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Chair: Mr. Randeep Sarai



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• (1105)

[English]

The Chair (Mr. Randeep Sarai (Surrey Centre, Lib.)): I call this meeting to order.

Welcome to meeting number 31 of the House of Commons Standing Committee on Justice and Human Rights. Pursuant to Standing Order 108(2) and the motion adopted on February 8, 2022, the committee is meeting on a study of the government's obligations to victims of crime.

Today's meeting is taking place in a hybrid format, pursuant to the House order of June 23, 2022. Members are attending in person in the room or remotely using the Zoom application.

I'd like to make a few comments for the benefit of the witnesses and members.

Please wait until I recognize you by name before speaking. For those participating by video conference, please click on the microphone icon to activate your mike. Please mute yourself when you're not speaking. For interpretation for those on Zoom, you have the choice, at the bottom of your screen, of floor, English or French. For those in the room, you can use the earpiece and select the desired channel.

This is a reminder that all comments should be addressed through the chair. For members in the room, if you wish to speak, please raise your hand. For members on Zoom, please use the "raise hand" function. The clerk and I will manage the speaking order as best we can. We appreciate your patience and understanding on this issue.

I usually have cue cards, but I don't have them remotely here, so I will improvise. When I raise a yellow book, that means you have 30 seconds. When I raise a brown folder, that says your time has ended. If you could watch for those cues, or otherwise keep a timer yourself, that would be helpful.

Just as a health and wellness check, before I introduce the witness, I'd like to inform the committee that due to the study on the agenda, some of you may find it difficult to listen to the testimonies presented and/or experience discomfort given the nature of the topic being discussed. I'd like to remind our witnesses, who agreed so kindly to appear in front of the committee either on Zoom or in person, as well as members and staff, that, if needed, resources are available to help here at Parliament. The clerk will certainly help you. You may contact him.

I will allow, if necessary, a little pause for our witnesses in order to deliver their statement in the best environment possible. Our study could certainly be emotionally challenging for our witnesses. We admire their courage to come forward and share those very personal situations. I'm sure our members will agree to that.

I'll now ask our first-hour witnesses to make their opening remarks for five minutes. After that, we will begin our round of questions.

Our first witnesses are Tanya Sharpe and Marie-Hélène Ouellette.

The floor is yours for five minutes.

[Translation]

Ms. Marie-Hélène Ouellette (Coordinator and Case Worker, L'Élan, Centre d'aide et de lutte contre les agressions à caractère sexuel): Good morning.

My name is Marie-Hélène Ouellette, and I am a coordinator and case worker at a help centre for victims of sexual assault, the Centre d'aide et de lutte contre les agressions à caractère sexuel, or CALACS, in the Upper Laurentians, in Quebec. I have worked there for nearly 20 years.

CALACS works with women and teenage girls who have been sexually assaulted, providing prevention, counselling and advocacy services.

I listened to what many of the witnesses who appeared before the committee had to say, and I wondered how I could bring a fresh perspective or add value to what you've already heard. I'm not an expert in law. My expertise is in survivors of sexual abuse.

The overwhelming majority of the women who reach out to us do not report the abuse, so they aren't officially recognized as victims of crime. Many of those who actually did file complaints had harrowing experiences, but a few were fortunate enough to have an easier time.

For more than 20 years, CALACS has helped an average of 60 to 80 women a year. When an attacker is convicted or found guilty, it's cause for celebration at the centre. I can count on one hand how many times our clients have been able to celebrate. It's a rare occurrence.

Those who have experienced sexual violence have limited access to justice. Our research shows that barriers to access to justice are inherent to criminal law, occurring on a human or social level.

I want to focus on some of the inherent barriers in criminal law that are significant. If the government's true intent is to support victims of crime adequately, it needs to take a hard look at how criminal law works.

The principles underpinning the presumption of innocence—the “beyond a reasonable doubt” threshold and the burden of proof on the Crown—give rise to unfairness in how the two sides are treated. The system is designed to prevent the conviction of innocent people, and that's great, but it has unintended consequences: the rights of accused lead to guilty people going free and victims getting a raw deal.

Sexual violence is a crime that's committed all the time, usually in private. From the outset, then, proving beyond a reasonable doubt that the attacker is guilty is an onerous undertaking for the Crown. Sexual violence is seldom reported, and when victims do report what happened, rarely do they come out of the experience feeling satisfied. I'm not talking about the sentences perpetrators receive. One way to really address the unfairness in the system's treatment of the two sides would be to reverse the burden of proof in cases involving sexual violence, so why not do it? I'm throwing that out there.

At the top of the list of human or social factors that impede access to justice are the sexist and racist biases of those who work in the justice system, biases that tend to be unconscious. Social biases are plentiful, significant and inextricably linked to violence. The people who experience the most sexual violence are those who suffer under the weight of those biases, which are the result of a number of systems of oppression.

There is no addressing victims' rights without addressing social and gender inequality. Victims of sexual violence are victims because they are women, because they have a disability, because they are lesbians, because they are trans, because they are Black, because they come from a first nation and the list goes on. Usually, they are assaulted by people who enjoy more advantages than they do and who benefit from power dynamics. Those people continue to be in a position of privilege thanks to the legal system and the rights they enjoy. The justice system is not immune to those power dynamics.

Add to that the fact that those who work in the justice system have no understanding of how the brain works in the face of a traumatic event—I'm referring to the neurobiology of trauma. The way victims are treated within the system can be deeply traumatizing. Take, for example, a very difficult cross-examination that goes on for hours. That can be incredibly stressful for the victim and cause them to give confusing testimony. They aren't trying to lie. Their brains are simply responding to the traumatic experience. This traumatic response can cause victims to forget things, to become unsettled or to doubt themselves. The legal principle of “beyond a reasonable doubt” can, in and of itself, prevent justice at the time of testimony.

People respond to traumatic events in a wide variety of ways. Some victims experience memory lapses or memories that are sketchy, while others have incredibly vivid, clear and detailed memories.

• (1110)

Victims who have trouble recalling certain things are often criticized for not having a clear enough memory of what happened, and those who recall the events vividly, even too vividly, are suspected of making things up because how could they have such a clear memory of what happened?

Canada's justice system has to look inward and examine the beliefs of those who make up the system. The idea that the legal system is cold and objective cannot prevail. Those beliefs impact the administration of justice.

The victim is considered a witness of a deeply intimate crime, the crime of sexual violence. The burden is on the Crown to prove that the accused is guilty beyond a reasonable doubt, and that accused already enjoys a lot of rights throughout the process.

I repeat, my expertise is in survivors of sexual assault, a serious crime that is committed regularly. Those victims are under-represented in the group of people formally recognized as being victims.

What is clear from survivors' stories is that criminal law and the administration of justice present numerous barriers to justice for victims.

Thank you.

[*English*]

The Chair: Thank you. I appreciate your timely conclusion.

I would like to make a note. I apologize. I said Tanya Sharpe, but she cannot be here this morning. It was on the revised schedule. I didn't note that.

I will now go to Mr. Moore for the first round of six minutes.

Hon. Rob Moore (Fundy Royal, CPC): Thank you, Mr. Chair.

Thank you to our witness. Usually we have a panel of witnesses. You're our only witness today, but we appreciate your testimony. This is the last day we are studying this issue of the government's obligations to victims of crime, and we've heard much testimony about how the system as it is can be improved.

You said something early on in your remarks that I want you to expand on. You said that 60 to 80 women come through your doors annually but there's a reluctance to press charges, and those who do often regret the decision. You said it's not just at sentencing.

When there's a case that should be prosecuted and charges that should be made, these barriers to justice that people are hearing about that cause them not to pursue.... What does that look like? Where are they hearing about these barriers? What's keeping them from pressing charges? What are some examples?

• (1115)

[*Translation*]

Ms. Marie-Hélène Ouellette: First, how police treat, and deal with, victims when they first report is an issue. Over time, we've seen some improvement in the way police officers handle cases.

Where things really get difficult for victims is at the prosecution stage. Prosecutors regularly tell us that they believe the victim but don't have what they need to go forward. That's a huge barrier. That's where the process tends to hit a brick wall.

In my experience, the first point of contact is extremely difficult for victims. They have to answer the police officer's questions and what have you. The human element would make a big difference in terms of how the victim is treated initially and what happens next.

A number of barriers exist. I'm not sure whether that fully answers your question.

[*English*]

Hon. Rob Moore: Yes. That's excellent.

When we studied Bill C-5 earlier this year, we heard from witnesses who were concerned about the bill allowing perpetrators of sexual violence to serve their sentence in their communities.

On the fear of reprisal, how often do you feel that enters into the equation of whether someone would pursue criminal charges or not, or someone who, from hearing about other failures, decides not to?

[*Translation*]

Ms. Marie-Hélène Ouellette: Yes, that's part of it. For many of the people who come to us for help, the events happened a while ago. They aren't recent. Victims may fear reprisal, but in many cases, the events didn't happen yesterday.

It has an impact on the victim's family and the people around them. What happened to the people we see isn't fresh in their minds, so it has less to do with the fear of reprisal. That's not what we see most often at the centre.

[*English*]

Hon. Rob Moore: Okay.

There are some alarming statistics. A report published by Statistics Canada said that women were violently victimized at a rate nearly double that of men in 2019. It goes on to say that the discrepancy between male and female victims is largely due to the fact that women are five times more likely than men to be victims of sexual assault. You've acknowledged that in your remarks.

What are some steps that we should be looking at as we prepare a report for the government to respond to? What are some steps that you think we should be taking to address that glaring discrepancy?

[*Translation*]

Ms. Marie-Hélène Ouellette: A social problem calls for social solutions. An all-out effort is needed. Our centres do a lot of prevention and education around equality to reduce discrepancies like the one you mentioned. Those discrepancies become established quickly and exist in numerous fields. Education around sexuality certainly comes into play. I don't think there's a silver bullet. It takes time and a lot of...

I want to commend the people who provide training and education to raise public awareness around sexual assault. It works. Think of Robin Camp, the judge who made sexist and inappropriate comments in a sexual assault case a few years ago; the young man in question was acquitted. The judge later received training and was

educated on the issue. I have no doubt that he thinks and acts differently today and that he realizes his comments were senseless. That gives me hope.

• (1120)

[*English*]

The Chair: Thank you, Mr. Moore.

Our next round of questions goes to Mr. Naqvi.

Mr. Naqvi, you have six minutes.

[*Translation*]

Mr. Yasir Naqvi (Ottawa Centre, Lib.): Thank you, Mr. Chair.

Thank you for your opening statement, Ms. Ouellette.

Can you tell us how we can improve the legal system so that victims of sexual violence are treated better?

Ms. Marie-Hélène Ouellette: I talked about the importance of better understanding the impact a traumatic event can have on how a victim behaves. That means a better understanding of what a victim is experiencing when they are testifying and can't remember certain things, for instance. That's a normal biological response to stress, and that needs to be understood. Not being able to remember something doesn't make someone a "bad victim". There's this belief that, in order to be a "good victim", a person has to meet certain criteria, including being fairly strong, and it's a commonly held belief by those who work in the justice system. They consider whether the victim is strong enough in deciding whether to move forward with the case.

It's important to keep improving the supports available to victims and to ensure that participants in the justice system understand how stress affects victims.

[*English*]

Mr. Yasir Naqvi: In order to better understand victims of sexual violence so that their psychological and emotional circumstances could be better accounted for, what are your suggestions as to what we should consider? Is it around better training for those who are part of the justice system? Is it a change in the manner in which cases dealing with sexual violence are conducted in our justice system?

Can you give us a sense of your thoughts on how victims of sexual violence can be better accommodated? "Accommodation" may not be the right word, but I hope you get my meaning.

[*Translation*]

Ms. Marie-Hélène Ouellette: I certainly agree that training should be improved, but I think it's necessary to take a hard look at the imbalance between the rights of victims and the rights of the accused in the current system.

I don't see how the power imbalance in the system can be fixed without revisiting the burden of proof and what the rights of accused mean for victims. In contrast, victims are considered witnesses to the crime.

Opening that up to scrutiny isn't easy, but I urge you to do it.

[English]

Mr. Yasir Naqvi: It is a difficult issue. When you speak of burden of proof in a criminal matter, in a system that has been around for such a long period of time and has been tested, you're posing a big question. I'm not putting you in the hot seat. I'm just acknowledging what you're saying and keeping that in mind. The reason I say this is that I think that's probably beyond the scope of this committee's work as we're looking at the bill of rights for victims.

Are there any other suggestions you may have, besides training, that we may want to consider when it comes to protecting the rights of victims in matters of sexual violence?

• (1125)

[Translation]

Ms. Marie-Hélène Ouellette: I've heard a lot of people say that victims should be better informed. Obviously, I think victims need to be better supported when it comes to information sharing and the impact. Information is shared with victims throughout the process, and prosecutors have a hand in that, but victims should be informed even before they go to police. Getting the right information isn't always easy.

Some prosecutors are extremely supportive, but that's not their main job. It's important to look at where in the process the system can provide more support to victims.

When a victim first gives their statement, they are in a tiny room with a police officer, but they may contradict that statement when they give their testimony.

Getting a victim ready for trial is a multistep process.

[English]

The Chair: Thank you.

Next we'll go over to Monsieur Fortin for six minutes.

[Translation]

Mr. Rhéal Fortin (Rivière-du-Nord, BQ): Thank you, Mr. Chair.

Good morning, Ms. Ouellette. I'm glad you're with us this morning.

I've been listening to everything you said, and it's very enlightening.

I agree with Mr. Naqvi. Endeavouring to reverse the burden of proof would be pretty hard to do. We live in a society where we don't want people to be convicted unless we are certain that they are guilty. Wrongly or rightly, the system we have is based on the principle that we prefer to let guilty people go free than to send innocent people to jail. That has its benefits and its drawbacks.

That said, I think you're right to say that the justice system tends to leave victims behind. It makes total sense when you say that victims of sexual violence may have some anxiety or stress, that they may have trouble recalling certain things and that their testimony may come across as less credible, as a result. That makes me won-

der whether we shouldn't focus on tools to help victims to ensure they are met with more understanding when they testify.

I was going to bring up information, but you beat me to it. A lot of witnesses told us that victims knew little about what their rights were. That is a big problem, one we need to pay careful attention to in our report.

I want to discuss another topic with you, victims' participation in the legal process. Do you think it would help if victims were involved in the process every step of the way, rather than just being treated like witnesses? If they were involved in the process, they could have more influence on decisions like plea bargains. Those decisions are usually determined by defence counsel and the Crown prosecutor.

Do you think victims would benefit from being involved in those discussions, and would they agree?

Ms. Marie-Hélène Ouellette: Sexual violence is a situation where one person has power over someone else, meaning, the victim has lost all control in the situation. In the justice system, the victim has the role of almost a witness-observer, so they continue to be deprived of their power. If they could be more involved in the process, it would help them feel that they were taking some power back, and that could contribute to the healing process.

When the victim is excluded from the plea bargain process, the outcome can come as a nasty surprise. Figuring out ways to involve victims more is a good idea and may help them take back their power.

• (1130)

Mr. Rhéal Fortin: I imagine that every victim wants to see their attacker convicted.

Let's say victims played a bigger role in the process. Would we see different sentences than we do now, in your experience? Do you think that, conversely, sentences would be more or less the same?

Ms. Marie-Hélène Ouellette: That's a tough question to answer.

Clearly, most sentences are served in provincial institutions, so the maximum term is two years less a day. Basically, the sentences handed down tend to be fairly light. Not all victims necessarily want longer or harsher sentences. What victims want is to come out of the process really feeling like they were heard and believed, not like they were the problem. The sentence can play a role, but not always.

Mr. Rhéal Fortin: That's interesting.

I'm going to come back to victims' participation. If we want them to participate more effectively in the process, shouldn't we think about offering victims counselling services? I'm talking about psychologists, social workers or what have you who would help victims by getting them ready to testify and explaining the process to them.

I'm not a psychologist, but I'm sure there are things that can be done to put a person more at ease in the courtroom. That might help victims give more fluid testimony, and thus more useful and understandable testimony from the court's perspective. I don't mean to say that the testimony would be more sincere, because I assume that all victims are being honest and telling the truth.

Would professional services like that be of use?

Ms. Marie-Hélène Ouellette: Those are the types of services we provide.

In Quebec, CALACs and CAVACs—Centres d'aide aux victimes d'actes criminels, help centres for victims of crime—provide that support. It makes a difference. We provide assistance to victims, even just helping them to rethink their goal of a conviction at all costs and encouraging them to break their silence. That's what we work on.

It's helpful to victims to have someone with them who can ask for a time out when things get too much. The victim should be allowed to have someone like that there, besides the Crown prosecutor, but that's not always the case.

Mr. Rhéal Fortin: Thank you, Ms. Ouellette.

[English]

The Chair: Thank you.

Now we'll have Mr. Garrison for six minutes.

Mr. Randall Garrison (Esquimalt—Saanich—Sooke, NDP): Thank you very much, Mr. Chair.

It's unfortunate that it's our last day of testimony and Dr. Sharpe is not able to be with us. I know the committee has made good-faith efforts to try to get her here. There were some family tragedies that prevented her from testifying.

I want to know whether we have received a brief from Dr. Sharpe. Maybe the clerk can let us know.

We have not received a brief. I will also endeavour to get a brief.

Her work deals with the overrepresentation of Black people and people of colour as victims of homicide in the greater Toronto area. It's something we haven't heard very much about at the committee. I think it's important that we try to get some testimony through a brief from her.

Ms. Ouellette, you made mention of this overrepresentation of racialized and marginalized people as victims of crime, in particular sexual assault. Can you say a bit more—not necessarily statistics—about that overrepresentation that you see in your work?

[Translation]

Ms. Marie-Hélène Ouellette: We know that people with disabilities of any kind, immigrants and LGBTQ2S individuals experience more sexual violence.

It's a way for the attacker to show their power and superiority. If there was ever a way to take someone's power away, it's sexual assault. It can be seen in the power dynamics affecting members of various social groups. A person will sexually assault a lesbian woman because she's a lesbian, or an indigenous woman because she's indigenous. It goes hand in hand with the sexual assault experience.

• (1135)

[English]

Mr. Randall Garrison: We have had some discussion at this committee on the question of coercive and controlling behaviour. The committee has unanimously recommended to the government that coercive and controlling behaviour should be made a criminal offence.

Can you say something about what percentage of people you see who are victims of sexual violence from intimate partners and whether coercive and controlling behaviour has played a part in that sexual violence?

[Translation]

Ms. Marie-Hélène Ouellette: Many of the clients we see experience partner violence, but we also see a lot of people who experienced violence as children, including incest. There's no doubt that coercive behaviour leads to escalating violence.

[English]

Mr. Randall Garrison: You said that over time you'd seen some improvement in the reaction of police to sexual assault victims. You talked a little about training. Are there other factors, like changes in the composition of the police or other things, as well as training, that might have contributed to that improvement?

If there is improvement in policing, we might be able to apply those same things in other parts of the justice system.

[Translation]

Ms. Marie-Hélène Ouellette: When I started 20 years ago, a police officer told me that three-quarters of sexual assault complaints were baseless. Coming from a police officer, that surprised me. I don't think you hear those types of comments as much today. I would say the training investigators and others get is working fairly well. In some cases, victims are allowed to ask for a female investigator or police officer when giving their statement. That has a positive effect.

Training leads to better behaviour. We have seen cases, though, in which police officers did not interpret the guidelines properly, leading to a confrontation with the victim. It wasn't great, but overall, the training is helping.

[English]

Mr. Randall Garrison: In the people you see in your work, is there an awareness of the existence of victims' rights in Canada before you are able to work with them? In other words, do victims have some idea that they might have some rights, even if they're not totally effective?

[Translation]

Ms. Marie-Hélène Ouellette: I would say that the clients we work with rarely understood their rights beforehand. One of our roles is to educate them and help them better understand their rights. Often, they have heard of crime victims compensation. When they come to us, they think they may be able to apply for compensation, but they don't know what that means or how the program works. In those cases, we guide them through the process.

[English]

Mr. Randall Garrison: I just want to thank you for your testimony today. I think you expressed some doubt that you were bringing something valuable to the committee. I think all members of the committee would agree that, in particular, your emphasis on understanding the nature of trauma with sexual assault victims and how the system fails in that is very important evidence for the committee. Thank you very much for being here today.

• (1140)

The Chair: Thank you, Mr. Garrison.

Next we have Mr. Caputo.

Welcome to the committee, Mr. Caputo. You have five minutes for the second round.

Mr. Frank Caputo (Kamloops—Thompson—Cariboo, CPC): Thank you. It's a pleasure and an honour to be here. Thank you to our witness.

I was a prosecutor. I focused primarily on sexual offences and particularly sexual offences against children, so it's a real honour to be here.

I'm going to ask you about three tangible things, and I know we may not get through these in the next five minutes.

We're talking about steps that can be taken. Sometimes we talk in the macro, the big picture. What I want to talk about is section 535 of the Criminal Code, for instance, about preliminary inquiries, which means that people testify twice. Second is video testimony. Section 486.2 of the Criminal Code allows somebody to testify from outside of the courtroom. Last, if we can get to it, is the adoption of a statement under section 715.1 of the Criminal Code.

I'm not sure if a lot of people are aware of this, but a preliminary inquiry is designed to ensure that there is enough evidence to go to trial. Now, preliminary inquiries were abolished for people who were charged with offences with 10 years or less in jail. Interestingly, sexual assault against an adult is a maximum sentence of 10 years in jail, so the person who is accused of that offence does not have the right to a preliminary inquiry. If that sexual offence or sexual interference occurs against a child, for instance, the maximum sentence is 14 years in jail under the code.

What I'm saying is this. A child who brings forward an allegation of sexual assault by indictment has to testify twice, and an adult who may bring forward that same allegation testifies once. This clearly makes no sense, does it?

[Translation]

Ms. Marie-Hélène Ouellette: Unfortunately, I'm not an expert on cases involving children. What you're telling me, though, certainly doesn't seem to make sense. The bulk of my clients are women and teenage girls, so I won't venture an answer. Sorry, I'm not familiar enough with the specifics.

[English]

Mr. Frank Caputo: Fair enough. It would apply to anybody under 18, generally.

The second area is that a child who gives evidence is permitted to testify outside of a courtroom. In law, we call this a "presumptive application". It's made under section 486.2 of the Criminal Code. If a judge hears that application, they are presumed to make it, or they should make it, unless they have a really good reason. I'm using my own words here. The same doesn't go for adults who testify. We hear about trauma and people who are... When you see the person who has offended against you, it must be incredibly triggering. An adult can still make that application to testify outside of a courtroom, but when it comes to children, it is what we call "presumptive". It's almost always made.

Do you think that if the application was presumptive with respect to adults—in this case, that it should be made—this would help adult victims? It would give them the right to testify from outside of a courtroom, and that would be presumed. There wouldn't be that initial fight. Essentially, the law is recognizing that you're already alleged to have been through so much trauma that we are not going to bring you face to face with the accused, but you are just as much part of the process. In your view, would that be of assistance?

[Translation]

Ms. Marie-Hélène Ouellette: It's hard to be opposed to that. Having seen a teenage girl give her testimony via a recording so that she didn't have to be present in the courtroom, I know the process works and takes a bit of pressure off the victim.

With respect to adult women, they can of course experience a significant amount of stress and they do have the option of obtaining authorization to record their testimony. Some women want to be there in person to face their attacker, but others find it too difficult. That provision can definitely be helpful to victims.

[English]

Mr. Frank Caputo: That's my experience as well, that some people want to be present.

That brings me to the third point. I think it's what you're referring to. It's under another provision of the code, section 715.1. It's that a child can actually give a statement to a police officer. If that statement is recorded—again, I'm simplifying this—and they say “Yes, I made that statement, and that statement is accurate”, then they don't have to retell their story. In other words, the statement itself is played. It is the telling of the story. It goes in place of the evidence. That applies only to children.

In the cases of sexual assault against adults, do you think that this would also be an effective measure to assist—not only in the trial process but also in the facilitation of not retraumatizing the victim?

• (1145)

The Chair: Unfortunately, Mr. Caputo, we're out of time. We'll have to wait on that.

Ms. Brière, go ahead for five minutes.

[*Translation*]

Mrs. Élisabeth Brière (Sherbrooke, Lib.): Thank you, Mr. Chair.

Good morning, Ms. Ouellette. Thank you for being here and sharing your insight with us.

You said in your opening statement that you provided prevention and advocacy services, and that your expertise was in survivors of sexual assault. You also said that those women had limited access to justice, whether because of barriers in criminal law or because of human and social factors.

What do these women want from you when they come to the centre? What are they looking for from your organization?

Ms. Marie-Hélène Ouellette: First and foremost, we provide them with support.

Second, our centre provides two very important things to people who have been sexually assaulted. We acknowledge what they have been through and we believe them. We tell them that what happened to them is not their fault. That's an important piece.

Those two important things will determine whether they turn to the justice system or not. Those are two key stepping stones on the path to healing, as they take back control of their lives. Believing that they did nothing to bring this on is crucial. Unfortunately, the way the system is designed, victims are often made to think that they may have somehow been responsible for what happened to them. Victims don't need to hear that again.

What matters most is telling them that we know what happened to them is not their fault. That's really what they're looking for when they come to the centre. We cover that in our prevention efforts, in the assistance we provide and in our advocacy work.

Mrs. Élisabeth Brière: What are the roadblocks in the legal process?

Why don't victims come forward?

How do they react to the whole process?

Ms. Marie-Hélène Ouellette: They are very afraid of being judged. They are afraid of being asked questions about why they went to the attacker's home or how they were dressed.

They are very afraid of being judged. They are also afraid of not being believed.

In working with them, we often tell them that, if their goal is to break their silence, that alone is a big deal; it doesn't matter whether their complaint goes any further or not. If their goal is to see their attacker behind bars, it's harder to make that happen. Regardless, we help victims set a goal that will bring them satisfaction, no matter what the outcome.

We try to make them see that breaking their silence is a huge accomplishment on its own.

Mrs. Élisabeth Brière: You implemented PADI, a program for people with disabilities.

Can you give us a few more details on the realities these individuals face in a sexual assault situation? What can you do for them?

Ms. Marie-Hélène Ouellette: PADI is a program we haven't given in quite some time. It's primarily for individuals with developmental disabilities. They are very likely to experience sexual violence because they are dependent on others, including caregivers.

These are also people who receive little to no sexuality education, as if they couldn't possibly have a sex life. Silence around sexuality education leaves a lot of room for a potential abuser. We try to support them, guide them and, as much as we can, provide them with sexuality education.

• (1150)

Mrs. Élisabeth Brière: Do you feel the current justice system allows people with developmental disabilities to submit and direct a complaint?

Do they receive enough support?

Ms. Marie-Hélène Ouellette: No.

Mrs. Élisabeth Brière: Do you have any idea what could be done to better assist them?

What's missing from the range of services offered to them?

Ms. Marie-Hélène Ouellette: They always assess the victim's credibility. A prosecutor assessing the credibility of a victim with developmental disabilities will find it harder to believe they are telling the truth.

I have no positive cases to report in that respect.

Mrs. Élisabeth Brière: Thank you.

[*English*]

The Chair: Thank you, Ms. Brière.

Next we have Monsieur Fortin for two and a half minutes.

[*Translation*]

Mr. Rhéal Fortin: Thank you, Mr. Chair.

Ms. Ouellette, I don't have a lot of time. So I'm going to start at the end and thank you for coming here today. You have provided compelling and significant testimony.

My colleague Mr. Caputo said it was possible to testify outside the room, as we allow children to do. Testimony can be given remotely, by videoconference or otherwise. The question arises: Couldn't adult victims be given the same privilege as children?

I don't know much about your field, but do some victims ever prefer to confront their abuser? Looking their abuser in the eye can them give them a sense they're taking control of their lives again. Does that happen or do most victims instead prefer not to face their abuser?

Ms. Marie-Hélène Ouellette: People have many different realities. We're dealing with human beings. Some do want to take back their power by standing up and looking their abuser in the eye. In doing so, they also feel they're taking back their dignity. For others, dignity is more about protection and withdrawal.

Mr. Rhéal Fortin: At CALACS, you come face to face with these situations. You are on the front line in terms of helping victims. Can you tell me approximately what percentage of people don't want to confront their abuser? Is it the majority of them, like 90%? Is it about 50-50? What's the percentage, in your opinion?

Ms. Marie-Hélène Ouellette: I think it's 50-50. I haven't looked into this, but I feel it's a pretty even split.

Mr. Rhéal Fortin: Does it help victims to face their abuser and give them a piece of their mind? Over and above the legal aspect, can it be therapeutic for the victim?

Ms. Marie-Hélène Ouellette: Yes, absolutely. It's really a step toward taking back their power. In fact, that's why restorative justice works. It happens when victims can assert themselves and say what they have to say. At our centre, we ask victims to write letters to confront their abuser. We draw their abuser on the wall and ask the victim to practice by reading their letters to them. It's part of this extraordinary reclaiming of their power.

Mr. Rhéal Fortin: Thank you.

I probably only have a few seconds left. Quickly, CALACS—
[English]

The Chair: You're actually over time, Mr. Fortin. Thank you.

We'll go to Mr. Garrison for two and a half minutes.

Mr. Randall Garrison: Thank you very much.

We had some very powerful testimony a few days ago from women who had been victims of sexual assault and who wanted to have the law changed so that they could be public and have their own names, but also, therefore, so the perpetrators' names become public. In your experience, do you believe it would be a good change to make to give victims that choice?

[Translation]

Ms. Marie-Hélène Ouellette: If I remember the testimony correctly, they said they wanted to have the choice. It's part of them taking back their power. Victims want to be able to choose to come forward publicly or not, and be protected. The key is having the choice.

• (1155)

[English]

Mr. Randall Garrison: When you're the only witness in a panel, you get a bit more of an intense experience with the committee than others do.

In the remaining minute or so, I wonder if there's anything that you feel you didn't get to say before the committee today and that you would like to add.

[Translation]

Ms. Marie-Hélène Ouellette: I've said pretty much everything I wanted to say.

I'm very grateful that committee members are focused on this issue and acknowledging its significance. You were open to broadening the discussion and you didn't confine yourselves to the victims bill of rights. I'm pleased you were able to hear broader testimony on the issue and the barriers to achieving justice.

I think that's perfect.

[English]

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

The Chair: Thank you, Mr. Garrison.

I'll go next to Tako Van Popta.

Welcome to the committee today, Mr. Van Popta.

Mr. Tako Van Popta (Langley—Aldergrove, CPC): Thank you. I didn't realize I had an opportunity for a question. I'm so happy that I do.

Ms. Ouellette, thank you for being here. Your testimony has been very helpful for the committee in talking about victims of sexual assault.

You highlighted the trauma that victims have to go through when testifying in court, and that perhaps a better way to conduct criminal trials would be to shift the burden of proof away from the Crown, the other way around. A couple of my colleagues have pointed out that this would be a significant change from our tradition in the way we run criminal trials.

My question is whether there would be a middle way or a third option so that, at the victim's choice, the trial might be focused on restorative justice rather than a criminal conviction.

[Translation]

Ms. Marie-Hélène Ouellette: I really look at the impact of the trauma they experience. It isn't necessarily accomplished with a conviction. A conviction doesn't always make someone feel better. However, victims should have better access to restorative justice. We know it works and that somehow it soothes them.

I have a fair amount of confidence in the restorative justice process. It's still emerging and it's not fully established, but I still trust in the process.

[*English*]

Mr. Tako Van Popta: Thank you very much for that. Would you be able to provide this committee with some examples where restorative justice has been very effective in dealing with the traumatic experiences victims have had? That would be very helpful for us.

I have a second question. It's about education for judges. In the last Parliament, we passed a law that all judges must take sexual assault case training, because not all judges are like my colleague Mr. Caputo. Some were lawyers like me in a previous life, doing land subdivision work. Education, of course, is always good.

What do you say about judges having to take mandatory sexual assault case training?

[*Translation*]

Ms. Marie-Hélène Ouellette: First, I will give you an example of restorative justice.

I'm thinking of a woman who went through a restorative justice process with an abuser other than her own abuser. For this victim, speaking up and explaining the impact of the assault to the perpetrator of a related crime had a very positive impact on her taking her power back, which I mentioned.

In addition, hearing an abuser admit guilt also contributes to healing. It's quite effective. Even if her own abuser didn't take responsibility, the victim heard another abuser acknowledge what he did to someone else.

With respect to judicial education, no one could possibly be against better training being provided. I see it as a transformative factor that addresses current barriers, if only through a better understanding of the impact of trauma on victims.

• (1200)

[*English*]

Mr. Tako Van Popta: Those are all the questions I have, Mr. Chair.

The Chair: Thank you.

Next, we go to Ms. Dhillon for five minutes.

[*Translation*]

Ms. Anju Dhillon (Dorval—Lachine—LaSalle, Lib.): Good afternoon, Ms. Ouellette. Thank you for being with us today.

Several of us are asking you questions and you're our only witness, so thank you very much.

I'll start with your testimony. You said that victims sometimes fear submitting a complaint or are hesitant to do it.

Is counselling available to them or could it be available to them? How can service be improved?

Ms. Marie-Hélène Ouellette: As I said before, they need support.

I work in a community organization. I know that there are about 30 organizations like mine in Quebec and Ontario. There are fewer of them in the other provinces. I can't tell you the exact state of services across the country, but more support for victims is certainly needed. The prevalence of sexual assault is extremely high among Canadians, both male and female—men and boys can be victims as well—and the impact on victims' lives is so great that they need support. Institutions like the health care system and its facilities are under so much strain right now that they're struggling to provide specialized services of this nature. Therefore, victims prefer to find someone else to help them.

Ms. Anju Dhillon: Thank you.

Sometimes victims end up wanting to withdraw their complaints. They do not want to move past the initial stage when they filed the complaint at the police station, or later at the trial stage. Sometimes the prosecutor doesn't want the complaint withdrawn. They put pressure on the victim, whether male or female, who may have had enough and doesn't want to keep going. That happens a lot.

Do you see any way to fix this problem? Can the prosecutor be made to respect the victim's wishes? In your testimony, you also talked about the victim's wishes in filing a complaint. Could you speak to that, please?

Ms. Marie-Hélène Ouellette: In 20 years, I've only worked with one person who filed a complaint and then withdrew it, and the prosecutor then decided to go ahead with the charges. In fact, that prosecutor succeeded in getting a guilty verdict. The case involved a young teenage girl who was assaulted by her father and decided to withdraw her complaint.

I'm a little ambivalent and divided on the issue. On the one hand, you have to respect the victims' pace, but on the other, when manipulation occurs, it's not easy.

• (1205)

Ms. Anju Dhillon: Do victims who file a complaint get support from someone other than their prosecutor or their own lawyer? Do they have access to counselling or to a social worker who could support them throughout the process? Is that kind of counselling available?

Ms. Marie-Hélène Ouellette: That's the kind of assistance we provide at our centre; I'd say we really provide a full range of services. Other groups and associations offer the same kind of assistance. Of course, we do have waiting lists, as do many other places. It would be a good idea to provide better support to organizations that offer that kind of assistance.

Ms. Anju Dhillon: In your testimony, you stated that 20 years ago, a police officer told you that three-quarters of complaints were thought to be unfounded. Since that time, police officers have received training to make them more sensitive to these cases.

What does sensitivity training consist of? What could be done to make police officers and prosecutors even more sensitive to sexual assault cases?

Ms. Marie-Hélène Ouellette: We got lucky. The #MeToo movement put a lot of pressure on the various systems and made the police to take a good look at themselves.

In my region, I feel it's much easier to work with police officers now. They ask to meet with us to discuss things and see how we can work together better. The #MeToo movement provided a good jolt.

The various training courses provided to police services—

[*English*]

The Chair: Thank you, Ms. Dhillon.

Thank you, Ms. Ouellette. You had the fullness of the hour to be our witness and express all your thoughts.

I'm now going to suspend the meeting. Our second hour is in camera business, committee business. We will suspend, and we will allow the witnesses to leave. I will re-enter Zoom through a different link. If there's anyone else who needs to, they may do so as well.

Thank you.

[*Proceedings continue in camera*]

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