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Chair: Ms. Iqra Khalid



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• (1105)

[English]

The Chair (Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.)): I call this meeting to order.

Welcome to meeting number 17 of the House of Commons Standing Committee on Justice and Human Rights.

Welcome to our two new members, Ms. Élizabeth Brière and Mr. Randeep Sarai. We're very excited to have you here on this committee.

[Translation]

Good morning and welcome.

[English]

Today's meeting is hybrid, but I understand that there are no members in the room, which is excellent. We will be enforcing strict measures if you do choose to go into the committee room at a later time. I'm glad that nobody is there today. We're all virtual, expect for Mr. Clerk. I will be keeping an eye on your physical distancing measures.

In order to ensure an orderly meeting, I would like to outline a few rules which I'm sure most of you know already. Interpretation is available to you via the interpretation selection at the bottom of your screen.

You will see the mute button and the stop video. Members should have their cameras on at all times. Only have your microphone open when you are speaking. Before speaking, please do wait until I recognize you by name to maintain order. When you're not speaking, please make sure your microphone is on mute.

A reminder to all members and witnesses that all comments should be addressed through the chair. With regard to the speaking list, Mr. Clerk and I will do our best to ensure we maintain an orderly speaking list.

You will notice the "raise hand" function, and I see Mr. Fortin has used it already, on the bottom of your screen. That will create a speaking list for me to follow. Please do use that button.

Before we begin, we need to adopt our minutes for the meeting we had last week.

Mr. Fortin, is this a point of order?

[Translation]

Mr. Rhéal Fortin (Rivière-du-Nord, BQ): No, it's not a point of order, Madam Chair.

Before we hear from the witnesses, I wanted to move my motion, which I put on notice on December 2. I'm not sure whether you'd like to do it now or after we adopt the minutes. It's up to you.

[English]

The Chair: We have a full agenda at this time. If it's okay with you, can we adopt the meeting minutes of the subcommittee agenda? Are there any comments regarding the minutes that were circulated to all members? Can I see a show of thumbs for approval of the subcommittee agenda?

Some hon. members: Agreed.

The Chair: Mr. Fortin, would you be okay if we go to the witnesses? I don't want to keep them waiting with this study.

[Translation]

Mr. Rhéal Fortin: It won't take very long.

Everyone received the notice of motion on December 2. Everyone has read it. It merely involves having the committee report to the House the recommendation that it establish a special committee on the judicial appointment process.

I can read the whole motion, but it will take a few minutes, and I think everyone read it. It's up to you, Madam Chair, but I would like the committee to adopt it this morning.

Ideally, we would deal with it right away and hear from the witnesses afterwards.

The Chair: Thank you, Mr. Fortin.

[English]

Mr. Virani, do you wish to speak on the same point?

Mr. Arif Virani (Parkdale—High Park, Lib.): Yes, Madam Chair.

We had extensive discussions about the next steps at the steering committee meeting, and this is an important study. It's a subject that also dovetails with a private member's bill that was tabled by Mr. Garrison. We have the witnesses before us. We should hear from those witnesses, commence the study, and not keep them waiting.

I would move to adjourn debate.

The Chair: That is a dilatory motion.

Mr. Virani, I will call the vote immediately.

[*Translation*]

Mr. Rhéal Fortin: Madam Chair, can I respond to Mr. Virani's comment? You are disposing of my motion before I've even had a chance to speak to it.

[*English*]

The Chair: I understand that, but Mr. Virani has moved to adjourn debate on that motion. It's a dilatory motion, so that means there is no debate after the motion has been moved and I, as chair, must call the vote right away. If the motion is defeated, then obviously we'll continue to debate your motion.

(Motion agreed to: yeas 6; nays 5)

The motion carries, and debate on Monsieur Fortin's motion is adjourned until a later time.

It is now my pleasure to introduce our witnesses from the Department of Justice and the Department for Women and Gender Equality. From the Department of Justice we have Nathalie Levman, who is senior counsel in the criminal law policy section of the policy sector; Stéphanie Bouchard, senior legal counsel and director; and Claire Farid, director and general counsel.

From the Department for Women and Gender Equality we have Lisa Smylie, who is director general of the research, results and delivery branch.

Welcome to the witnesses.

We will have two opening statements of five minutes each and then we'll go into our round of questions.

We'll start with the Department of Justice.

• (1110)

Ms. Claire Farid (Director and General Counsel, Department of Justice): I am the director of the family and children's law team at Justice Canada. Thank you for the opportunity to say a few words about the inclusion of the concept of coercive and controlling behaviour within federal family law.

Changes to the Divorce Act that will come into effect on March 1, 2021, include a broad, evidence-based definition of family violence that specifically identifies coercive and controlling behaviour.

For the purposes of the Divorce Act, family violence will be defined as conduct that is violent or threatening, that constitutes a pattern of coercive and controlling behaviour, or that causes a family member to fear for their own safety or for the safety of another person.

Behaviour does not have to be a criminal offence to be considered family violence under the Divorce Act. In contrast to the criminal law's focus on determining guilt or innocence, the purpose of the definition of family violence in the Divorce Act is to assist in the determination of the best interests of the child with respect to parenting arrangements, that is parenting time and decision-making responsibilities.

The amended act sets out a list of factors that judges must take into account when considering the impact of family violence on

parenting arrangements. It specifically requires judges to consider whether there is a pattern of coercive and controlling behaviour in relation to a family member. Courts must take into account all factors that are relevant to the best interests of the child, and must give primary consideration to the child's physical, emotional and psychological safety, security and well-being.

Coercive controlling violence is more likely than other forms of intimate partner violence to continue and to escalate after separation. Risk often increases after separation because the abuser feels a loss of control. Perpetrators of coercive and controlling violence may be unable to differentiate their role as a spouse from their role as a parent. They may use the children as a way to maintain control over their former spouse. As a result, based on an overall analysis of the best interests of the child, courts may order remedies such as supervised parenting time to protect family members.

Thank you. I would be happy to take any questions.

• (1115)

The Chair: Thank you very much, Ms. Farid.

We will go to Ms. Bouchard, for five minutes.

Ms. Stéphanie Bouchard (Senior Legal Counsel and Director, Department of Justice): *Bonjour*, I'm going to give my remarks that my colleague, Nathalie Levman, was supposed to provide. They're still trying to connect her to the committee. We apologize for the inconvenience.

I am the director of the policy centre for victim issues within the criminal law section at Justice.

Thank you for welcoming us to your study of controlling or coercive conduct within intimate relationships.

Coercive control in the context of intimate partner violence refers to a pattern of controlling behaviour that takes place over time and serves to entrap victims, eliminating their sense of freedom in the relationship.

A broad range of controlling conduct may be employed but the focus is on how a pattern of such conduct serves to subjugate, not the individual incidents wherein abusers exercise control.

Specifically, coercive control is concerned with the cumulative impact of the abusive conduct on the victim.

Legal systems have been struggling with responding to intimate partner violence, and other forms of family violence, for decades.

Criminal law has traditionally responded to incidents of violence and other forms of abuse, not patterns of behaviour. A broad range of offences apply in the intimate partner violence context, depending upon the conduct at issue, including assault, sexual assault, uttering threats, intimidation, forceable confinement, fraud, making harassing phone calls, trespassing at night and mischief.

The Criminal Code also requires sentencing courts to treat abuse of the spouse or a child in the commission of an offence as an aggravating factor for sentencing purposes.

Additionally, as of 2015, non-consensual distribution of intimate images is also a criminal offence. Abusive spouses may also engage in this type of conduct to exercise control.

Criminal Code amendments enacted through former Bill C-75 in 2019 strengthened the criminal law's response to intimate partner violence by imposing a reverse onus on bail for repeat offenders, clarifying that abusing a current or former spouse, common-law partners and dating partners in the commission of an offence is an aggravating factor for sentencing purposes, and allowing a higher maximum penalty in cases involving repeat intimate partner violence offences.

In recognition of the fact that abusive conduct may involve a series of behaviours that can literally have an impact on victims' sense of physical or psychological safety, Parliament enacted the criminal harassment offence in 1993. This offence is designed to respond to the impact of a series of interrelated incidents on victims, in particular in the context of family violence, so the offence applies more broadly. It criminalizes engaging in specified conduct that causes a person reasonably, in all the circumstances, to fear for their physical or psychological safety, or that of a person known to them.

The focus of this offence is on the cumulative impact the conduct has on the victim, not individual incidents of abuse.

Criminal harassment may be charged alongside incident-based offences depending on the facts of the case.

Criminal Code peace bonds are also available to protect victims, including victims of intimate partner violence. Peace bonds may be imposed prior to the commission of an offence where any person fears, on reasonable grounds, that another person will cause personal injury including to their spouse or child, or will damage their property.

A wide range of conditions may be imposed, including no-contact orders, the breach of which is a criminal offence with the maximum penalty of four years imprisonment.

Ten provinces and all three territories have in place family violence legislation that complements these criminal law measures.

For example, this legislation authorizes emergency intervention orders, which can grant the victim the right to remain in the home and use the family vehicle. Conditions may also be imposed to restrain the abuser from communicating with, or contacting, the victim or members of the victim's family.

• (1120)

In terms of victim support, the federal victim strategy seeks to give a more effective voice in the criminal justice system to victims and survivors of crime in Canada. A key component of this strategy is the program development and delivery through the Justice Canada victims fund. A range of supports are available through this fund to victims of intimate partner violence. In particular, since 2016, the Government of Canada has made funding available

through the victims fund to the provinces and territories in support of pilot projects to provide independent legal advice to victims of sexual violence.

The Chair: I'm sorry. We're completely past the five minutes. We're a little bit over now.

We're hoping that the rest of your testimony comes out through questions.

The first round of questions will be six minutes each starting with Madam Findlay.

Madam Findlay, please go ahead.

Hon. Kerry-Lynne Findlay (South Surrey—White Rock, CPC): Thank you, Madam Chair, and thank you to all of the witnesses for being here with us today on this very important topic.

As part of my law practice, I practised family law for many years, so I'm well aware of these issues. We should all know that physical and verbal violence in intimate partnerships negatively affects all genders and all children whether they are the victims or witnesses.

I'm glad to see that the best interest of the child test remains. We know through medical procedures like brain scans—things we never had available when I was first practising law—that being victimized or witnessing violence can be detrimental throughout one's life. This is something that the courts did not really recognize when I first started practising in this area. They thought once the separation happened between couples it just all went away, which is not the case at all.

One of my concerns with COVID-19 and the lockdowns and from what I'm hearing within my own riding is that people—and I'm thinking specifically of a couple of women at the moment—who are caught in these relationships are not really aware of what is available to them. In other words, they're not sure what is locked down. Are safe houses locked down? Are women's centres locked down? Can they go? Are they safe?

I'm not sure that between our federal and provincial governments there's been enough done to let them know that there are options. I'm wondering if the witnesses can comment on how COVID may be being used by abusers to exploit the inability of women to call for help or to escape their situation due to lockdown. Can they comment on what they feel the awareness is generally among those who are victims, as to what supports are available?

• (1125)

The Chair: Thank you, Madam Findlay.

Ms. Smylie, would you like to answer that?

Ms. Lisa Smylie (Director General, Communications and Public Affairs Branch, Research, Results and Delivery Branch, Department for Women and Gender Equality):

Thank you for raising a really important issue. It's something that's been talked about quite extensively in terms of the impact of COVID-19 on gender-based violence more broadly, and in particular, as you pointed out, intimate partner violence.

The research and data that we do have from the COVID-19 [*Technical difficulty—Editor*] shows that, much like crises more broadly, the pandemic is increasing rates of intimate partner violence and gender-based violence. A study by Statistics Canada early in the pandemic found that one in 10 women was either very concerned or extremely concerned about violence in the home during the pandemic. Since the beginning of the pandemic, according to Statistics Canada's [*Inaudible—Editor*] from police services, there's been about a 10% increase in calls related to domestic disturbances. We know that's only the tip of the iceberg because about 64% of domestic violence does not get reported to police.

Community organizations across the country are reporting increases in domestic violence and intimate partner violence. For example, a study by Women's Shelters Canada in November 2020 found that 52% of their shelters across the country were seeing more severe, more frequent forms of violence than before the pandemic.

In another example, the Assaulted Women's Helpline in Ontario has seen substantial increases in calls since the beginning of the pandemic. We're talking about a magnitude of a 72% increase as of May 2020, compared to May 2019.

Canada is not alone in those trends. These have been reported globally in terms of indices in intimate partner violence, and we can imagine why. Women are isolated with their abusers, who, for example, are engaging in controlling behaviour, withholding technology, phones, controlling who they can speak to, cutting them off from friends, family and community organizers.

Perhaps I'll leave it there.

Hon. Kerry-Lynne Findlay: Ms. Smylie, what you're saying is very important, and we know that one of the hallmarks of abuse is isolation of the victim. We don't have a lot of time here, though, and I have another quick question.

Bill C-75, which was an act to amend the Youth Criminal Justice Act, was introduced in July 2019. It created a reverse onus at bail for persons accused of violent offences involving intimate partner violence. I'm wondering if there's any evidence that leading up to and during the pandemic this reverse onus burden shift has decreased the number of reoffenders of intimate partner violence. Has that helped?

The Chair: Very briefly.

Ms. Lisa Smylie: I will have to defer to my justice colleagues on this. It's outside of the scope of my expertise and knowledge.

The Chair: Go ahead, Ms. Bouchard.

• (1130)

Ms. Stéphanie Bouchard: Thank you. This would be a question for my colleague, Nathalie Levman, who I believe is still trying to connect to the committee. All questions relating to Criminal Code amendments have to wait for her expertise.

Hon. Kerry-Lynne Findlay: Madam Chair, perhaps because it's a technical issue, we could get a written response if we don't manage to get the witness through.

The Chair: Absolutely. I was thinking the same thing, Madam Findlay. To the department officials, if we can receive a written response to that question, I think members would like to know.

Thank you very much. We'll now go on to Mrs. Brière.

Welcome to our committee. You have six minutes. Go ahead.

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

[*Translation*]

Good morning.

Thank you to the witnesses for being here.

I was fortunate enough to be on the board of directors of Escale de l'Estrie, a shelter in Sherbrooke that does amazing work to support women who are victims of domestic violence.

One thing is becoming clear: the ubiquitous nature of social media and instant communication technology has made it increasingly difficult for victims to find a safe space, away from the influence and control of their partners. Even if the partner is not physically present, he can always reach out to the victim.

Should the bill cover cyber-violence? I'm referring to direct cyber-violence—using technology to monitor, control or harass someone in their private life—and indirect cyber-violence, posting content about a partner online.

[*English*]

The Chair: Who is that question for, Madam Brière?

Mrs. Élisabeth Brière: I will let them choose who is the best one to answer that.

The Chair: Ms. Bouchard.

[*Translation*]

Ms. Stéphanie Bouchard: Thank you for your question, but Ms. Levman is the expert on everything having to do with the Criminal Code. I will say, however, that the pandemic has certainly brought to light many of the violence-related challenges victims face because of the lockdown.

We work closely with the Federal Provincial Territorial Working Group on Victims of Crime and all the directors of victim services around the country. Provinces and territories are making considerable efforts to overcome some of the pre-existing challenges that have been exacerbated by the pandemic. They have set up text-based services so victims can reach out for help in the middle of the night while the abuser in the home is sleeping.

Of course, more can always be done, but the stakeholders certainly have an awareness and a broader understanding of the unique circumstances the situation has created. A lot of people are working hard to find practical and effective ways of helping victims during the pandemic.

Mrs. Élisabeth Brière: Thank you.

[*English*]

Madam Chair, would it be possible to have a written answer to that question, please?

The Chair: Absolutely.

Mrs. Élisabeth Brière: Thank you.

[*Translation*]

As you mentioned, Ms. Farid, the lockdown and special emergency measures introduced to combat COVID-19 have exacerbated not just the gender gap, but also pre-existing abusive situations. Women who are victims of abuse now have a harder time leaving their spouses. What's more, the special emergency measures have increased the risk of violence by aggravating related factors such as drug and alcohol use, financial insecurity, mental health problems and weak personal support systems.

Do you think the bill drives home the message that violence will not be tolerated?

• (1135)

Ms. Claire Farid: Thank you.

I can't comment on that aspect of the bill. I will say, though, that the pandemic has certainly exacerbated the problems victims of domestic violence face, as you mentioned.

Family justice services have been available throughout the pandemic in various formats. A number of support services are being offered virtually. As I explained, the amendments to the Divorce Act will come into effect on March 1. That is another thing that should make a difference.

[*English*]

The Chair: You have 20 seconds remaining, Ms. Brière.

[*Translation*]

Mrs. Élisabeth Brière: I see.

[*English*]

It's okay. I'm good.

The Chair: Thank you.

[*Translation*]

We now go to Mr. Fortin for six minutes.

Mr. Rhéal Fortin: Thank you, Madam Chair.

I would like to thank the witnesses who are with us today. Domestic violence is an important issue, and any and all related factors are concerning, so I'm glad you're all here this morning.

I've looked at the overall situation, and the biggest question I have is this. How will the line between offences be drawn when it comes to domestic violence versus harassment versus coercive con-

duct? I realize Bill C-247 provides a definition. By the way, this morning, we are considering Mr. Garrison's motion, not the bill, but I appreciate that there is a connection and something of a definition.

Ideally, I would like to hear from all three of you, but since Ms. Farid is general counsel, perhaps she can answer. Nevertheless, you are all senior counsel, so I don't mind if one of you is especially keen to answer the question. What I'd really like to know is how the courts will distinguish between those three situations.

Ms. Farid, perhaps you can go first.

Ms. Claire Farid: I am here mainly to talk about the Divorce Act, but my colleague Ms. Levman—

[*English*]

The Chair: I'm sorry, Ms. Farid. Could you hold your mike closer to your mouth, please?

[*Translation*]

Ms. Claire Farid: I am here to talk—

[*English*]

Hon. Kerry-Lynne Findlay: I have a point of order, Madam Chair.

The Chair: Go ahead, Madam Findlay.

Hon. Kerry-Lynne Findlay: It's a technical issue. Whenever Ms. Farid is talking, her voice is coming out way louder than the interpreter's, and it's very hard for me to hear, whereas when Monsieur Fortin was speaking, it was fine. I don't know what the issue is there. It's very hard to hear the translation.

The Chair: Thank you for pointing that out, Madam Findlay.

Ms. Farid, maybe we can try it with you holding the microphone closer to your mouth and speaking a bit more slowly. We'll see where that gets us.

[*Translation*]

Ms. Claire Farid: All right.

Unfortunately, I am not here to discuss the Criminal Code or the offences. I am here to discuss family law, so I'm not in a position to provide the information you are looking for.

Mr. Rhéal Fortin: Perhaps Ms. Levman can answer.

[*English*]

The Chair: I'm not sure if Ms. Levman has made it to the call yet.

[*Translation*]

Mr. Rhéal Fortin: Ms. Levman, would you care to answer?

[*English*]

The Chair: She's—

[Translation]

Mr. Rhéal Fortin: Ms. Smylie, would you care to answer?

[English]

Ms. Lisa Smylie: Matters of courts and the law are outside of my expertise, so I cannot comment.

• (1140)

[Translation]

Mr. Rhéal Fortin: Thank you.

Ms. Bouchard, would you care to answer?

Ms. Stéphanie Bouchard: I just got an email from my colleague Nathalie Levman. She said that she is on the call, but you don't seem to be able to hear her.

Mr. Rhéal Fortin: Maybe her mike is on mute.

Ms. Stéphanie Bouchard: She would be the best person to answer your questions.

The Chair: Thank you, Ms. Bouchard.

[English]

Ms. Levman, can you hear us?

I'm stopping your time, Monsieur Fortin.

[Translation]

Mr. Rhéal Fortin: Thank you.

[English]

The Chair: Okay. I understand that Ms. Levman is just joining us now, and she has not heard your question.

[Translation]

Mr. Rhéal Fortin: Okay, I'll repeat it.

[English]

Ms. Nathalie Levman (Senior Counsel, Criminal Law Policy Section, Policy Sector, Department of Justice): I can hear you perfectly.

The Chair: Thank you very much.

Monsieur Fortin, could you repeat your question briefly so that Ms. Levman can answer?

[Translation]

Mr. Rhéal Fortin: Thank you, Madam Chair.

Ms. Levman, I started by commenting on the importance of the topic we are studying. Obviously, we are talking in terms of federal jurisdiction—hence where the Divorce Act comes in—but the most significant part of our discussion probably relates to a Criminal Code amendment. The code already includes offences that target harassment and domestic violence, and now the idea is to establish a new offence that deals with controlling or coercive conduct.

Could you please explain how you think the courts will differentiate between a case that involves violence, a case that involves harassment and a case that involves controlling or coercive conduct?

Ms. Nathalie Levman: Mr. Fortin, if you don't mind, I would like to answer in English.

Mr. Rhéal Fortin: Yes, that's fine.

Ms. Nathalie Levman: That would be easier for me.

Thank you for your question.

[English]

If I'm understanding correctly, you want to know the difference between incident-based offences like assault or other offences that involve violence, criminal harassment and then this new proposed offence of coercive control that is aimed at capturing a pattern of behaviour.

I want to make sure that I have your question right, Monsieur Fortin.

Mr. Rhéal Fortin: Yes, exactly.

Ms. Nathalie Levman: My colleague, Stéphanie Bouchard, already gave our comments and tried to make some of those distinctions.

You know, of course, that traditional criminal law focuses in on incidents, so it's an incident-based approach. That said, there have been some exceptions to that rule in terms of more modern offences. The criminal harassment offence is in fact a very good example of that. It aims to address the overall impact or cumulative impact of behaviour that takes place over a period of time. That's precisely what this coercive control offence being proposed by Bill C-247—and which is also place in the United Kingdom, Scotland and Ireland—attempts to do. It is broader than our criminal harassment offence, but it takes a very similar approach to it in the sense that the legal test would be to look at the overall impact on the victim or the recipient of that type of conduct and to criminalize it and recognize that spousal abuse or intimate partner violence takes place over a period of time and often involves more subtle types of behaviour that serve to subjugate.

Evan Stark, who is one of the leading sociologists on this issue and has done a lot of research on it, talks about it being a kind of liberty crime resulting in the subjugation of the victim.

The Chair: Thank you.

Monsieur Fortin, that concludes your time.

Mr. Rhéal Fortin: You're serious?

The Chair: You'll have more rounds, I promise you.

[Translation]

Mr. Rhéal Fortin: Very well. I feel as though I'm the technician.

• (1145)

[English]

The Chair: I stopped your time when we were dealing with our challenges.

Ms. Levman, as we're going to the next person, can I ask you to please unplug and re-plug your headset in? Your sound is not coming from your actual microphone.

Mr. Garrison, you are up next for six minutes. Go ahead, sir.

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

As this is the first day of our study on coercive and controlling behaviour, I just want to take a second to put on the record how we got here. If we were doing a normal study of a private member's bill, as the sponsor of Bill C-247 I would get to make an introductory remark. Let me just say a couple of things briefly.

At the beginning of the pandemic I did a phone-around to the two independent police forces and two RCMP detachments in my riding. All four of those police commanders, when asked what the main thing was that they were seeing in the pandemic, first remarked on the increase in domestic violence calls. It was interesting that it was across the riding. It was interesting that it was the immediate response of all four.

When I had a discussion with them about how police felt about that, they very quickly raised their frustration that their ability to act was limited only to the most serious physical violence and their frustration at their inability to address issues of coercive and controlling behaviour, which quite often—almost always, in fact—are associated with more direct forms of physical violence.

I did a call-around, then, to the service providers for women's groups and women's shelter organizations in my riding and, of course, found the very same thing, that they reported a very sharp increase in demand for their services. Interestingly, they reported the same frustration. In the attempt to try to keep their clients safe, they were frustrated by the inability of the police to act until it was much later on in the relationship.

As a result of those conversations, I began to look at what more we could do as a society to address this problem. The British example was brought to my attention by Mitzi Dean, a local MLA who is now the Minister of Children and Family Development in British Columbia.

I drafted a private member's bill, Bill C-247, which is modelled on the British law, so that we could look at whether this addition to the Criminal Code could help provide another tool for addressing the problems of domestic violence in this country.

The second part was to try to get more people to discuss and be aware of what's being called by some a "shadow pandemic". I then decided to put forward a motion to this committee to conduct this study.

For me, the study has two parts. One is to raise the profile of this very significant increase in domestic violence and intimate partner violence during the pandemic. The second is to look for solutions, which may involve my private member's bill, but there may be other solutions that we could adopt that would help address this problem.

That's how we got here this morning, from my point of view, and I'm really pleased to have the department officials here to help us try to address this problem. I'm certainly looking forward to the wide variety of witnesses we will have coming forward in later sessions.

We've had an attempt by the federal government to come forward with a strategy to reduce and address gender-based violence.

Ms. Smylie, has that strategy taken into account the phenomenon of coercive and controlling behaviour?

Ms. Lisa Smylie: As the member notes, the Government of Canada does have a federal strategy to address and prevent gender-based violence. To date, there has been over \$200 million in investments and an ongoing commitment of \$40 million per year.

In that strategy, we consider various forms of gender-based violence, including forms related to coercive and controlling behaviour. One of the key things that we're doing under this strategy relevant to this study is an investment of over \$24 million in new data and research to date. Part of that is so that we can better understand the phenomenon and all of the various forms of intimate partner violence. It is so complex and for various reasons it's very difficult to measure.

We're also making investments in programs. To date, there's been almost \$17 million and 54 projects across the country, which are helping service providers and organization better support survivors and their families. That includes survivors of the types of behaviours we're focused on, coercive and controlling behaviours.

Also of note under this strategy, the Department of National Defence has invested \$1.5 million to date in family support services and military member services, as well as sexual assault centres in close proximity to Canadian Armed Forces bases.

Those are just some of the things under this strategy that we are doing. I think one more important thing, since it was mentioned, is that through the RCMP there's been an investment of \$4.6 million in policing operations and support. They are undergoing cultural competency training to make sure that officers are able to support victims and survivors appropriately.

• (1150)

The Chair: Thank you, Mr. Garrison. That concludes your time.

We'll now go into our second round of questions, for five minutes each, starting with Mr. Cooper.

Go ahead, Mr. Cooper.

Mr. Michael Cooper (St. Albert—Edmonton, CPC): Thank you very much, Madam Chair. I want to thank the officials for being here as we commence this most timely study

I will direct my first question to Ms. Levman, picking up from where Ms. Findlay left off before Ms. Levman had an opportunity to come online. Ms. Findlay asked a question about Bill C-75, and in particular the reverse onus provisions for bail in the case of persons who are charged with intimate partner violence and who had been previously convicted of similar such offences.

Would you be able to speak on any impact those reverse onus measures have had?

Ms. Nathalie Levman: Unfortunately, it came into force so recently that we don't have any kind of statistical or other evidence yet, but we are watching its implementation, of course, which is part of our job.

Mr. Michael Cooper: I presume your answer will be the same to my next question, but I will ask it nonetheless. Another aspect of Bill C-75 is that it provides for an increase in maximum penalties for intimate partner violence. Are you able to speak to any statistics or data there, or is your answer the same as your previous answer?

Ms. Nathalie Levman: I can't yet speak to any data. We're really just about a year out, which is not sufficient time to be able to do any kind of assessment or evaluation, unfortunately.

Mr. Michael Cooper: Thank you.

I want to ask whichever official can answer a general question about access to courts.

During COVID, courts have not been sitting in their regular capacity. They were sitting often in a very limited capacity at the start of COVID for several months dealing with EPOs and so on.

Can any of the officials speak to the impact that COVID has had upon women and others who are suffering domestic violence in terms of their ability to get remedies through the courts?

Ms. Nathalie Levman: I can just provide a few comments, noting that there is a jurisdictional issue: we're at arm's length from courts. We do, however, monitor what they're doing and are aware that there have been impacts from COVID.

In fact, that information, I understand, is publicly available on the court websites and can be found there, if that's helpful to the committee.

Mr. Michael Cooper: Thank you for that. Where would I be able to find the data that you spoke of?

• (1155)

Ms. Nathalie Levman: I believe it's on the website. That's what a colleague of mine has communicated to me, but we can look for it, if you like.

Mr. Michael Cooper: That would be helpful.

I would just ask whichever official wishes to answer, if you're able to speak in general terms to what you're hearing from organizations across Canada, how they are functioning through this pandemic—organizations that are supporting women in domestic violence situations, women's shelters, and so on.

Ms. Lisa Smylie: The Government of Canada has since March invested over \$100 million in more than 1,000 shelters, sexual assault centres and organizations providing supports to women and children experiencing gender-based violence. We've been working with these organizations very closely.

What we're hearing from them is that they are extremely appreciative of this critical support, which has allowed them to keep their doors open and to provide safe, critical supports and services to those who are experiencing violence during the pandemic. In fact, our funding has helped more than 700,000 women and children during the pandemic.

What we're also hearing from shelters and sexual assault centres is that they are seeing more frequent and more severe forms of violence during the pandemic than they were seeing prior to it. I think that's consistent with what we're hearing from police services across the country as well.

The Chair: Thank you.

We will now move on to Mr. Virani, for five minutes.

Mr. Arif Virani: Thank you to all of the witnesses from the two departments for being here. We appreciate your time.

I want to pick up where Ms. Smylie left off. I think there's the pre-pandemic phase and then there's the pandemic phase. I'm struck by the lack of funding that was in place under the previous federal government and then how things turned from 2015 to 2019.

My understanding is that the funding increased from between \$20 million per year for women and gender equality-seeking organizations to about \$65 million per year. That's the first important point.

The second important point is that, I understand, the statistics show that in 2019-20, we invested nearly \$66 million in 533 women's and equality-seeking organizations, which is critical. As Ms. Smylie reiterated, in this year alone that number will increase to \$110 million.

The pandemic then enters. For a person like me, a lot of it is anecdotal, but I appreciate the statistics we're being provided now, which are very helpful in terms of the rise in claims and the rise in incidents of violence that are occurring. Funding is increased to the tune of an additional \$40 million during the pandemic to address this present concern.

Ms. Levman, can you tell us whether the criminal tools we currently have are sufficient? We have heard a lot about the various different heads that are provided—harassment, mischief, trespassing, etc. Is a new criminal offence required that is more along the lines of a pattern of behaviour rather than in a specific incident from your perspective? If so, why is that?

Ms. Nathalie Levman: I would rather speak to the scholarship I have reviewed rather than my own personal opinions. I think that the scholarship might help the committee in terms of evaluating the advisability of a broad offence that would capture this type of conduct.

I would bring your attention to sociologists who have supported the enactment of these types of laws, such as Evan Stark in particular. We also have a Canadian sociologist. An article published by the Federal Ombudsman for Victims of Crime called "Understanding coercive control in the context of intimate partner violence in Canada" recommends the creation of that offence. In particular, it recommends consultation and study before such an offence is brought into effect for a lot of different reasons including difficulties with operationalization, training and evidentiary issues, etc.

Then there's another—

• (1200)

Mr. Arif Virani: Ms. Levman, on that point, it also strikes me that we're dealing not with an incident, but with a pattern. Could you dwell on your experience with the criminal harassment charge you mentioned to identify for us what hurdles you might see in terms of women coming forward with testimony to evidentiary this type of pattern and how onerous that would be on women?

Ms. Smylie, you can jump in on this as well, but Ms. Levman first.

I'm taken by the fact that we know it's not a very welcoming environment in criminal justice circles when women are testifying—usually against a man—about a single incident. They are having to testify about a full pattern.

What kind of toll would that take on the women as witnesses in those types of proceedings? How could we support them better in that regard?

Ms. Nathalie Levman: The scholarship does address that. There are other articles as well that look at the implementation of the offence in the U.K. and talk about difficulties with gathering the evidence, including difficulties with law enforcement even being able to recognize that this is, in fact, what's going on, particularly, for example, when the incident comes to the law enforcement's attention because of one violent episode. They have to be able to situate that in a pattern of conduct that may have taken place over months or years. That can be a struggle. Of course, the evidence would come, as you're pointing out, from the victim herself. I will use gendered language because the statistics support me on that.

Before I turn it over to my colleague from WAGE, if I could move quickly to the other side, which is that there are also criminologists who are recommending some caution with respect to enacting and developing these types of offences, in particular from the U.K. and Australia. You may know that New South Wales is considering a private member's bill very similar to C-247.

I would bring the committee's attention to an article called "The Criminalisation of Coercive Control: The Power of Law?", which is in the *International Journal for Crime, Justice and Social Democracy*. I found that very informative and you may, too.

The Chair: Ms. Levman, you referred to a number of documents and articles in that question. In the interest of the committee's deliberations, could you send that over to us? We'd really appreciate it.

Ms. Nathalie Levman: I would be very pleased to do so.

The Chair: Please call the IT people about headphones.

[*Translation*]

Mr. Fortin, it's your turn for five minutes.

Mr. Rhéal Fortin: Thank you, Madam Chair.

You're always the one having to answer my questions, so I wouldn't want you to take it as harassment. The fact of the matter is you have insightful expertise.

On this issue, I think the challenge revolves around distinguishing between behaviours that the Criminal Code already covers and those that it does not. Take, for example, a conversation between spouses, although they may not be spouses, I realize. One or both

sides are being stubborn, shall we say, and the conversation becomes fairly intense but does not rise to the level of a criminal offence. The discussion gets more heated, both sides dig in their heels and the situation turns into what could be called harassment. If things escalate, verbal or physical abuse could come into play.

I'm having a hard time figuring out at what point in that progression the behaviour would be considered coercive and controlling. I know you've been asked the question a lot, but I think it's hugely important. How is the line drawn between behaviour that is acceptable under the law, behaviour that is coercive and controlling, behaviour that is considered harassment and violence? That is my first question.

Before you answer, I'll ask my second question because the clock is ticking. I'd like to know your view on how each of the three situations—harassment, violence and controlling or coercive conduct—would be dealt with. If the behaviour were deemed a criminal offence, how would the sentencing differ in each of the three cases? How should each be defined so that the differences are clear and distinctive enough for a judge to navigate these types of matters easily?

If you don't think you'll have enough time to answer my questions now, with the chair's permission, I would ask, like my fellow members, that you get back to me in writing.

Please go ahead, Ms. Levman.

• (1205)

[*English*]

Ms. Nathalie Levman: You're absolutely right. Coercive control, if it were an offence in Canada, we would see significant overlap. Even turning to—and I'll provide this to the committee as well—the U.K. Home Office's statutory guidance framework, it gives you a list of a variety of different conducts that should be considered risk factors or indicative of coercive control.

You'll note in that list that some of them are certainly criminal offences, uttering threats, violence and sexual-type offending. Even in Canada, we have the offence of non-consensual distribution of intimate images. That can be used to control other people. There are other types of conduct that really aren't criminal offences in and of themselves, but speak to an overall pattern of behaviour.

What we often see in the context of offences, which capture patterns of behaviour in terms of an individual case, is a variety of different charges being laid under different offences. That is quite common, and I would assume that would happen here. For example, depriving someone of their basic needs, isolating a person from friends or family, monitoring another person's time, a partner's time, all of this is considered by the U.K. to be coercive and controlling behaviour. If you were to couple that with uttering threats, with violent-type offences, then likely in a case like this, you would see a variety of different charges being laid.

I don't think there are necessarily clearly defined lines between offences. Certainly, we try to keep the conduct separate, conceptually, but there are overlaps among offences, and I would think there would be significant overlap with a case like coercive control. If we had that as an offence, and it were charged, I could see criminal harassment charges being laid, including assault, sexual assault and uttering threats, depending on the facts of the case.

I'm not sure if that answers your question, Mr. Fortin. You had three in there.

[*Translation*]

Mr. Rhéal Fortin: Yes.

In your view, how much latitude should we allow for behaviours that, despite having some similarities, are acceptable under the law?

If I come back to my earlier example, it might be a couple having a somewhat heated discussion with raised voices, but both sides still see it as a discussion.

The Chair: Mr. Fortin—

Mr. Rhéal Fortin: How much latitude should there be for that type of interaction, characterized as a bit heated, versus a behaviour that would be considered controlling. Say a woman tells her husband that she doesn't want him to go hunting with his buddies, or a man tells his wife that he doesn't want her to go out dancing with the girls.

I don't think anyone wants to prohibit that, but I think it's a real challenge that—

[*English*]

The Chair: Thank you.

[*Translation*]

Mr. Fortin—

Mr. Rhéal Fortin: I'm already out of time?

[*English*]

The Chair: Monsieur Fortin, thank you.

[*Translation*]

Mr. Rhéal Fortin: Thank you, Madam Chair.

[*English*]

The Chair: You're a minute over.

[*Translation*]

Mr. Rhéal Fortin: This stuff is just too interesting. It's Mr. Garrison's fault.

[*English*]

The Chair: Maybe Ms. Levman can save the answer. Absolutely.

Maybe Ms. Levman, in Monsieur Fortin's next round of questions, you can answer that one to begin.

Thank you.

Mr. Garrison, you have five minutes. Go ahead, sir.

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

I know that after today, we will have testimony from many of the frontline organizations. I think they can address some of the questions being raised by Monsieur Fortin.

I would like to ask about the U.K. example—of course, we're back to Ms. Levman—and whether it has been the experience in Britain that charges have been laid and whether the offence of coercive and controlling behaviour has been successfully prosecuted there. What has been their actual, on-the-ground experience with the new criminal offence?

• (1210)

Ms. Nathalie Levman: Thank you. That's a great question.

My understanding from the statistics is that it was a bit of a slow start, that training was necessary for police officers and that the incidents—I guess they call them “detected incidents”, meaning incidents that have been reported to police for a year—have been increasing each year. Some of the literature that I will send to the committee will address that for you.

Mr. Randall Garrison: Has there been successful prosecution of the offence showing that, as some have suggested, it isn't too vague or too difficult to prevent the police and prosecutors from using it to address these forms of violence?

Ms. Nathalie Levman: I can't speak to successful prosecutions because I didn't read literature about prosecutions per se. We need to remember that this offence was only enacted in 2015, so there really is limited evidence about it. What I can say is that charges were slow in coming under that offence at first, and I understand that they have been increasing every year. This corresponds with police training to help them better understand the nature of the offending—what to look for, addressing it, evidentiary issues, etc.

Mr. Randall Garrison: Thank you, Ms. Levman.

This is on the question of whether creation of a new criminal offence on coercive or controlling behaviour would be particularly difficult for the victims in terms of having to provide evidence in court. Would this be something that would be peculiar to such an offence or is it something that women already face in our court system in terms of trying to respond to assault charges or to criminal harassment charges? Is it something where we need a much broader attack or would it be something that would be more limited to this offence?

Ms. Smylie.

Ms. Lisa Smylie: We do know that creating more supportive and responsive justice and legal systems is important. In fact, it's one of the pillars under our strategy to address gender-based violence in Canada.

With respect to other offences, we also know from data that only 5% of sexual assaults are reported to police. Sixty-four per cent of spousal violence is not reported to police. This indicates to me that there's an issue. People aren't reporting for a reason and we need to look at our justice and legal systems for how we can create more responsive and supportive systems for victims.

Mr. Randall Garrison: Thank you very much.

I believe it was Ms. Bouchard who raised the question of peace bonds. One of the frustrations that I heard both from police and from women's support organizations in my riding was that the kinds of controlling behaviour that are talked about in my proposed bill can't really be addressed in the existing peace bond provisions.

Could you comment on that?

Ms. Stéphanie Bouchard: I will defer to my colleague Nathalie, as I was reading her notes to the committee prior to her joining the meeting.

Ms. Nathalie Levman: Peace bonds really do apply any time a person fears on a reasonable ground that another person will cause personal injury, including to their spouse or child, or will damage their property. In cases where there is a pattern of behaviour that indicates certain types of risk, but insufficient evidence, let's say, to support a criminal charge, peace bonds can be a very useful tool. They can be sought by anyone. Their breach can be quite a serious criminal offence, including when that's repeated. There may be different views on how they could be used. In this particular context I don't disagree, but I do think it is an available tool, and an important one, given that in criminal law we of course have evidentiary issues and a very high burden to meet.

They are a very important safety tool.

• (1215)

The Chair: Thank you very much.

That concludes your time, Mr. Garrison.

We'll now go to Mr. Lewis.

Go ahead, sir, for five minutes.

Mr. Chris Lewis (Essex, CPC): Thank you, Madam Chair.

Thank you to all the witnesses as well today.

I was a firefighter for seven and a half years, and I responded to a lot of domestic calls as well. Today, a lot of my close family members are either officers or front-line paramedics. Back in the day, domestic abuse was a major issue, and I can only imagine now. In speaking with my family members and friends who are still on the front lines, it has absolutely gone over the top. They've charted right out. I speak to them quite often on this. So this is a very good discussion, and a very important discussion on so many fronts.

To the Department of Justice, there have been concerns over a lack of access to the courts during the pandemic. There is uncertainty for women fleeing abusive relationships that they will be able

to get their kids. How has the justice department been responding to these concerns?

Ms. Claire Farid: Perhaps I could speak to that particular issue.

As I mentioned, certainly in the family law realm, which is where parenting issues are generally addressed, as Ms. Levman mentioned there has been a different experience in different jurisdictions, primarily related to levels of COVID. In some jurisdictions, courts have operated without closing at all, whereas in others there has been quite an impact. Certainly there have been some innovations in terms of moving to virtual courts; there are many courts now dealing with many issues on a virtual basis. Certainly, we've heard of many parenting issues that have arisen during the pandemic, and some of those cases have been particularly challenging in family violence cases.

We have been in discussions with our federal, provincial and territorial colleagues to share best practices across jurisdictions in terms of how they are addressing some of those issues in the context of their services and courts to enable that information sharing. As I mentioned, the Divorce Act amendments, which for the first time recognize family violence in the Divorce Act, come into force on March 1 of this year.

Mr. Chris Lewis: Thank you so much. You actually led into my next question, so that was a fantastic answer. We appreciate that.

I understand, and I believe it to be true, that there's a huge backlog of criminal cases across most of the provinces due to COVID-19. What dialogue has the department had with your provincial counterparts to address this?

Ms. Nathalie Levman: I'll answer that question, but I'm afraid I don't have a substantive answer for you, because it is a procedural question and you don't have justice officials before you today who are experts in that area. However, if you'd like, I could follow up with my colleagues on that question.

Mr. Chris Lewis: Thank you. Yes, I would appreciate that.

Is the department currently looking at any legislative changes as a result of the pandemic and the increase in domestic violence?

Ms. Nathalie Levman: As part of our work, we are always reviewing case law in terms of implementation of laws that have been enacted in the past to strengthen responses. We're always talking with our colleagues in FPT fora to address issues of common concern. This would be one of those issues that we keep the lines open with them about, including the procedural ones that you mentioned before.

• (1220)

The Chair: Thank you very much.

I will now go to Mr. Sarai for five minutes. Go ahead, sir.

Mr. Randeep Sarai (Surrey Centre, Lib.): Thank you, Chair.

I thank all my colleagues, as well as the guests. This is my first justice committee meeting, so I'm honoured to be here.

This is a deep subject for my heart. I have several women's shelters in my riding, including Nisa, as well as the Surrey Women's Centre, both providing excellent services to sometimes the most vulnerable people in our society: women at risk. I was very pleased to find a way to announce some funding for them right at the beginning of the pandemic, in April, which I think helped them, although, at the time, probably nobody could predict the staggering increase in level of cases.

Ms. Smylie, can you tell us what the government can do better to prevent some of this violence and reduce these patterns of control?

Ms. Lisa Smylie: It's a very heavy question. Given the complexity of gender-based violence, there is no single thing that will fix this issue. One thing that the government is doing right now is advancing a national action plan to end gender-based violence. As you've all heard here today, the pandemic has reinforced the fact that we need a national action plan. We need coordinated action across the country, across the various sectors. It has certainly amplified its urgency.

To that end, the Government of Canada is working very closely with provincial and territorial governments to advance this national action plan to end gender-based violence. Starting in 2020, we engaged over 1,500 survivors, community organizations and other experts to answer this very question, "What do we need to do?", and to develop the national action plan.

It's important to note that we met a really important milestone on this national action plan just a couple of weeks ago, on January 21 and 22, when federal, provincial and territorial ministers responsible for the status of women endorsed a federal, provincial and territorial ministerial joint declaration for a Canada free of gender-based violence. That joint declaration affirms a common vision, principles and goals for responding to gender-based violence.

That work continues and will be our road map for addressing this issue.

Mr. Randeep Sarai: Thank you. That was very helpful.

My next question is for the Department of Justice.

How have you adjusted or changed your strategy to gather information and address the rise of domestic abuse cases as a result of the pandemic, knowing that only 5% of these are reported? How have we been able to get the data so that we can make informed decisions and stem this problem?

Ms. Nathalie Levman: My colleague may want to speak from a family... [*Inaudible—Editor*].

The Chair: Go ahead, Ms. Farid.

Ms. Claire Farid: I was just going to say that our colleagues from the research and statistics division at Justice Canada would be well placed to provide some of that information.

One project that we're undertaking at the Department of Justice with respect to the pandemic and the civil court system is to work with Statistics Canada to get some baseline data. Statistics Canada will be publishing that data in the form of a Juristat so that we'll be able to do some comparison pre-pandemic and post-pandemic of the justice system, which will help inform policy work in this area.

• (1225)

Mr. Randeep Sarai: Thank you.

Ms. Smylie, really quickly, is there anything you're doing to address the lack of data in this field? Is there anything we can do to get more data?

Ms. Lisa Smylie: As I said, to date we've invested over \$24 million in researching data. We're developing three new national surveys to fill data gaps with respect to this issue. In particular, we have put out a survey on gender-based violence.

Right now we're analyzing data specifically with respect to intimate partner violence to get a better picture of intimate partner violence. We're gathering data on specific populations also, on students as well as on violence in the workplace.

The Chair: Thank you very much for that.

Mr. Moore, you have the floor for five minutes.

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

Thank you to the witnesses for appearing today.

So much has changed over the last year, of course, with COVID. I'd like to know, in your federal-provincial discussions or discussions with stakeholders.... In the course of our study I know we're going to be hearing from some witnesses who operate women's shelters. I represent a rural riding, and access to services there can be different from access in an urban centre.

I have two questions to whoever feels best placed to answer them. One concerns the impact of COVID on the services for stakeholders that you're dealing with. The second is whether there are special rural considerations that we should be considering as members of Parliament.

Ms. Lisa Smylie: With respect to women living in rural areas, according to 2018 police-reported data, women in rural areas experienced the highest overall rates of intimate partner violence in the country. I think that is significant to note for this study.

Given that fact, it's important to ensure that women living in rural areas particularly have access to supports and services in their area.

Hon. Rob Moore: Thank you.

Do you have a general comment on the other part of my question, on the degree to which services are open and available? I know we're going to be hearing from some specific women's shelters, for example. Some people are surprised to hear that some services are still open and available. Others are, rather as we are today, "hybrid open" and available, doing things differently.

Do you have any input in that regard?

Ms. Lisa Smylie: As I mentioned, since the start of the pandemic, \$100 million has been distributed to over 1,000 shelters, sexual assault centres and organizations providing services to women and children experiencing violence.

This has allowed the organizations to keep their doors open to continue providing these critical services. In particular, it has allowed them hire more staff to tailor some of their services to the pandemic context. They tailor some of their services to online in order to increase access, knowing that people cannot necessarily come in to the organization.

These organizations remain open, and the funding has allowed them to do that and to ensure that they have staff capacity to support, as I said, over 700,000 women and children during this pandemic.

• (1230)

Hon. Rob Moore: Thank you.

Madam Chair, how much time do I have left?

The Chair: You have a minute and 10 seconds.

Hon. Rob Moore: This is just a quick one for Nathalie Levman. It might not be quick.

We're talking about coercive control. That's part of the discussion we're having today, based on a motion from my colleague. There seems to be some uncertainty, at least on my part, based on some of the questions from some of the other members.

Is there a place we can go to get an exhaustive list of what will be captured by these things that fall short of what's currently in the Criminal Code? What's in the Criminal Code is already criminal, so we're talking about something different from that. I've heard some different examples, but where would be the most exhaustive list we could get of what would be seen as coercive control or things in a pattern of behaviour?

Ms. Nathalie Levman: I do think that probably one of your best sources is the U.K.'s statutory guidance framework for their prosecutors. I will send you that. A few pages in, it has a box with a full list of all of the behaviours they expect law enforcement to be looking for in this type of case. I think that might help.

Hon. Rob Moore: Yes, that would be helpful.

Thank you.

The Chair: Thank you very much.

Mr. Kelloway, I have you up next for five minutes. Go ahead, sir.

Mr. Mike Kelloway (Cape Breton—Canso, Lib.): Thank you, Madam Chair, and hello, colleagues.

To the witnesses today, thank you for this conversation. It's a very important one on so many different levels.

My questions will be directed to Ms. Smylie.

The pandemic has been challenging for Canadians from coast to coast to coast. That would probably be the understatement of the year.

Isolation measures, such as remote learning, physical distancing, self-isolating and quarantining can put some children at risk of physical, emotional, sexual and domestic abuse and neglect. I'm wondering, based on your research and understanding, what could be done to identify and respond more effectively to children who are victims of abuse and neglect in their homes during this pandemic.

Ms. Lisa Smylie: I don't have these exact statistics in front of me, so I'm going to have to follow up with you on this, but they are astounding. I will follow up on the increase in reports of child exploitation during the pandemic.

Mr. Mike Kelloway: Thank you.

Ms. Lisa Smylie: I do know that Public Safety Canada and others in the safety portfolio are working on this issue of child exploitation, in terms of making sure that there are services available and making sure we can leverage technology to recognize victims.

Again, I don't have the specifics in what we're doing. I have to get back to the committee on that. However, these are some of the things under the federal strategy for gender-based violence that are in place to address child exploitation.

Mr. Mike Kelloway: Thank you for that answer. We look forward to receiving that information.

I'd like to go a little deeper in some respects. If there were one area, Ms. Smylie, in which you feel this government could further support women, women's shelters and organizations that support women who are victims of domestic abuse, what would be that area—or areas—and why?

Ms. Lisa Smylie: What the pandemic has shown us is the critical services and support that community organizations provide to women every day. Making sure that we're providing funding to support the gender-based violence sector is one of the most important things we can do to support survivors, to prevent and end gender-based violence.

• (1235)

Mr. Mike Kelloway: I'd like to continue with Ms. Smylie.

I think this was brought up by a previous MP, but I want to go back to it, in regard to women's organizations or shelters, or both. What changes have they made to adapt to the pandemic and the pandemic context?

Ms. Lisa Smylie: A perfect example of how some organizations have adapted their services or have leveraged to the best of their ability in the pandemic context is the Canadian Women's Foundation hand signal when they're isolated, not able to access or call for support or to access organizations. The Canadian Women's Foundation did a campaign to put out a hand signal to increase awareness and to ensure that when people see the hand signal—putting your palm to the camera, tucking in your thumb and closing your fist—they know it means, on a Zoom call like this, that someone is in trouble and needs help. That's one really great example.

Another one is that organizations are developing apps. There's the Arc app. Those who are experiencing gender-based violence can download the app and privately, securely and safely record the behaviours they're experiencing. They can upload photos or they can take video and can provide an evidence base for the abuse they're experiencing.

The Chair: Mr. Kelloway, that concludes your time.

Mr. Mike Kelloway: Thank you.

The Chair: Mr. Fortin, we are going back to you.

[*Translation*]

Mr. Rhéal Fortin: Thank you, Madam Chair.

I believe Ms. Bouchard talked about the impact in relation to the Divorce Act.

I gather that controlling or coercive conduct could be considered grounds for divorce.

I was just wondering whether Ms. Bouchard had any other effects in mind when she was talking about the Divorce Act.

Ms. Claire Farid: I was actually the one who talked about the Divorce Act.

If I understand correctly, you'd like to know how controlling or coercive conduct would be dealt with under the Divorce Act.

Mr. Rhéal Fortin: Yes, exactly.

Ms. Claire Farid: Provincial family law has a broader scope than the Divorce Act does. The act applies only to certain aspects of the divorce itself, as well as matters related to child support and parenting arrangements.

The amendments in Bill C-78 include a definition of family violence that applies when parenting arrangements are being determined. That has already been covered in the Divorce Act.

Mr. Rhéal Fortin: Sorry to cut you off, Ms. Farid, but I don't have much time. I'll rephrase my question.

I understand that family violence is defined in the Divorce Act, but I was asking about controlling and coercive conduct.

What is the connection between controlling or coercive conduct and the Divorce Act, apart from the fact that it probably constitutes grounds for divorce? How else does it relate to the act?

• (1240)

Ms. Claire Farid: The conduct is not specifically included in the act as grounds for seeking a divorce. The conduct is taken into account when the best interests of the child are being determined in

order to establish parenting arrangements after the divorce. The term is, however, included in the definition of family violence, which is used to determine the best interests of the child.

For example, if the judge determines that the situation involves coercive and controlling behaviour, the judge could decide not to let a parent have contact with the child.

Mr. Rhéal Fortin: As I understand it, the Divorce Act does not include a definition that sets out exactly what constitutes coercive or controlling behaviour.

Ms. Claire Farid: No, “coercive” and “controlling” are the terms used, but they are not defined in the act.

Mr. Rhéal Fortin: They are included in the definition of family violence. Is that right?

Ms. Claire Farid: Yes. They are also included in the factors for determining what is in the best interests of the child.

Mr. Rhéal Fortin: I see.

Ms. Farid, do you have anything to add to what Ms. Levman said earlier about the differences between controlling and coercive behaviour, harassment, violence, threats and similar behaviours?

Ms. Claire Farid: No, I don't have anything to add as far as those definitions and criminal law are concerned.

Mr. Rhéal Fortin: Do you have any words of caution for us, in terms of allowing some latitude for couples' discussions, which can be heated without necessarily being violent?

Clearly, when a person tells their spouse that they want to want to kill them or break their arm, they are threatening assault, and that is not permitted.

How far can it go? Is there anything you would caution us about, or do you think that's unnecessary?

Ms. Claire Farid: The important thing to take into account with respect to coercive and controlling behaviour is whether it constitutes a pattern. In the family environment, it's important to consider not just isolated incidents, but also behaviours that occur over months and years. When incidents occur repeatedly, coercive and controlling behaviour comes into play.

Mr. Rhéal Fortin: Did you read—

[*English*]

The Chair: Thank you, Monsieur Fortin.

[*Translation*]

Mr. Rhéal Fortin: Thank you.

[*English*]

The Chair: Mr. Garrison, for five minutes, go ahead.

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

I want to focus on the link between coercive and controlling behaviour and more severe forms of physical violence. Often when we start this discussion, incidents are cited that some people might regard as trivial. They miss the connection and the pattern of behaviour that leads to further violence.

The most dramatic information I've seen is a study from Australia, which looked at homicides with intimate partner relationships. In a study of 112 of those homicides, they found that 111 cases involved coercive and controlling behaviour.

In a country like ours, where unfortunately, approximately once a week, a woman is murdered by an intimate partner, I think it's very important that we look for tools to intervene earlier.

Is there a possible role for this kind of criminal offence in intervening and preventing more severe forms of violence?

The Chair: To whom is that question, Mr. Garrison?

Mr. Randall Garrison: Perhaps to Ms. Smylie, but also maybe in terms of the literature that was consulted, to the Department of Justice.

Ms. Lisa Smylie: Perhaps, Madam Chair, I'll begin and then pass it over to my colleagues at justice, to comment.

As I have said, the law is certainly outside of my area of expertise, but what I will say is that it points to the patterns that the member has noted in the research, the fact that events do tend to escalate, and the fact that when one woman is killed every seven days by a partner, that isn't the first violence that they have experienced.

Ms. Nathalie Levman: Perhaps I can take the liberty of adding a few comments to my colleague's.

I think your issue relates squarely to the importance of training and risk assessments. Some of that importance appears in the literature that the department will share with the committee for your review.

Regardless of the offences that are in place, if law enforcement cannot detect risk factors early on.... As you point out, quite rightly, sometimes those risk factors are considered what they call "low-level offending", but even though they're low-level and may not even constitute a criminal offence—or even if they do, a less serious one—they may all the same be indicative of very serious offending coming down the line.

That's where training of police officers and risk assessment tools come in, and that issue is highlighted in one of the articles we intend to share with you.

• (1245)

Mr. Randall Garrison: Thank you very much.

I know I'm just about out of time, and so is the committee. I just want to return to something that was raised by Madam Findlay at the beginning.

That is the impact upon children in families in which a controlling behaviour takes place. Certainly I'm no expert, but I've begun to learn a lot about this, and I guess the biggest surprise to me was the very direct impacts upon children who witness this form of violence in their family relationships.

Perhaps I'll turn to Ms. Smylie—and anyone else—concerning the literature on the impacts upon children.

Ms. Lisa Smylie: The impact of this type of violence on children is noted in the literature as varied. It ranges, for example, from mental health impacts—and long-term mental health impacts.... Children show symptoms of PTSD, depression and anxiety. Children also show school disengagement and less success in school, difficulty concentrating.

There also is research that suggests generational patterns of violence. There is research that suggests that children who have witnessed violence sometimes go on to engage in that behaviour later in life themselves.

Mr. Randall Garrison: Madam Chair, I know you're signalling that we're almost out of time. Let me just thank the witnesses today for getting us off to a good start on our study. I really appreciate the contribution they made today.

Thank you.

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

Now we'll go to Madam Findlay for five minutes.

Hon. Kerry-Lynne Findlay: Thank you.

This is such an important conversation. I also thank you for your contributions. Ms. Levman wasn't here when I started, but thanks; it's good to see you again.

Just picking up on the negative impacts of all of this again for a moment first, although COVID measures have been important and necessary, I'm concerned about the unseen consequences. I say unseen, though maybe they're not unseen to those of you who are part of all this for a living, but they are generally in the public mind.

We are hearing, as members of Parliament, a lot of distress and concern about the fallout. It's fine for officials to say things such as "stay home", but while home is a safe place for many, it's not a safe place for the people we're talking about—those who are subject to domestic violence in particular. Addiction and other issues such as that are factors.

We know in British Columbia, where I'm from, that the opiate crisis is very concerning, and deaths from it are up. We hear, at least anecdotally, that suicides are up as well. Pressures and stressors can make these situations even worse, but sometimes they are there just because of the way the perpetrator grew up or has been subject to in earlier life; we know that as well.

You've talked about a lot of money going towards research, data, surveys and analysis, but what about the education of the public in these areas? What would you suggest could be done to make the public more aware that this is something identifiable and that there are options for actions to get away and to heal?

What is being done in the public realm?

• (1250)

The Chair: Ms. Smylie, go ahead.

Ms. Lisa Smylie: With the research investments we've made and the national surveys I've spoken of, what we learned is that people often have not intervened when they witnessed violence because they didn't recognize it as violence. Another reason people noted they didn't intervene is because they didn't think it was serious enough to report. The last, most frequent answer we saw in terms of why people didn't report or didn't intervene is because they didn't know how. What that tells us is that we need to do more in terms of education. We need to educate people on what gender-based violence, intimate partner violence, is and how to recognize it. We need to do more to teach people what resources are out there for help. We need to do more in terms of building people's self-confidence in intervening safely for everyone.

What's under way to do that? Under the federal gender-based violence strategy that I talked about, the Public Health Agency of Canada is investing in the prevention of teen dating violence in particular. In our collaboration with provincial and territorial governments across the country, we have heard of various campaigns that are going on in the context of COVID to educate people on the very things I've noted. Under the federal gender-based violence strategy, the Department for Women and Gender Equality also has things for awareness and education that we're currently working on.

Hon. Kerry-Lynne Findlay: Can I just ask you very quickly, are there any specific programs for indigenous Canadians?

Ms. Lisa Smylie: I'm going to have to get back to the committee on that. The short answer is yes, but in terms of specifics, I will need to come back to the committee, perhaps in writing.

Hon. Kerry-Lynne Findlay: Thank you. I appreciate that.

The Chair: Thank you very much, Madame Findlay.

Last, but definitely not least, we'll go to Mr. Maloney for five minutes. He will be our last questioner for the meeting.

Go ahead, sir.

Mr. James Maloney (Etobicoke—Lakeshore, Lib.): Thank you, Madam Chair. With that introduction, I feel a lot of responsibility here.

First, thank you to the witnesses, as others have mentioned, for the introduction to this very important topic. I used to be involved with the Catholic Children's Aid Society of Toronto, and I've seen some horrific cases that shouldn't be repeated. I learned a couple of things from that. One of the things I learned is that the people involved in the process are heroes and the system is severely underfunded—which is an issue that I suppose we can deal with later.

I have a couple of questions on topics that came up earlier. I know there has been discussion about the Divorce Act and the changes that are coming into force on March 1 with respect to coercive and controlling behaviour. I wasn't quite clear on the context of those changes. With some of what Ms. Farid was saying earlier, the translation went a bit awry, so I'm not sure if I'm asking you to repeat something you've already discussed.

My understanding of the Divorce Act is that divorce is no fault, so I'm not sure how to contextualize that issue. If someone could explain that to me for starters, I would be grateful.

Ms. Claire Farid: I would say that the main way the issue of coercive and controlling is being dealt with under the Divorce Act is its inclusion in the definition of family violence. That definition of family violence is used to determine the child's best interest and we're using the best-interest test in order to determine parenting arrangements, who has parenting time and decision-making with respect to the child.

• (1255)

Mr. James Maloney: That's helpful. I appreciate that.

Because it's a civil issue, the onus is different than in a criminal context. Is that correct?

Ms. Claire Farid: It's a civil onus, and the definition of family violence specifically indicates that there does not have to be a criminal offence for the behaviour to come within the definition of family violence.

Mr. James Maloney: This is a brand new provision that's being included in the Divorce Act next month.

Ms. Claire Farid: That's right.

Mr. James Maloney: Okay.

I'm going to pick up on some questions Mr. Moore had asked about types of behaviour that might support charges of repeatedly and continuously engaging in controlling and coercive conduct. I think he ran out of time when he was asking the question, and it might have been Ms. Levman who was about to answer.

Is there a list of behaviours somewhere that we could find? If so, is it part of legislation or regulation?

Ms. Nathalie Levman: I think that one of your best sources is the U.K. guidance. A few pages in, there is a box that highlights some of these behaviours. They range from isolating a person from friends and family, monitoring their time, etc., all the way to sexual assault, threats, etc., which are criminal offences. That might help you to understand what is captured by this proposed new coercive control offence.

Mr. James Maloney: I'm sorry, is that in the English legislation you are talking about?

Ms. Nathalie Levman: Actually, there is special prosecutorial guidance that helps their law enforcement implement the new law. It's in their treatment—

Mr. James Maloney: But it's there, not here. Okay.

Ms. Nathalie Levman: Yes, it's there.

Mr. James Maloney: All right. There is, then, no similar list of behaviours that are part of this draft legislation anywhere.

Ms. Nathalie Levman: Do you mean of the private member's bill, Bill C-247?

Mr. James Maloney: I mean the private member's bill, yes.

Ms. Nathalie Levman: No, but it is, as the sponsor has explained today, based on and heavily informed by the U.K.'s model, which is why I was directing you to United Kingdom resources, which I think might be helpful for you. The United Kingdom is the first country to have put into place a coercive control offence, and it therefore has the most literature associated with their offence.

Mr. James Maloney: I'm going to run out of time here in a second, and I have one broad question. Could you send us copies of the U.K. legislation and the Australian legislation and answer this question in writing, if you don't mind: how do you think this proposed bill could benefit from those two examples, and what are the similarities?

Ms. Nathalie Levman: What are the similarities between the different—?

Mr. James Maloney: —in the three pieces of legislation.

Ms. Nathalie Levman: —the three that are enacted in the United Kingdom, Scotland and Ireland?

Mr. James Maloney: No, you mentioned an Australian bill as well. I wouldn't mind having a comparison with that one too.

Ms. Nathalie Levman: That's not law in Australia. It's a bill.

Mr. James Maloney: It's a private member's bill? Okay.

Ms. Nathalie Levman: Yes.

You would like, then, four pieces of legislation. Okay.

Mr. James Maloney: Thank you.

The Chair: I will take this opportunity now to thank the witnesses for your very compelling and very informative testimony and for answering questions. We greatly appreciate your being here. We look forward to receiving some of the written submissions we have identified through our members today, pursuant to the questions.

I also want to give a really big thank you to our IT people and interpreters for the challenges they dealt with today, and we still made this meeting work. I really appreciate it

Thanks go to the members also.

Just as a quick reminder before I adjourn, the remainder of the witness list per party is due by the end of the day today, so please make sure you get yours in.

Monsieur Fortin, I see your hand raised. Is it on a point of order?

[*Translation*]

Mr. Rhéal Fortin: No, Madam Chair.

I think we could all get the documents the witness plans to send Mr. Maloney. I see there is agreement. I would like to see them as well.

[*English*]

The Chair: Absolutely.

[*Translation*]

Mr. Rhéal Fortin: When you're done thanking the witnesses, I'd like to deal with my motion. Debate on the motion was adjourned at the beginning of the meeting, so we can deal with it now, at the end of the meeting.

• (1300)

[*English*]

The Chair: Thank you for that.

Just on the first question, the documents submitted by witnesses will be available in your digital binder, and you can access them. The clerk also makes it a point to email everybody the documents that we receive.

With that, thank you to the witnesses.

Mr. Virani, I see that your hand is raised. Is it on the same point?

Mr. Arif Virani: We've had a pretty extensive study this morning, and it has gotten off to a very good start. I would move simply that we adjourn the meeting.

The Chair: That's again a dilatory motion.

Monsieur Fortin.

[*Translation*]

Mr. Rhéal Fortin: I had initially moved that we hear the motion. We can go in order. I see that Mr. Virani doesn't want us to deal with my motion, but it's the committee's job to do so. He can vote against the motion, but eventually, we'll have to discuss it.

[*English*]

The Chair: Mr. Clerk, would you speak to what Mr. Fortin is suggesting?

[*Translation*]

The Clerk of the Committee (Mr. Marc-Olivier Girard): Thank you, Madam Chair.

Correct me if I'm wrong, but Mr. Fortin is proposing that the committee resume debate on the motion he proposed at the beginning of the meeting. If so, it can be dealt with as a dilatory motion as well. It would be put to a vote immediately without further debate or amendment.

[*English*]

The Chair: Just to seek clarity, then, Mr. Clerk, Mr. Fortin's motion is dilatory. It's basically just asking for debate to resume on his motion.

The Clerk: That is correct. It would need to be voted on prior to Mr. Virani's motion, for instance.

The Chair: Okay. We'll call the vote, then.

The motion, so that members are clear, is to resume the debate on Mr. Fortin's motion.

(Motion negatived: nays 6; yeas 5)

Thank you very much.

Now we're going to move on to the dilatory motion presented by Mr. Virani, in which he moved to adjourn the meeting.

(Motion agreed to: yeas 6; nays 5)

Thank you very much.

Thank you, members, and thank you for a wonderful meeting.

The meeting is adjourned.

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