benefits, they can attend jury duty and continue to receive their benefits.

While jury duty is an important civic responsibility and can be rewarding, it can often be very difficult and stressful for jurors. The evidence in the testimony some jurors hear can be graphic. It can deal with very traumatic and violent crimes. In some cases, individuals have to take significant time away from their jobs, their families, and their lives. Talking to a qualified counsellor can help jurors after a trial or inquest.

The juror support program, which Ontario established in partnership with Morneau Shepell in January 2017, is available for Ontario's jurors at the conclusion of a trial or inquest. Jurors are able

to receive up to eight one-hour counselling sessions. A juror can speak with a counsellor toll free, 24 hours a day, seven days a week. Jurors can receive this counselling in any manner they choose—in person, over the phone, by email, or by video conference, in English or French. They also receive disability accommodation when requested. There are no out-of-pocket expenses for jurors, and the program is completely confidential.

Supporting jurors to perform their civic duty and making counselling more easily accessible for those who need it are very important to the ministry and the province. Since the launch of our program in January 2017, 24 jurors have contacted Morneau Shepell for counselling.

● (1640)

Ontario recognizes that the jury process may be challenging and stressful for some individuals. If a prospective juror has questions or if they require assistance in completing the jury questionnaire, they're able to contact ministry staff from our provincial jury centre from Monday to Friday. Once they're summoned, they can contact the courthouse to which they have been summoned before their court date. If an individual has concerns or difficulties once they arrive at the courthouse, they can speak to one of our court services officers or a jury clerk for assistance at any point in time.

A juror can also make a request to the presiding judicial official to be excused from further participation in a trial or inquest if they feel that they cannot continue on in the process. At that point, the judge or coroner will determine whether to grant that juror's request.

Beyond the supports outlined above, a judicial officer may grant additional supports or compensation at their discretion.

We do our best to ensure that concerns raised receive a respectful and effective response.

I want to take this opportunity to reaffirm Ontario's commitment to ensuring a positive experience for jurors who serve on a trial or inquest.

On behalf of the ministry, thank you very much, and I also thank all those who participate in the jury process each year in Ontario. We are always open to considering feedback on how to improve the jury process in Ontario.

I look forward to answering any questions you may have today, and we look forward to receiving the recommendations of this committee in the future.

**The Chair:** Thank you very much, Ms. Bielecka. It's very much appreciated.

We'll move to Ms. Jensen.

**Ms. Shannon Jensen:** Thank you.

Good afternoon, Mr. Chair and members of the committee. Thank you for the opportunity to present information on Yukon's new juror support program.

To begin, I should note that our program is new only in the sense that Yukon brought in a formal program this year. In fact, Yukon's courts have recognized the need for psychological support for jurors since at least 2001, when the presiding judge ordered that a group debriefing session be offered to jurors after a first-degree murder trial. This type of support was also subsequently arranged after other trials when the judiciary determined that the court proceedings may have been uncomfortable or difficult for jurors. That remains a possibility to this day.

Several years after that initial session, in anticipation of a number of upcoming murder trials, Yukon applied for and received federal funding to research the jury experience during such trials. As part of that research project, Yukon arranged for a voluntary group debriefing session led by two contracted psychologists, to be held 24 hours to 72 hours after the conclusion of each of three trials. Some of the recommendations stemming from that study informed the development of the formal program that was started in 2017, including that printed materials be provided and that individual debriefing sessions be offered.

In the development of Yukon's juror support program, we sought advice from our colleagues in both Alberta and Ontario, from whom you have already heard today. Our program is similar to theirs in that we offer a printed brochure to all jurors after each jury trial that identifies common signs and symptoms of stress reactions, offers suggestions for self-care and ways that family and friends can help, and provides information on how to access professional counselling services on a voluntary and confidential basis. These services are provided by the same counselling service that is contracted by Yukon government to offer the employee and family assistance program, but jurors do not have to be Yukon government employees to access the juror support program. That counselling service is currently provided by Morneau Shepell.

Each juror can access up to four counselling sessions free of charge to help them process their reactions to the trial. Two additional sessions may also be offered at the discretion of the counsellor, and more may also be approved if needed. Because jurors may experience both immediate and delayed reactions, there is no time limit by which jurors must access the sessions. Counselling services are available in a number of different formats, including in person and by phone, and are completely confidential.

However, because the counselling service provides statistics on the juror support program, we are able to tell what percentage of jurors are accessing the support. In the first few months of operation of our program, we have seen an uptake rate of about 17%, which indicates that there is interest in this service in the Yukon.

In addition to the post-trial support program outlined just now, consideration has also been given to providing information to our jurors at the beginning of trials in order to help them prepare to process the material they will be exposed to. Yukon is therefore very interested in the work and recommendations of this committee in that regard.

Thank you for the opportunity to speak. I would be happy to answer any questions that committee members may have.

● (1645)

**The Chair:** Thank you very much. It's very much appreciated to hear both of those presentations.

Now we'll move to questions from the panel to both Ontario and Yukon. We'll start with Mr. Nicholson.

**Hon. Rob Nicholson:** Thank you very much.

Thank you very much for your testimony here. These are important breakthroughs, quite frankly, and it's a step forward that both jurisdictions are now providing that counselling. As you know from the earlier testimony we had before this committee, this is extremely important.

Ms. Bielecka, you said that one thing being considered is assisting people in compensating them for their child care and elder care. You said it's under consideration. Can you tell us how long it has been under consideration?

**Ms. Julia Bielecka:** We always evaluate the supports that we provide to jurors, and child care and elder care come up for certain individuals, so we have been considering that, but I'm not sure for how long. In the course of simply doing our regular work, we do try to improve and provide as many supports as we can to anyone who needs them. That's one thing that has come up for certain people.

● (1650)

**Hon. Rob Nicholson:** I certainly hope so.

Maybe you could also tell me the last time compensation for people serving on juries was changed in Ontario. Do you know how long ago it was set?

**Ms. Julia Bielecka:** I can tell you what the compensation is for jurors—

**Hon. Rob Nicholson:** I know what the compensation is. Do you remember what year it was implemented and how long it has been the same? Maybe you could check into that for me.

I have a feeling it has not been altered for a long time, and you probably have heard that people who serve on a jury in Ontario get nothing for the first two weeks. Then they get \$40 a day if the trial lasts up to two months. Have you heard feedback from people that this puts a strain on their families and their financial situations?

**Ms. Julia Bielecka:** Compensation for jurors is not meant to be compensation for their time and service; it's part of supporting the civic jury process. It is meant to simply assist them in meeting their obligations. Compensation is an important issue for Ontario and—

**Hon. Rob Nicholson:** I agree with you. I think compensation is important, but also in the province of Ontario there is no requirement that employers pay their employees who are serving on jury duty, is there?

**Ms. Julia Bielecka:** That's right. There is no requirement at this time. There is a requirement for them to be offered time off to be allowed to participate, but employers are not expected or required to compensate jurors for that time.

**Hon. Rob Nicholson:** You can see that could put quite a strain on them. We have no requirement for them to pay these people who serve on a jury, say, for two months, and we in the province of Ontario don't pay them anything for the first couple of weeks of a trial, and then \$40 a day—I have a feeling that this one has been kicking around for decades. What do you think?

**Ms. Julia Bielecka:** Individuals are able to request an excusal for very many reasons. One of those could be financial hardship. We do have instances of individuals who have been summoned for jury duty making those concerns known to the court and to the judicial official, then it's up to the judicial official's discretion to excuse the person from jury duty. That is available to jurors in our province.

**Hon. Rob Nicholson:** Sure, I can imagine it would be.

Mr. Chair, I wonder if you could check and find out when Ontario implemented those “compensation guidelines”.

**The Chair:** We will ask.

Ms. Bielecka, if you could provide us with that information once you have researched it, it would be very much appreciated.

**Hon. Rob Nicholson:** I'm sure it's part of the public record somewhere, but thank you very much. I appreciate that.

Thank you.

**The Chair:** You guys have two more minutes. Does anybody else...?

Go ahead, Mr. Cooper.

**Mr. Michael Cooper (St. Albert—Edmonton, CPC):** Thank you, witnesses.

Ms. Bielecka, I have a couple of questions about Ontario's program. In terms of the counselling services, you said there are eight. There are three one-hour sessions, and then provision for additional sessions. That's at whose discretion? Is it the counsellor?

**Ms. Julia Bielecka:** Our program offers four initial sessions; then, at the discretion of the counsellor, the counsellor is able to recommend an additional four. That is a total of eight sessions.

Beyond that, those cases are dealt with on an individual basis. To date, we have not received any requests for more than eight sessions. We heard previously from Ms. Jobagy in Alberta. We don't see people using that many, but as a province and in our agreement with Morneau Shepell, we are open to exploring further sessions should the need arise.

**Mr. Michael Cooper:** Is there a cap on the toll-free 24-hour service that can be done by phone or done online?

**Ms. Julia Bielecka:** That's all within the sessions. Essentially, the eight sessions can be done in the manner the juror chooses. That means a person can do it by phone. If they want to do another session by email or they want to do another one in person, it is up to that individual to decide.

**Mr. Michael Cooper:** You mentioned that 24 jurors have approached Morneau Shepell for counselling services. That's out of

approximately how many jurors over the last year or so that it's been in place?

**Ms. Julia Bielecka:** It's been in place for about a year. Last year there were around 7,000 jurors in the province of Ontario.

• (1655)

**Mr. Michael Cooper:** Okay.

In the testimony that was provided in terms of a program in Alberta, I think it was said that on average there were about three counselling sessions. Is that consistent with what you're finding in Ontario amongst the 24 or so jurors who've accessed the program?

**Ms. Julia Bielecka:** Yes, that's correct. I would say that around two to three is the standard for most individuals.

**Mr. Michael Cooper:** Thank you.

**The Chair:** Ms. Khalid is next.

**Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.):** Thank you, Chair, and thank you to the witnesses for your testimony today.

Ms. Bielecka, we just heard that there are about 7,000 jurors who go through the process per year, out of which a very small number use the counselling services. Do you think that is because those counselling services are not required by the majority of jurors, or is it because there is a lack of willingness or perhaps of information for jurors, I guess, for them to be able to know that this service is out there for them?

**Ms. Julia Bielecka:** Counselling for anyone is extremely individual. I don't think everyone necessarily needs counselling, and I also think that it's a process to go through counselling. Anyone who's ever participated in counselling knows that it's extremely difficult. It requires a lot of work on the part of the individual. It really would vary by the person who wants that counselling. I think that explains why some may choose to use the service and some may not. Some have other supports that they utilize within their communities, such as family and friends, which they would rely on more, let's say, than a counsellor specifically.

In terms of information to jurors, every single juror in our province receives the pamphlet. I've brought it here today to leave with the committee for your reference in the future. Within the pamphlet itself, there is also a little pullout card. In Ontario, we thought that sometimes the effects of this trauma can come about later down the line, and at that point in time the pamphlet may be somewhere, but they're not able to find it, so we've put together this wallet insert that they can take away with them in order to have the number with them at any point in time.

The information is available online as well. They can contact us. They can contact counsellors directly by calling the toll-free number, but should a member of the public contact our ministry or any one of our courthouses about this service, they will be referred directly to Morneau Shepell.

**Ms. Iqra Khalid:** How long is there between the juror being relieved of their duty to basically taking those services? Is there a cut-off when those services are no longer available?

**Ms. Julia Bielecka:** We in Ontario do not have a cut-off. Essentially, in developing this program in partnership with Morneau Shepell and using the good advice that we had from Alberta, we didn't want anyone to be disadvantaged. We didn't want anyone to be left behind. We thought that we were not in a position to make a determination about when someone is no longer in need of our services. We wanted it to be available for any juror at any time. Sometimes these things come up many months or years after the fact. We wanted people to feel supported regardless of when they served.

**Ms. Iqra Khalid:** Is there a formal debriefing process in Ontario for jurors who are just coming out of jury duty, either by the courts or by Morneau Shepell, if that's the case?

**Ms. Julia Bielecka:** I wouldn't say that the process is consistent across the province. I don't think there is a formal debriefing process. I am aware that certain judicial officials, depending on the facts of the case and on what has happened during the course of that trial, may choose to address the jury. What happens at the end is that the jurors are provided with this brochure and informed about the counselling services that are available to them.

**Ms. Iqra Khalid:** Do you think a formal debriefing process that is consistent would be helpful for jurors in general?

**Ms. Julia Bielecka:** Yes. From some of the information we've heard from former jurors and as this committee has also heard in past sessions, jurors would feel supported by having a formal debriefing at the end. That way they would feel, I guess, that there was some sort of closure, in a sense, to their experience.

• (1700)

**Ms. Iqra Khalid:** In an earlier panel we heard that there is kind of an exit survey, a satisfaction questionnaire, administered to those who use the counselling services. Is there a similar process for Ontario as well, in which there is a satisfaction questionnaire? If there is, can we see what kinds of questions are on that survey?

**Ms. Julia Bielecka:** Claude, can you please take that one on behalf of Morneau?

**Mr. Claude Bourque:** Absolutely.

Following the first session that takes place, a hard-copy survey is provided to the juror. It is left to the juror to complete and return that document. Those would be brought together and delivered to the ministry, in terms of the statistics.

**Ms. Iqra Khalid:** Can we see it? What are some of the questions asked on this survey?

**Mr. Claude Bourque:** The questions are in line with our employee assistance program, so there would be questions like "Would there be lost days if you had not accessed the service?" There would be questions about the quality of the service, starting from the first call through to the meeting with the counsellor as well.

**Ms. Iqra Khalid:** Thank you.

**The Chair:** Thank you very much, Ms. Khalid.

We would like to request from Ontario a copy of that survey, if that's possible, please, and any statistics you have compiled on

satisfaction levels that are not confidential and that you can share. We asked for the same from Alberta. Thanks.

We'll now go to Mr. MacGregor.

**Mr. Alistair MacGregor:** Thank you, Chair.

Thank you to the witnesses for lending your expert testimony to our study today. We appreciate the time you've made to appear before us.

Ms. Bielecka, you said during your testimony that at the conclusion of a trial there are up to eight counselling sessions. As we know, some trials can go on for the better part of a year or even longer. Did you make mention of anything that might be available during the middle of a trial if a juror is, say, at the five-month mark of a particularly gruesome murder trial and feels the need for some counselling to help them process the emotions that are going through their head?

**Ms. Julia Bielecka:** We're very alive to this issue, obviously, as are you as a committee.

We wanted to balance the legal obligations and the understanding that this is something that would probably have to be up to the discretion of the judicial official in the courtroom. I mentioned also in my testimony that at any point in time, jurors are able to make any of their concerns known to a judge.

The way we have handled that issue in Ontario is that if a juror feels that they can't continue, they make that concern known to the judicial official. It would then be up to the judicial official to determine whether it's appropriate for that person to seek counselling or whether it's appropriate for that person to be excused and not continue. Should the judicial official sanction that person to receive counselling during the course of the trial, we would obviously allow them to access the service.

**Mr. Alistair MacGregor:** We can see that the interest of several provincial jurisdictions in these kinds of supports seems to be growing, which is a good thing. Are you aware of discussions between different provincial administrations? Are you aware of support from other provincial jurisdictions with regard to how the Ontario program is working? Are you noticing an increased interest? What is the level of interest by other provinces right now in their dealings with the Province of Ontario?

**Ms. Julia Bielecka:** We were contacted by the individuals that I believe Shauna mentioned. We've had conversations with Yukon and Alberta. British Columbia has reached out to me. We have shared in every forum that we can that we as a province are willing, and I am willing, to speak to anybody who needs advice and support in any of the other provinces. They are able to contact me at any point in time, and we're willing to share our experience. We think this is hugely important and beneficial. We would like to help other provinces put it in place, I would say.

**Mr. Alistair MacGregor:** As you might be aware, we started this study last week with some pretty heart-wrenching testimony from former jurors. Not the least of those is Mr. Mark Farrant, with whom I'm sure you're very familiar through his role in pushing for this.

When I asked each of the jurors, they all lent their support to the idea of some sort of a national standard. They felt strongly—every single one of them—that a juror in Prince Edward Island and a juror in British Columbia are both doing the same service to their community. They should have that kind of a support system. You have a privileged position here, with your expertise in how the Ontario program works, but ultimately, as a federal committee, we're aware of the provincial jurisdiction over the administration of justice.

From your viewpoint in the Ministry of the Attorney General, how do you feel about our inquiry into this and the possibility of a national standard? Do you have any recommendations you would like this committee to make, in particular to the Minister of Justice? I'm just wondering how that fits from your viewpoint.

• (1705)

**Ms. Julia Bielecka:** We are very much looking forward to the outcomes of this committee's work as well as to implementing any additional information that the committee is willing to find and share. We are looking forward to receiving any financial assistance and providing further supports to jurors to help expand the program in any way appropriate.

In terms of a national standard, I definitely agree with the comments made by former jurors that everybody needs some sort of support. I would also say that it would be important for provinces to have a degree of flexibility to determine how a national standard—if such a standard should exist—would make the most sense within that specific jurisdiction and for specific communities within that jurisdiction.

**Mr. Alistair MacGregor:** Thank you.

Ms. Jensen, I'd also like to get the Yukon viewpoint on the question I just posed. In terms of recommendations this committee can make and the previous testimony we've had about a national standard, do you have any ideas you would like to share with this committee to help us reach those recommendations?

**Ms. Shannon Jensen:** From Yukon's perspective, we're also very interested in the work of the committee and the recommendations that are expected. As my colleague in Ontario said, I would recommend that each jurisdiction be allowed a little flexibility as to how to implement the standard.

For example, one of the great features about our program is that we have the ability for the counsellor to recommend more sessions if needed, rather than just saying, okay, there are four or eight or however many sessions and capping it at that. Flexibility is important.

Certainly the jurisdictions work together on any number of issues to do with justice, and I would expect this to be one of them.

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

Mr. Sikand, is Mr. Iacono going to be taking your time? Yes.

Go ahead.

**Mr. Angelo Iacono:** Thank you very much.

With respect to this program, what are its strengths and weaknesses? Can you highlight them? It's a fairly new program, less than a year or so old.

**Ms. Julia Bielecka:** Some of the strengths of our program are that we have no time limit and that we're willing to work with any requests that come forward through Morneau or through former jurors.

We tried to leave it as flexible as we could to address anomalies while meeting some sort of baseline standard for everyone. We obviously had to have some sort of structure, but we wanted to ensure that we were able to tailor it as needed.

Another strength is that it's available across the province and in any manner in which the juror chooses to access it. That's important, because not everyone will need or want to access counselling in the same way.

**Mr. Angelo Iacono:** I'm sure the program has been evaluated since it was inaugurated. What lessons have you learned from it?

• (1710)

**Ms. Julia Bielecka:** I think the lesson we learned is that we were concerned about the number of sessions when we were launching the program. We were concerned about making sure that everyone would have access to the service. I'm happy to report that we have not maxed the number of sessions and we have not received any requests that we were not able to meet from an accommodation perspective or a language perspective.

**Mr. Angelo Iacono:** That's interesting enough. You said earlier that there were 7,000 trials—

**Ms. Julia Bielecka:** Yes.

**Mr. Angelo Iacono:** —and only 24 people have used this in the last year. Is that correct?

**Ms. Julia Bielecka:** Seven thousand jurors and—

**Mr. Angelo Iacono:** —and only 24 have used it.

**Ms. Julia Bielecka:** Yes.

**Mr. Angelo Iacono:** Is that because the jurors are not aware of it? Is that because they're shy or they feel intimidated? What's the reason? Do you know? Is that part of your questioning process?

**Ms. Julia Bielecka:** For these types of programs, I don't think a measure of success is necessarily usage, so to speak, because counselling is an individual thing for everybody. From my perspective, everyone has the option of using the service if they need it, but not everyone will want to go through the process of counselling following a trial.

Also, I think we have to remember that the program's only been there for a year. Mental health has come to the forefront more than ever before, so I do expect that potentially we will be getting an increased uptake in the future.

**Mr. Angelo Iacono:** I find the numbers very low. What do you foresee? If you had 7,000 jurors, I would expect the numbers would be close to a thousand people using the service. For it to be only 24, there's got to be something that's not attractive to the jurors to come forward and use this service. Something has to be done to make it simpler for them to subscribe to it. Do you agree?

**Ms. Julia Bielecka:** I certainly hope that's not the case, but we are definitely open to any feedback. We have not heard any concerns from jurors. We have not received any negative feedback from the community; so far it has been quite positive. Of course, if there are any concerns or if people feel that there should be changes, we are early into the program, as it's only been a year, and as my colleague in Alberta mentioned, our main goal is to provide as much service as possible to the jurors, so if there's anything that needs to be improved or could be improved, we welcome that feedback. We welcome the feedback from this committee also.

Thank you for your question.

**Mr. Gagan Sikand (Mississauga—Streetsville, Lib.):** I only have two minutes, so I'm going to go quite quickly.

In your testimony, you mentioned that jurors are provided with some explanation of the length, the duration, and the parameters of what they're going to enter. Does that also include the graphic nature of what they're going to see in a high-profile trial, for example?

**Ms. Julia Bielecka:** It is up to the discretion of the judicial official to determine how much, if any, information is going to be shared with those jurors at the commencement of trial.

**Mr. Gagan Sikand:** Okay. Then you mentioned that jurors are provided with eight sessions of an hour each.

**Ms. Julia Bielecka:** Yes, that's right.

**Mr. Gagan Sikand:** Is there a limit on this, if they require further sessions?

**Ms. Julia Bielecka:** There's no limit on it, necessarily. It is a case-by-case basis. If we receive information from Morneau Shepell indicating that somebody requires further support, we are willing to consider those circumstances and address them accordingly.

**Mr. Gagan Sikand:** Is that on a case-by-case basis?

**Ms. Julia Bielecka:** Yes. As I mentioned, the usage indicates that no one has even come close to that amount.

**Mr. Gagan Sikand:** Okay. Were the 24 individuals that you mentioned all from the same trials?

**Ms. Julia Bielecka:** No.

**Mr. Gagan Sikand:** Okay. Thank you very much.

I have one quick question for Shannon.

Following up on what Mr. MacGregor said about the level of service and due to the remoteness of your court services, do you feel you get the same level, or administer the same level, of service to the jurors afterwards?

**Ms. Shannon Jensen:** I think we do. In the Yukon, it is a very new program. We have only had one trial since we rolled this program out. From that trial, we know that two of the 12 jurors accessed this support. Like our colleagues in Alberta and Ontario,

we're very much open to feedback and learning what we can do to provide even more support to jurors.

● (1715)

**Mr. Gagan Sikand:** Was that by way of video conference or was that in person?

**Ms. Shannon Jensen:** Sorry; I do not know the method by which they accessed the sessions.

**Mr. Gagan Sikand:** The medium doesn't really matter. I was just curious.

Thank you.

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

I know it's a very embryonic program, but if you have any evaluation materials you use for people after they've had counselling services or after they've made use of the program, we'd appreciate seeing them, as well as any stats you may have, even though it's only been one trial.

By the way, I thought the other document you provided explaining to jurors what the potential signs were of mental distress was excellent and should definitely be regarded as a best practice.

Go ahead, Mr. Cooper.

**Mr. Michael Cooper:** Ms. Bielecka, on the information provided to jurors about accessing services, you said they receive a brochure that provides contact information for counselling. Is anything beyond the brochure provided to jurors to make them aware of the programs and services available to them?

**Ms. Julia Bielecka:** We felt that it was timely.... In terms of accessing the services, people will be most aware of their need either during the trial or immediately after it. What we do is provide this information in the brochure. The brochure doesn't just contain the contact information and the phone number; it also provides information on the impact of jury duty, similar to what is done in Alberta and Yukon. It outlines for them some of the signs and symptoms they may experience and gives instructions on how to contact the service right away.

**Mr. Ron Liepert:** Are you leaving those for us?

**Ms. Julia Bielecka:** Yes, I will leave these for everybody.

**The Chair:** Go ahead, Mr. Iacono.

**Mr. Angelo Iacono:** My question is very broad, but it could give us some orientation. I know the program, but what is the consultation, exactly? What is it exactly that you tell people? Just give us some brief info on what exactly you do in your counselling. What does it entail?

**Ms. Julia Bielecka:** Sir, could you please clarify your question? Do you want to know what exactly the counselling entails?

**Mr. Angelo Iacono:** Yes. I know every individual and every case will be different, but what are the repetitive tools you guys use in communicating with the people calling on you to get some help?

**Ms. Julia Bielecka:** Claude, can you take that on behalf of Morneau Shepell, please?

**Mr. Claude Bourque:** With regard to the session, the juror will be meeting with a master's-prepared counsellor. The support we provide is one of short-term focus. We will be supporting the juror in the needs they present. In addition to evaluating in that first session, we will be assessing what's required and building a plan the juror can use.

**The Chair:** I have two questions I would like to ask Ms. Bielecka.

First, you made a conscious decision not to offer counselling services automatically during trial the way Alberta did. You said that you had to balance legal concerns with the potential mental issues that jurors face. While being excused from a jury is available in some jurisdictions, that's a slightly different issue. Can you talk to us about how you came to that decision, how you balanced the potential influence that a counsellor might have on a juror? Can you give us some issues that might arise related to counselling during trial? Describe for us the potential impact on jurors and why Ontario came to its decision.

**Ms. Julia Bielecka:** We understood that we weren't in a position to make a decision, on behalf of all jurors and judicial officials, that everyone on the jury panel could access counselling during the course of a trial. We understood that anything that happens in the courtroom is up to the discretion of the judge. We felt it was best to leave that decision with the judge. Judicial officials are aware that jurors can request to be excused or to receive special consideration on any number of grounds, and this is just one of the things they may need as they go through the process. That was the reason we chose to go that route.

• (1720)

**The Chair:** I have a small supplementary on that. You can probably only speak for yourself because you probably haven't even considered it in the ministry, but would you support an exception that would allow jurors to discuss with a mental health counsellor the deliberations of a trial that, based on the Australian model, they currently would be precluded from discussing?

**Ms. Julia Bielecka:** That's a difficult question. I'm not sure if I'm in a position to answer that. Would I support the exclusion?

**The Chair:** Certain jurors have come forward, recounted their experiences, and talked about the difficulties they have, even post-trial and post-counselling, in being able to share some of the details of what occurred that caused the emotional problems that they have suffered from. Given that Australia had it and given that it seems the Alberta 2009 study recommended it, I was just wondering if Ontario had any position, or you have any personal position, based on your knowledge.

**Ms. Julia Bielecka:** I don't have a personal position. I think probably that question is best answered by a legal professional.

**The Chair:** Fair enough.

I have one last question about bilingualism. You said these services are available in both languages. How do you ensure that whoever's calling has 24-7 access to counselling services in Ontario in French?

**Ms. Julia Bielecka:** Claude, if you could answer that one, that would be lovely.

**Mr. Claude Bourque:** Absolutely. When calling in to the line, there is the choice of French or English, and so the caller is then able to speak in the language of their preference.

**The Chair:** You've staffed it so that there are bilingual people answering that phone 24-7?

**Mr. Claude Bourque:** Absolutely, and I would say that there are staff speaking a number of other languages there as well.

**The Chair:** Are the counsellors across Ontario, even in small communities, able to provide that counselling service in French?

**Mr. Claude Bourque:** At this point, we are able to deliver the support as required. I think that the beauty of our net of counsellors is that if there's a need to bring in other counsellors speaking other languages, we're able to do that, but currently we're staffed to be able to support both French and English, yes.

**The Chair:** Thanks very much.

Go ahead, Mr. Liepert.

**Mr. Ron Liepert:** If you dealt with this earlier, I apologize, but do you have a budget for this program for this year?

**Ms. Julia Bielecka:** The program is completely funded at no additional cost to our ministry. It's within our current financial allocation.

**Mr. Ron Liepert:** But do you have an internal estimate of what this program would cost? Maybe a better way to phrase it would be, from Morneau Shepell's standpoint, is it on a charge-per-usage basis, or is it a blanket contract? How does it work?

**The Chair:** Mr. Bourque, did you hear the question?

**Mr. Claude Bourque:** Could you repeat the question?

**The Chair:** The question from Mr. Liepert was how Morneau Shepell was paid by Ontario. Is it on a per incident basis or a per hour basis? What is the total cost per year to Ontario from Morneau Shepell for providing this service? That's what he asked.

**Mr. Claude Bourque:** Thank you.

Similar to the Alberta program, the cost is on an hourly basis.

**Mr. Ron Liepert:** You are saying that whatever demand there is for the services, you have an arrangement with Morneau Shepell that the services are provided and then billed back.

**Mr. Claude Bourque:** That is correct. It's on a fee-for-service basis so that the hours that are used will then allow that to move, yes.

**Mr. Ron Liepert:** I think it would be helpful if we had an idea of what this costs on an annual basis, because if we are going to come forward with a recommendation for standards, it would be helpful to have an idea of the costs the provinces are going to have to incur. I'm sure that in the scheme of things it's not very much, but if there was any way that we could get an estimate, it would be helpful.

**The Chair:** Let me just ask this. In Alberta, I think they said it was \$120 an hour. I can't remember; it was something like that.

**Mr. Ron Liepert:** It was \$140.

**The Chair:** It was \$140 an hour. If we're saying it's an average of three visits by a juror, that's \$140 times three, so it's \$420 times 24 jurors. Are we then coming close to the actual amount by doing that, or is there some other cost we're missing?

• (1725)

**Mr. Claude Bourque:** You are correct with regard to the figures you provided.

**The Chair:** Okay.

**Mr. Ron Liepert:** The reason I'm asking is that if there is pushback from provinces, I think we can safely say we're talking about thousands of dollars, not millions of dollars.

**The Chair:** Yes.

**Mr. Ron Liepert:** I think it's important for us to have that assurance if we are to make recommendations, so thank you.

**The Chair:** Are there any other questions, colleagues?

If not, I want to thank very much the representatives of Ontario and Yukon who came before us today. You were incredibly helpful. Thank you again to both province and territory for being avant-garde and ahead of the curve in helping jurors in your jurisdictions. It's very much appreciated by the committee, and we'll definitely pay a lot of attention to what you said.

This meeting is adjourned.

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