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Chair: Marc Miller



Standing Committee on Justice and Human Rights

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• (1530)

[English]

The Chair (Hon. Marc Miller (Ville-Marie—Le Sud-Ouest—Île-des-Sœurs, Lib.)): Good afternoon, everyone. I call this meeting to order.

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

Pursuant to Standing Order 108(2) and the motion adopted earlier this year, on September 23, the committee is meeting to continue its study on bail, sentencing and the handling of repeat violent offenders.

Today's meeting is taking place in a hybrid format, pursuant to the Standing Orders. Members are attending in person, which is the majority of us in the room, but there are others, particularly witnesses, who may be joining us remotely using the Zoom application.

[Translation]

Before we continue, I would like to ask all in-person participants to consult the guidelines written on the cards on the table. These measures are in place to help prevent audio feedback incidents and to protect the health and safety of all participants, including the interpreters. You will also notice a QR code on the card, which links to a short awareness video.

[English]

I'd like to make a few comments for the benefit of witnesses, in particular. Members have heard this instruction before and are mostly complying.

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

As a brief reminder, all comments should be addressed through the chair. I won't impede the dynamic dialogue back and forth between witnesses and members, but if it becomes a point of respect, I will ask people to direct questions or answers through the chair.

[Translation]

If members in the room wish to speak, they must raise their hand. Members participating on Zoom must use the “raise hand” function. The clerk and I will do our best to maintain the speaking order.

We appreciate your patience and understanding in this regard.

[English]

I want to welcome the first panel. We have a number of people with us.

[Translation]

Rhéal Éloi Fortin (Rivière-du-Nord, BQ): Mr. Chair, were the sound tests done by those attending via Zoom, and were the results conclusive?

The Chair: Yes, Mr. Fortin, the checks have been done and the results are conclusive, until proven otherwise.

Rhéal Éloi Fortin: Thank you.

[English]

The Chair: On our first panel today, for the first hour, we have, in a personal capacity, Kelly Sundberg, professor, Mount Royal University.

[Translation]

From the Assembly of First Nations, we have Terry Teegee, regional chief for British Columbia, who is joining us by video conference, as well as Kyrie Tristary, lead senior director.

[English]

From the City of Winnipeg, we have Scott Gillingham, mayor.

[Translation]

Finally, from the Federation of Canadian Municipalities, we have Matt Gemmel, executive director, policy and public affairs.

[English]

Witnesses have five minutes for their opening statements, followed by questions from the committee.

You don't have to do five minutes, but do keep it to that.

That's it for the opening round. There are some eager members today really wanting to ask you some questions, so if you have opening comments, please do so. I'll leave it up to you to do that now. Thank you.

We'll go in the order of presentation.

Kelly, you will go first, and then we'll go to Terry and Kyrie, Scott, and then Matt.

[*Translation*]

Mr. Sundberg, you have the floor.

[*English*]

Kelly W. Sundberg (Professor, Mount Royal University, As an Individual): Thank you, Mr. Chair.

I'm Kelly Sundberg. I'm a professor at Mount Royal University in Calgary, Alberta. I hold a bachelor of arts in political science, a master's in justice and public safety leadership and training, and a doctorate degree from Monash University in Australia in criminology. I also hold research positions at the University of Calgary, the University of Adelaide's faculty of law, University of East London and, more recently, St. John's University in Queens, New York. I am a former CBSA officer of 15 years, working in inland enforcement, and I also worked here in Ottawa as a senior policy officer for some time during the early 2000s.

My research and my scholarship focuses mostly on issues from street crime through to national and border security and the nexus between all of those components. With respect to my work in security and community resiliency, I represent Canada at the international standards organization before the committees regarding those two issues.

I did provide some notes, because I knew as a professor I could talk for the next 10 hours. Given five minutes is fairly limited, I did provide notes, which should be in your package, to summarize a lot of the key points I'll be making. In all regards, I do see, in looking at the last seven meetings, it's quite clear we already have some very good laws in place. The issue in my mind really comes down to how we enforce those.

When we look at the debate and the concerns of Canadians with regard to a high risk of reoffending or those who are on bail who do engage in subsequent criminal activity and breach their terms, this understandably does cause issues for Canadians. Nevertheless, it's important to note the data shows that, in fact, we put a lot of people into pretrial custody, but we do have some unfortunate incidents.

With regard to the three areas I would be open to speaking to with the members, when we think of the public, a lot of this is a communications challenge, in my view. We have a lot of narrative around the "revolving door", and really the issue is what's on the other side of that door. When they come out, where do they go and what resources do we have?

To this end—and I'll finish it off because I know I only have five minutes and I think I'm down to four—we have to consider bail and all issues in the context that this is the criminal justice system. When we adjust one part of the system, what inevitably can happen is that there's misalignment or a lack of calibration in other sections. When we're looking at major changes to a system, we have to consider the ramifications on other parts of that system.

Thank you very much, and I look forward to your questions.

Thank you, Mr. Chair.

• (1535)

The Chair: Thank you.

It's over to Regional Chief Teegee.

Regional Chief Terry Teegee (Assembly of First Nations):
[*Witness spoke in Dakelh*]

[*English*]

First of all, I want to acknowledge that I am calling from the territory of the Dakelh people, Lheidli T'enneh.

Thank you to the Standing Committee on Justice and Human Rights for the opportunity to speak on this very critical matter.

First of all, I want to be clear: We all want safer communities. We all grieve when we hear stories of violence, lives cut short and families torn apart. For first nations, the crisis in the justice system is not new. It is the direct outcome of generations of systemic racism, colonization and the state police system, which have criminalized our people and eroded our rights.

I won't get into the root causes, the colonial and systemic roots. We all know the issues of colonization and the ongoing impacts of colonization. Despite being only 5% of the population, we're nearly 30% of those who are incarcerated, and there is a need for upstream reform.

As with bail reform and the current system, subsection 515(1) of the Criminal Code of Canada affirms that individuals are presumed innocent until proven guilty. That liberty should not be restricted without cause, but that principle does not hold true for first nations. In practice, first nations people face a presumption of inherent guilt, not innocence. The so-called ladder principle, which requires judges to impose the least restrictive conditions, is often ignored when the accused is first nations.

Homelessness, poverty, trauma, addiction and systemic discrimination make it harder for first nations to meet bail conditions. Lacking a fixed address, surety or access to treatment become grounds for denial, not for support. Gladue principles, which require courts to consider the unique circumstances of indigenous peoples, are often dismissed or inconsistently applied. Expert reports on trauma and mental health are sometimes disregarded entirely. The result is denial of bail, longer pretrial detention and greater pressure on first nations accused to plead guilty simply to regain freedom. This creates a cycle of criminalization that feeds overrepresentation.

At the provincial level, this is evident. Eighty per cent of those in Ontario's jails are on remand, awaiting trial and not convicted. Jail has become a default holding space for people whose real challenges stem from poverty, mental illness and substance abuse. Recent high-profile cases involving first nations offenders reoffending while on bail have prompted public calls for harsher tough-on-crime measures.

These incidents must be examined carefully and in context. Broad punitive reforms risk worsening the overrepresentation of first nations in custody rather than addressing the root causes. We know the underlying issues—trauma, poverty, inadequate housing, poor health, limited education and employment, and a lack of effective rehabilitation. These are the root causes that we must be focusing on, not political responses that further criminalize first nations people.

Certainly, the proposed changes by the Carney government, which were brought forward on October 15, introduce proposed reforms to bail, sentencing and parole, including stricter rules for repeat offenders and tough sentencing for crimes like auto theft and sexual assault. We are deeply concerned about the government's proposed legislation to tighten bail, sentencing and parole eligibility announced without consultation with first nations. These reforms threaten to erode the presumption of innocence and expand reverse-onus provisions, forcing accused persons to prove they deserve bail. For first nations, this is not new, sadly. We already know that we live under a de facto reverse-onus system. These reforms would make it worse.

While tragic cases of reoffending have rightly prompted concern, broad punitive reforms risk deepening inequities and will not address those root causes. The answer to violence is not harsher laws. Rather, it is healing, diversion, prevention and addressing the social conditions that give rise to harm.

I must reiterate, the Assembly of First Nations, the AFN, is deeply concerned over the lack of consultation with first nations leadership and our justice systems.

- (1540)

Certainly I'll get to what needs to be done. I really think that perhaps we must empower our first nations governance to lead on rehabilitation. Transfer ownership and control of healing lodges to first nations institutions to ensure culturally appropriate, culturally grounded, community-based approaches to healing and reintegration.

Reallocate resources to communities. Redirect federal correctional funding to first nations governments and organizations, enabling them to design and deliver justice services that reflect their unique needs and strengths.

The Chair: Regional Chief Teegee, if you could just briefly sum up, the time is at five minutes.

Regional Chief Terry Teegee : I'll get to the last two.

Advance first nations-led justice reform. Collaborate with first nations to codevelop a distinctions-based national indigenous decarceration strategy. Implement the "Ten Years Since Spirit Matters" recommendations, and provide sustained funding.

With regard to diversion and restorative justice, expand culturally appropriate diversion programs and restorative justice initiatives led by first nations.

What we're trying to get to is the root cause. Rather than dealing with a symptom, deal with a disease.

Thank you.

The Chair: Thank you, Regional Chief.

Members will have the opportunity to go deeper into your presentation, if they so choose, with their time—as well as ask Ms. Tristary questions, if you share your time.

Now I'll turn the floor over to Mayor Gillingham.

Scott Gillingham (Mayor, City of Winnipeg): Thank you, Chair Miller, members of Parliament, fellow witnesses, for the invitation to be here today.

I'm proud to serve as mayor of a city with over 850,000 great people, with a great history and great prospects. However, Winnipeg also faces real challenges. Poverty has been concentrated in the same neighbourhoods for over a century, so predators can easily target vulnerable people.

Winnipeg is a strategic rail, road and air hub, making us a convenient transshipment point for organized crime to traffic drugs, weapons, stolen goods and people. For too many years, Winnipeg has also been a violent crime capital. With the right laws and the right strategies, I know we can change that. I know because in the mid-2000s, Winnipeg was North America's auto-theft capital. Governments, police and criminologists worked together to match preventative measures with enforcement targeted at repeat offenders, and we slashed auto-theft rates by 80%.

Winnipeg's new chief of police is Gene Bowers, and he is leading the police service to embrace that same kind of thinking. Winnipeg is a partner with Premier Kinew's government on social and enforcement initiatives to prevent crime. However, in the absence of bail reform, Winnipeg cannot do what we did for auto theft in the late 2000s.

In May of 2023, at my request, the Winnipeg Police Service relaunched a joint warrant unit with the RCMP to target the highest-priority violent offenders. For two years, they have been making an arrest every day on average. However, they're arresting and rearresting the same people.

Four out of five violent offenders arrested by this unit were free on bail, parole or probation. Almost one in five were arrested by this unit more than once. Frontline staff in health care, transit, emergency services and retail are fed up with the threats and attacks from the same familiar individuals day after day.

Bail status isn't always mentioned in police press releases after an arrest, so recently I asked Chief Bowers to provide me with actual cases where repeat offenders were convicted of serious crimes committed while on bail. On September 9, I pledged to release a weekly bulletin on these cases until effective legislation is put in place. So far, I've released two assaults on bail, one attempted homicide on bail and two homicide on bail cases.

In September alone, other bail tragedies unfolded in Winnipeg, including the mass stabbing at Hollow Water First Nation by a man released on bail from a Winnipeg court and the sentencing of an offender who stabbed a man to death in a bus shelter last winter while on bail.

We can do more in Winnipeg and we will.

However, Parliament must offer Canadians decisive help. Parliament can legislate to put public safety at the foreground of bail decisions. Parliament can reform statutory release laws so that offenders are more likely to serve a full sentence for any serious breach of conditions. Parliament can support rehabilitation investments to better break the habit of crime. You can ensure that an offender's prior history of disregard for release conditions is considered before awarding bail with new conditions.

Finally, I'll note that a recent article in a Winnipeg newspaper argued that there is no clear statistical evidence that the bail system is broken. In one sense, I agree. Not enough data is collected and publicly reported. I can only offer a steady stream of individual, actual cases to prove convicted offenders are killing, wounding or victimizing people while on bail.

There's a national wrongful-conviction registry and governments rightly compensate the wrongfully convicted, but our justice system doesn't even acknowledge the moral possibility that releasing habitual criminals to reoffend could be considered wrongful bail. We can't operate as if the victims of preventable crimes by known offenders are just collateral damage to the fairness of our justice system. We need better data on crimes committed while on bail and that data needs to be publicized. We need more transparency to help enforce bail conditions.

In conclusion, we've heard from the federal government that the legislation, much of what I'm asking for here, is imminent. If so, it can't come soon enough. I know I'm speaking with the support of my mayoral colleagues across Canada, certainly across Manitoba, including Mayor Jeff Fawcett of Brandon, Mayor Sharilyn Knox of Portage la Prairie, and Councillor Kathy Valentino, president of the Association of Manitoba Municipalities.

Members of Parliament, we need your help to make Winnipeg a safer city. We need your help to make all communities across this great nation safer for everyone.

Thank you.

● (1545)

The Chair: Thank you.

Next, we have Matt.

Matt Gemmel (Executive Director, Policy and Public Affairs, Federation of Canadian Municipalities): Thanks, Chairman Miller.

[*Translation*]

Good afternoon, everyone.

[*English*]

Thank you to the committee for the invitation to the Federation of Canadian Municipalities.

I want to thank all the members of the committee for prioritizing the study on this important topic. I know this issue is playing out at the local levels in all of your committees. I also want to acknowledge that we have members of the committee who have been elected locally at the municipal level and who understand the realities of municipalities and municipal law enforcement.

I also want to thank Mayor Gillingham for travelling here to Ottawa from Winnipeg to be here today. Mayor Gillingham also served as the vice-chair of FCM's big city mayors' caucus.

Across Canada, municipalities are seeing the same concerning pattern. Individuals with a history of violent offences are being released on bail and committing new offences shortly after. Police services report rearresting the same individuals again and again.

● (1550)

[*Translation*]

This cycle puts enormous pressure on municipal resources.

[*English*]

It diverts local police from other urgent calls, increases pressure on emergency responders and stretches the capacity of limited community services. Ultimately, it leaves residents feeling less safe in their communities.

I want the committee to know that these concerns are being felt in communities across the country, large and small, from the GTA and metro Vancouver to smaller communities like North Battleford, Saskatchewan, or Portage la Prairie, Manitoba. This issue is not isolated or regional. It's national in scope.

Municipalities respect that bail is a constitutional right and that the justice system must uphold the Charter of Rights and Freedoms and the principle of judicial independence. We also recognize, as we've heard today already, the historical overrepresentation of specific groups, including indigenous peoples, in the criminal justice system. However, from the municipal perspective, it's clear that the current bail system and its application are not working as intended and are failing Canadians.

FCM is recommending five steps to improve community safety outcomes.

First, strengthen the Criminal Code for violent repeat offenders. Amendments to bail and sentencing provisions should make it harder for violent high-risk repeat offenders to be released. FCM welcomes the federal government's plan to introduce bail reform legislation later this week, and we look forward to reviewing that.

[*Translation*]

The Federation of Canadian Municipalities also emphasizes that this reform must take into account the reality on the ground for municipalities and police services.

[*English*]

The proposed changes must be paired with the funding, enforcement tools and training needed to ensure consistent implementation across jurisdictions.

The second step involves increased capacity for the justice system, as we've already heard today. Court backlogs and limited judicial resources increase the risk that bail decisions are made without full consideration of public safety. Expanding judicial and prosecutorial capacity is essential to ensuring that bail hearings proceed in a timely way and that decisions are based on evidence and risk rather than on delay or default.

Third, Canada needs better national data and information sharing. Public safety depends on the ability to track offenders across jurisdictions. A national program is needed to collect, analyze and share bail-related data with relevant officials, including compliance rates and reoffending patterns, to ensure that individuals charged in one province are not reoffending in another and treated as first-time offenders.

Fourth, we must improve bail enforcement practices. Enforcement of bail conditions varies widely across the country, which can lead to uneven results and weaken public confidence. FCM, following recommendations by the National Police Federation, is calling for a national study to identify effective enforcement models and tools, and for the federal government to provide the guidance and resources needed to ensure these proven practices are adopted in communities of all sizes and in all regions of the country.

Lastly, as we've already heard today from one of the witnesses, we need to address the factors and the root causes that drive repeat

offending. Many individuals who repeatedly come into contact with the justice system are often dealing with mental illness, addiction or unstable housing. Targeted federal investments in mental health and addiction services, supportive housing and community-based crime prevention initiatives, including indigenous-led crime prevention initiatives, are needed to break this cycle while relieving pressure on police and emergency responders.

In closing, municipalities want to see bail reform improve safety in real terms. Strengthening the Criminal Code is critical, but it must be matched with increased resources for the justice system and frontline tools for our police officers to make these changes work in practice. Municipalities are ready to partner in this effort.

Thank you. I look forward to the discussion.

The Chair: Thank you.

We're going until five o'clock on this panel, so we have a little over an hour and five minutes. We'll probably get well into, if not complete, the third round.

I'll announce the first two. As before, it's six minutes for the first round, and then five minutes for the second, with the exception of the Bloc Québécois, which gets two and a half minutes.

We'll start off with MP Lawton, then MP Maloney and then Monsieur Fortin. In the second round it's five minutes, with two and a half minutes for Monsieur Fortin. It will go MP Brock, MP Dhillon, MP Fortin, MP Baber and MP Lattanzio.

We start off with you, Andrew.

• (1555)

Andrew Lawton (Elgin—St. Thomas—London South, CPC): Thank you to all of the witnesses for taking the time to be with us today.

I'd like to start with you, Mayor Gillingham. You alluded to this in your opening remarks: Explain this bulletin you've had to start doing for repeat offenders, please.

Scott Gillingham: I've been sharing actual historical cases so as not to jeopardize any matters that would be currently before the courts. So far I've released five of them. The information is taken... We're being assisted right now by the Winnipeg Police Service with information on historical cases.

As I said a moment ago, so far, of the five cases I've shared, they're all cases where people have breached their court orders and gone on to commit violent crime. In the first one I released, the final charge that led to a conviction was a carjacking with a firearm assault. That individual had 24 prior violent offences and had breached court orders 12 times. Another individual, convicted finally of homicide, was convicted of eight prior violent offences with nine failures to comply.

These are cases where individuals had been repeatedly granted bail and, while they were out on bail, they were committing more and more crime. From my point of view as mayor of Winnipeg, we need to continue with other mayors to call for the kinds of changes that will prevent that from happening in order to protect individuals, businesses and community members from that kind of repeat violence by individuals who have a history of disregarding their bail conditions.

That is at the heart of what I'm hoping we see changed in the upcoming legislation.

Andrew Lawton: You've been speaking in your comments specifically about repeat violent offenders. You mentioned one case in Manitoba at the Hollow Water reservation. Someone who stabbed his sister and injured seven others was out on bail at the time. It was a truly horrific case.

There is also an issue with non-violent offenders who are subject to the same revolving-door bail system. I was hoping you could speak to the effect that has on public safety and on businesses. I know that this is something that's often not been spoken about by witnesses here, but it is a predictor of violent criminality. People who may be out on bail for repeat vandalism or arson are then arrested the next time for something violent. Is this something you're seeing in Winnipeg?

Scott Gillingham: We are. One of the cases that we talked about recently was that of an individual who was involved in a theft and was confronted by a security guard, and that turned violent immediately. A weapon was produced. What started as a theft turned out to be another violent incident.

When members of my community talk to me, it shows that they're losing faith in the justice system when they see the same individuals, either repeat violent offenders out on the street committing more crime or those involved in theft, over and over again. A letter to Minister Fraser was put together by Mayor Knox of Portage la Prairie; Mayor Fawcett of Brandon, Manitoba; Kathy Valentino, the head of the Association of Manitoba Municipalities; and me. We said to Minister Fraser that we can't ignore the small things, because the small things become the big things if left unchecked.

I am all for diversion. I'm absolutely for rehabilitation, but when there are violent incidents, we need to use all tools possible to separate the perpetrators from their potential victims. For those who have a history of disregarding their court orders who we think will go on to likely or quite possibly repeat a violent offence, we have to use whatever tools possible to separate those individuals from the public.

Andrew Lawton: Thank you.

Mr. Gemmel, you mentioned that this is a national issue. This tracks with what I've been hearing. There is no city, town or community that is unaffected by this in any province, be it northern, southern, French, English, large, small, urban or rural. You said very clearly that it's a national problem.

The Liberal members on this committee have been trying to put a lot of the blame on provincial governments, saying that our issues are really with provinces here. You're saying that this is a national issue. You're saying that there is federal legislation that is needed to solve this bail problem.

Matt Gemmel: Certainly we see this issue as national in scope. FCM represents 2,100 municipal governments of all sizes in every province and territory. We are hearing about this issue from members and communities of all sizes and in all regions.

In terms of the responsibility to address this, it's clearly a shared responsibility. There's a role for the federal government and for the provinces and territories. On the policing side, there is clearly a role for municipalities. Municipalities are saying that local law enforcement have their hands tied. They're not able to address this issue without further changes to the Criminal Code and without further changes improving the capacity of the justice system at the provincial level. There is a shared responsibility there, and we are looking for leadership from the federal government.

• (1600)

Andrew Lawton: When you hear from municipalities—of course, they're dealing with police service boards and they're dealing with police chiefs—they're drawing a line between largely, in the conversations I've had, Bill C-75 from a previous Parliament on this...and that included the principle of restraint, this idea that offenders need to be released at the earliest opportunity under the least onerous conditions.

Does the FCM support repealing the principle of restraint from the Criminal Code?

Matt Gemmel: FCM doesn't have a position on that specifically. Our focus has been on strengthening the Criminal Code to make it harder for repeat violent offenders to be released on bail. We don't think that's currently happening. There's evidence to suggest that it's not happening now and that changes are needed to make that more difficult.

We also think there's a role for the federal government to play in terms of gathering and compiling data and providing guidance to the provinces on best practices for making decisions on bail and monitoring bail conditions. It's a risk-based model. The approach needs to be based on the best available evidence.

Andrew Lawton: Thank you.

The Chair: Mr. Maloney, it's over to you for six minutes.

James Maloney (Etobicoke—Lakeshore, Lib.): Thank you, Chair.

Thank you to all our witnesses.

To pick up on some of the things Mr. Lawton was talking about, there is this issue about federal, provincial and municipal jurisdiction. One of you, not all of you, alluded to it. There's too much finger pointing going on.

Mayor Gillingham, I'll start with you. I saw you on TV on the weekend. I heard you talk about your bulletins, as you have today. You've issued five bulletins. Am I correct in assuming that these five bulletins were used to highlight the really bad cases out there, and that this is why we need the system reformed and we need some fixes to take place?

Scott Gillingham: They certainly highlight historical cases where tragic consequences to breaching court orders have been the outcome.

James Maloney: Okay. Thank you, but that doesn't capture the entirety of the bail system or the entirety of the criminal justice system.

I also heard you say the other day, I believe on Sunday, the same thing Mr. Gemmel just said—that there's a requirement for coordination between all three levels of government. Mr. Lawton tried to suggest that the federal government is pointing fingers at the province. It's quite the contrary, in fact. What we're trying to do is have a reasoned, responsible discussion with all three levels of government: This is our part of the equation. That's your part of the equation. This is what I can do. This is what you need to do.

This is what takes me to the data point. Look, the federal government's responsibility is the Criminal Code. Let's face it. That's our part of the equation. The administration of the justice system is the province's responsibility. You gave an example of auto theft going down as the result of coordination in collecting data. Right now, we don't have that data.

Mr. Gemmel, you suggested that maybe the federal government plays a role in that. I'd like to know what you think the federal government can do in light of the fact that... I'm from Ontario. The Province of Ontario appoints the judges who do bail hearings, hires the Crown attorneys, builds the jails and so on. They're the ones in possession of all the information from which we can gather this data we don't have.

How do we get the provinces on board? Manitoba, I think, might be a good example.

Mr. Gemmel, I'd like you to suggest to me how you think the federal government can play a role in gathering that data.

Scott Gillingham: Are you starting with me?

James Maloney: Sure.

Scott Gillingham: I think you heard from at least three of us here—the professor, Mr. Gemmel and me—that we agree that there's a part for each level of government to play. As mayor, I have a role to say that my community is not safe enough, because too many times we have repeat violent offenders breaching their court orders, but we all agree that there is a role for everyone to play.

We're making more investment as a city in police resources and going upstream as well. We're making investments in young people and in crime prevention through investing in recreational services for young people in high-needs areas. We have to remove the choke

points, synchronize and have “calibration”, the word that the professor used and that I agree with. If we need more investment in Crown resources by provinces, then that needs to happen. If we need more investment in rehabilitation while people are incarcerated, which I'm calling for, that needs to happen.

For sure, every level of government, including the municipal level, needs to do their part to make sure our communities are safer. That's the principle. We need justice for victims. We need safer communities. We need the public across this nation to be confident, once again, that the justice system is working.

• (1605)

James Maloney: I think everybody in this room agrees with that thought, but the negative rhetoric and the fearmongering doesn't help that. Facts matter. This alignment issue takes me to my next question.

Professor Sundberg, you talked about a misalignment or a lack of collaboration. This is exactly what we're talking about, because if one level of government takes steps and the other two don't do their part, the system could run into a whole new set of problems. Is that what you meant by that?

Kelly W. Sundberg: Yes, and I think that, when we consider the number of independent players within this at the municipal level and then going to the provinces and the territories and then to the federal government and, within the federal government, the different parts of our justice system, it becomes very difficult to adjust or apply goals and ambitions with regard to addressing the ills of our society at a national level with one approach. I would agree with the mayor and with the municipalities that the federal government does play a critical role.

I think you raised a really important part of that, which was that facts do matter, but I think one of the frustrations from the academic world, from municipal governments and from others is the difficulty in getting coordinated statistics in a timely manner. We have the capacity, and I agree with you that we have all these different sources of data, but—

James Maloney: I'm going to interrupt you, because I think we're in agreement here.

You said something else that I want to go to Mayor Gillingham about. You said that we have good laws in place, and the issue is enforcement.

Kelly W. Sundberg: That's correct.

James Maloney: Mayor Gillingham said we need new laws. If the law reform that's going to happen imminently, according to the Prime Minister's announcement the other day, does certain things, what happens if the...? We don't have data on the existing system. We don't have the data Professor Sundberg's talking about right now. I believe we have good laws in place right now, too.

On the principle of restraint notion, nowhere in the Criminal Code does it say that someone who's been convicted of three previous crimes, no matter how heinous they are, should be released. Without that data, we can't move forward in a positive way. The federal government's doing its part, so what I'm asking you to do is to become vocal on the provincial component of this aspect, which I think is what Professor Sundberg is talking about.

The Chair: The time is complete. Maybe another member will follow up to allow you to spend a few minutes on that, Kelly.

I have to give it over to Monsieur Fortin.

[*Translation*]

Mr. Fortin, you have the floor for six minutes.

Rhéal Éloi Fortin: Thank you, Mr. Chair.

Thank you all for being here with us today.

I kind of agree with Mr. Maloney. I also took from Mr. Sundberg's testimony that we have good laws, but the way they are applied is problematic. My question is about conditional release.

Currently, when detainees appear before a judge within 24 hours of their arrest, they are presumed innocent. The judge will release them unless the Crown determines that they will likely not appear at their next court date, that public safety requires that they be detained or that their release would bring the administration of justice into disrepute. These criteria have been upheld by the Supreme Court, and there has always been a kind of presumption that they were sufficient. Now we want to reconsider that.

In your opinion, what should be changed? Are these criteria sufficient? If not, what criteria should be added?

Mr. Sundberg, I'll start with you.

[*English*]

Kelly W. Sundberg: I think this is an excellent question.

When we look at what's being proposed, I think we need to consider reverse onus specifically as being a tool we use as a scalpel as opposed to a hammer. When we use a scalpel, we need to have the individuals who are using that tool to have the information, the skills, the training and the resources in order to make the best decisions. What I see has happened is that...and with respect to thinking around why individuals are breaching their bail and what the big root causes are, I think we're all in agreement across all aspects of that. The reality is that the biggest part of this is that we have vulnerable people. As the regional chief rightfully pointed out, we have a very significant indigenous population, which—

• (1610)

[*Translation*]

Rhéal Éloi Fortin: I'm sorry to interrupt you, Mr. Sundberg.

Did I understand correctly that the problem is how the courts apply these criteria?

[*English*]

Kelly W. Sundberg: I do think the application by the courts needs to be more surgical in its approach.

[*Translation*]

Rhéal Éloi Fortin: Mr. Gillingham, I'd like to hear your answer to the same question.

In your opinion, should some of these three criteria be changed, or should others be added? On the contrary, are the criteria sufficient and, as Mr. Sundberg says, the problem is rather their application or interpretation by the courts?

[*English*]

Scott Gillingham: I appreciate the question.

My focus as mayor is to tell the facts of the story I'm seeing on my streets. I would remind us all—I know everyone is aware of this—that every time we have a violent offender who breaches court orders, not only is there a threat to the public but there's a threat to our frontline police officers and other emergency services members as well.

The specifics of what aspects of federal legislation would need to be tweaked or adjusted, that is the specific role, of course, of parliamentarians and the corresponding provincial elected officials as well. I say that with respect.

[*Translation*]

Rhéal Éloi Fortin: Thank you—

[*English*]

Scott Gillingham: What I'm telling you is what is happening on the streets of Winnipeg: what I'm feeling from the public, what my police officers and police chief are saying, and what off-record Crown attorneys and even judges are telling me. I'm here to call for that.

Thank you.

[*Translation*]

Rhéal Éloi Fortin: Excuse me for interrupting, Mr. Gillingham. I understand your message.

Mr. Gemmel, I'd like to ask you the same question.

Matt Gemmel: Thank you for your question, Mr. Fortin.

[*English*]

In short, our answer is that it's both and more. We do need changes to the Criminal Code. FCM isn't recommending—

[*Translation*]

Rhéal Éloi Fortin: What changes need to be made?

[*English*]

Matt Gemmel: FCM isn't recommending specific changes. We have two principles that we're advancing. The first is that changes to the Criminal Code would make it harder for violent repeat offenders to be released on bail.

[*Translation*]

Rhéal Éloi Fortin: How? I want it to be harder, but how? The three criteria in place have seemed sufficient to everyone so far.

We can change them; that's why we're here, but tell us what should be changed.

[*English*]

Matt Gemmel: We don't have a recommendation for a specific change.

The second principle we're advancing is that these are evidence-based decisions, both for changes to the Criminal Code and.... To answer the second part of your question, there is an issue in the application of the current law or if the law is changed. Judges need to have better data and better tools to be able to make evidence-based decisions to determine the risk of repeat offences.

[*Translation*]

Rhéal Éloi Fortin: Thank you, Mr. Gemmel.

Currently, statistics show that 72% of people held in our prisons are awaiting trial. That leaves only 28% who have been convicted.

In a system where there is a presumption of innocence, that seems a bit problematic to me. Perhaps I'm being alarmist.

What do you think, Mr. Sundberg?

[*English*]

Kelly W. Sundberg: That is a very good point because we're talking about that roughly 30%. When we consider, as we've been saying, what some of the tangible changes are that we could make in the legislation and what the touchpoints are, we have to think of bail as not just a point in time but a period of time. When we consider how bail is carried out, there have to be provisions to compel monitoring and intelligence-led policing on that monitoring and resources—and not just the enforcement resources but the community resources.

Where the frustration comes is that, when we think of bail, we often think of it as one point: You get bail. However, bail really is a protracted process where we need to ensure the compliance—forcing and compelling compliance and monitoring compliance along the process—and if there's a breach of that compliance, there has to be a consequence. I believe where we've fallen short is by thinking about it as a point in time as opposed to a process or a period.

• (1615)

[*Translation*]

Rhéal Éloi Fortin: Thank you, Mr. Sundberg.

[*English*]

The Chair: Thank you.

Larry, you have five minutes.

Larry Brock (Brantford—Brant South—Six Nations, CPC): Thank you, Chair.

Just when I thought that the Carney Liberal government could not be more out of touch on this particular study, we have Mr. Maloney, the current Liberal caucus chair and former parliamentary secretary to the minister of justice in the last Parliament, accusing Conservatives and other advocates of fearmongering. I couldn't see anything more out of touch than that when you've had, for the last four years, mayors such as you, Mr. Gillingham, premiers of every province and territory, police chiefs across the country, police association presidents and victim advocacy groups all pleading and begging with the Liberal government to wake up to the reality on our streets that victims and Canadians are terrified. Those are the facts. They read about and see, every single day, example after example of people committing violent crimes while out on bail.

Mr. Maloney says that facts matter. He needs to read the paper. He needs to follow what's happening in the media, because that's exactly what is happening.

Then he has the audacity to say we have good laws. If we had good laws, we wouldn't be in the situation we are in right now. We have a situation called principle of restraint, where, regardless of the offence you commit, regardless of the number of releases you're on, regardless of your criminal record that shows a history of breaching bail and a history of committing the same offence over and over again, the Liberal government directed and instructed judges to release the accused at the earliest opportunity on the least restrictive conditions.

That, folks, is the origin—

James Maloney: I have a point of order, Mr. Chair.

If Mr. Brock is going to make accusations and suggest that he's relying on facts, I suggest that he does it himself.

Larry Brock: That's not a point of order, Mr. Chair.

James Maloney: The Liberal government has never instructed a judge in my experience, ever.

Larry Brock: Chair, that is not a point of order.

The Chair: It may or may not be a point of order.

You have three minutes left.

I assume that you have a question, because the principle of restraint obviously—

Larry Brock: Oh, I do. I have several.

The Chair: Please get to it.

Larry Brock: If we had good laws, we would not be here today studying this issue. We've heard from the Prime Minister, from Carney and from Justin Trudeau, and we've heard from former justice ministers, saying how sound our bail laws were and that the whole concept of fear is simply in our heads. Former justice minister Arif Virani indicated that, and he's a former Crown attorney.

If we had those laws, we wouldn't be hearing from the Liberal government now saying that they're finally waking up to reality. They say that they have been listening and that they are going to be introducing bail legislation sometime this week. We've been hearing that for literally the last seven months.

I've identified the elephant in the room, and it's the principle of restraint. We have a bill already tabled in the House of Commons, the jail not bail act, that seeks at its principal core to replace the principle of restraint when it comes to repeat violent offending and replacing that with the principle of protection and community safety.

How does anyone feel about that as a tool to ensure that repeat violent offenders are detained in custody where they belong?

The Chair: One of you can answer, because there is only a minute and 20 seconds left.

Kelly W. Sundberg: That's a good point. In my mind, this is like when I talk about using a scalpel and taking evidence-based approaches.

The concerns that many Canadians have in looking at one of the root causes, especially with our first nations Canadians, with our indigenous Canadians, is that they are disproportionate within our systems. Ten years ago, we made a commitment as a nation to address the challenges that exist in these communities. Had we followed through with more than 13 out of 90-odd calls to action and if we had increased our investment in our first nations communities, we wouldn't see the numbers and we wouldn't see the recidivism.

With any bail program, we need to have a very calculated, evidence-based approach going into bail, but, as I said, in that trajectory of bail, we need to have resources in place. I believe that those resources come from the federal government. The federal government has an obligation, especially to first nations people, to ensure that they have the supports and that their communities are reaching health, vibrance and opportunities.

We're not seeing that to the same degree across the country. I know that there are some good success stories that we've seen in Alberta with Oxford House and others, but in my mind this is where we fall short in considering the process of bail, monitoring and enforcement while monitoring.

• (1620)

The Chair: Thank you, Mr. Sundberg.

Ms. Dhillon, you have five minutes.

Anju Dhillon (Dorval—Lachine—LaSalle, Lib.): Thank you, Mr. Chair.

My question will be for Mr. Sundberg. Right before you were cut off previously, you were speaking about bail being a protracted process. Can you please elaborate a bit more on that?

Kelly W. Sundberg: What I mean by this—and I think it ties in with what the mayor, the community association and the first nations community would all agree—is that, when we think of bail, there is the point when the decision to grant bail is made, but that is one point in the process. What I'm talking about is ensuring that the legislation clearly compels the compliance route, the period on bail, and that there are both the enforcement and social and health resources we need to give individuals, who, rightfully, are considered innocent until proven guilty—a hallmark of our justice system. To ensure that balance with public safety, I would suggest there has to be a very mindful inclusion, within the legislation, to monitor and to ensure supports are in place and that, when conditions are breached, there is a quick response.

To that point of collaboration, we don't have the resources. We see our municipal police services and probation officers are understaffed and overworked. With regard to the issues in our communities, there is this belief in this obvious.... I did an article in the Calgary Herald on this, with regard to what we call the "dark figure of crime". There's a reported crime, but then there's the crime that oc-

curs and isn't reported. If we don't have the data or the means of collecting that data, we can't make sound decisions.

Again, this is the point of how. When you go into the bail system, I believe it must be done surgically and in a manner that ensures we're getting it right. We know the people involved. We already know who these people are and what they need, and we need to coordinate the resources, including enforcement. It has to be a central component to this.

However, if we had followed through, as a nation, on the promises to our first people, I would hypothesize we would not be in the situation we are in today. At the end of this, as I put in my notes, when we look at how drugs and addiction, at the street level through to our borders, this is also fuelling the problem. The majority of people who engage in crime, get in trouble and need to be on bail tend to be in that situation because of addiction—and mental health, but largely addiction.

This is, again, the point of ensuring that this is a system where the justice system works with the health system, the education system and all the others. If we tweak one wrong part, we can misalign in other areas. I believe that's what we see, an across-the-board misalignment within our justice system today.

Anju Dhillon: Something my colleague, Mr. Maloney, said, was about how there are no bail laws right now in the Criminal Code that would favour a repeat offender coming out over and over again.

Your time had run out before, but could you expand on that, please?

Kelly W. Sundberg: Thank you.

I'll phrase it this way: I think our laws are good. I'll give them a B minus. We need to move into the A range, but we're not there yet.

I believe this committee's work is very crucial, because we have a significant issue. There is no denying that there are significant problems, but problem-solving cannot be based on rhetoric or ideology. It needs to be based on evidence, the interests of the victims of crime and also the notion that those who are on bail are innocent until proven guilty. That is a cornerstone.

The Canadian Bar Association, as I note, did a very good job in addressing those concerns. Do we need reform? Yes, we do. Do we have a problem? We absolutely have a problem. How are we going to approach it? We need to approach it not as a point in time but an entire process, so that mayors don't have to use the resources of cities, which aren't getting the federal funding they need, to ensure both supports and services.

Again, it comes down to following through on the promise we made to our first nations people in this country, because when you see that statistic, how many young indigenous people are the ones in this system, we need to come together, as a nation, and follow through and ensure that we address these root causes. It needs to be surgical. It can't be a sledgehammer, but a surgeon needs to have the tools and training to do it right.

• (1625)

The Chair: Thank you, Professor Sundberg.

Anju Dhillon: Thank you so much.

[*Translation*]

The Chair: Mr. Fortin, you have the floor for two and a half minutes.

Rhéal Éloi Fortin: Thank you, Mr. Chair.

Thank you, witnesses.

I would really like to talk about this for longer, but there is a time limit. I'm going to move on quickly, because I only have two minutes.

Earlier, I was talking about the three current criteria. For the Crown to keep people in prison when they have not yet been found guilty, it must establish that they may not show up for their trial, that it is dangerous to public safety to release them or that their release would bring the administration of justice into disrepute.

Let's take the case of repeat offenders, people who have already been convicted once, twice or three times. In those cases, would it be possible to consider a reversal of the burden of proof?

Let me explain. Rather than the Crown having to prove the criteria, these people could be asked to prove that it is not a problem for them to be released because they will show up to their trial, that they are not a public danger and that it will not bring the administration of justice into disrepute.

In your opinion, would that partly, albeit not completely, solve the current problem?

[*English*]

Scott Gillingham: Thank you for the question.

One of the things that I'm calling for on behalf of other mayors is indeed that we ensure that the offender's prior history of disregard for release conditions be considered before awarding bail with new conditions. Also, a little further, Parliament can reform statutory release laws so that offenders are more likely to serve their full sentence for any breach of conditions.

One of the aspects of the Charter of Rights and Freedoms is certainly to maintain the public's confidence in the justice system.

[*Translation*]

Rhéal Éloi Fortin: I'm sorry, but I have to rush you because I only have 30 seconds left.

Mr. Sundberg, I'll ask you the same question. Could reversing the burden of proof be useful?

[*English*]

Kelly W. Sundberg: Yes, it would. I agree with the mayor's position. I just want to add one important component to this. We need to think of non-citizens who fall into this process also. I do think that, when we consider bail, we have to consider a number of factors. One of those is whether this individual is a citizen, a permanent resident or a visitor to our country. That is one very big issue, but it's one that I think we'd be remiss.... As we talk about the ele-

phant in the room, this is one component that is very important, but I would agree with the mayor's position 100%.

[*Translation*]

Rhéal Éloi Fortin: Thank you.

You feel that it's important. Obviously, in 30 seconds, it's not possible to delve any further.

The Chair: Thank you.

[*English*]

Next is MP Baber for five minutes.

Roman Baber (York Centre, CPC): Mr. Sundberg, you're a professor of criminology specializing in migration and border security. Under the Liberal government, transnational gangs are finding a home in Canada.

Could you please tell us a little about how the Liberal government's border policies are responsible for bringing more drugs and gangs into Canada?

Kelly W. Sundberg: That's an excellent question, and thank you for asking it. One of the issues.... When we think of bail and how this nexus works, when we fail to screen those who come into our country on a temporary or a permanent basis, and when we don't have the resources to identify the possible reasonably foreseeable threat that some may pose, then we will have individuals in our country who will engage in criminality. We have a very concerning level of organized crime that has taken root in our country from coast to coast.

A lot of these, including cartels from Mexico and elsewhere, are the groups that feed on the individuals who are committing the offence. When we think of where the drugs are coming in from that these individuals, these poor people who are engaged...we have to address organized crime.

• (1630)

Roman Baber: It sounds to me like you're not just talking about border security. You're talking about the Liberal immigration policy that is responsible in part for these drugs and gangs coming into Canada.

Kelly W. Sundberg: Again, this is one system. When we think of criminality and we have individuals who come to our country with the intent of engaging in criminal enterprise, they are of course going to target the most vulnerable in our society. This is a tragedy for us. There is a nexus between good immigration policy, good immigration enforcement and public safety as it relates to bail—absolutely. That's why I would urge the committee to consider the notion of who is getting bail, not just the situation that got them there but whether they are a citizen, a permanent resident or a visitor. That's an important consideration.

Roman Baber: Thank you, Professor.

I want to follow up on this, because this is a study not just about bail but about sentencing as well.

Kelly W. Sundberg: Yes.

Roman Baber: I'm not sure if you're familiar with the fact that we're seeing sentencing decisions right now where judges factor in the residency or immigration status of the accused and are purposefully reducing their sentences in order to help their immigration cases. I find that to be outrageous.

Kelly W. Sundberg: I would agree with you. I think it's foolish and it's dangerous. It's unfair.

At one point, I believe we have to consider what sovereignty and citizenship mean. I believe that when we have individuals who come to our country, it is a privilege. We are a great nation. The vast majority of those who come from abroad and live here are law-abiding, hard-working Canadians, but because of lax border security and a lack of screening, we have seen a significant criminal element that has taken hold in our country, engaging in the importation and exportation of drugs and threatening our communities.

Roman Baber: Thank you, Dr. Sundberg.

Specifically, to follow up on my point, I'm not sure if you're familiar with MP Michelle Rempel Garner's Bill C-220, which actually seeks to prescribe that a court or a judge may not consider the immigration status of the accused when sentencing and potentially lessen their sentence in order to not compromise their immigration case.

Is that something you'd be willing to support?

Kelly W. Sundberg: When we consider the role of non-citizens in our justice system, we have to also consider that they have the right to be presumed innocent as well.

Roman Baber: I'm sorry, but we're talking about sentencing. That means they already were found—

Kelly W. Sundberg: Once they have been sentenced, we must ensure that non-citizens who are sentenced for crimes in our country... The Immigration and Refugee Protection Act has provisions in it already, and the important part is that we enforce those provisions.

The crazy thing is that there is no connection between the docks in the courts in cities across our country and the immigration department, so you could have individuals who are non-citizens who are sentenced and fall through the cracks and remain in Canada.

Roman Baber: Professor, I'm an immigrant to Canada. I immigrated to Canada 30 years ago, and I believe this citizenship to be so wonderful. It's like winning the lottery. If you have an accused who has been convicted and their sentence is potentially compromised in order to further their immigration case, I find that to be astonishing and reprehensible.

I thank you for your testimony.

The Chair: The time's up.

Ms. Lattanzio, you have five minutes.

Patricia Lattanzio (Saint-Léonard—Saint-Michel, Lib.): Thank you, Mr. Chair.

My questions will be directed for this part to Chief Teegee.

Among the challenges facing the indigenous communities, as you highlighted in your opening remarks, are overincarceration and

limited access to legal resources. We know that those are managed provincially, Chief. What changes to provincial practice or funding models would have the most immediate impact on improving the justice outcomes, according to you?

• (1635)

Regional Chief Terry Teegee: A good example is here in British Columbia. We had a lot of resourcing from the provincial and federal government, and we have 16 justice centres in and around British Columbia that help and resource a number of our first nations people, and other people, as a matter of fact, to allow them to have fair representation in the court system.

It's disappointing that I'm hearing everything I'm hearing from this committee, because, quite simply, you're talking about a lot of the issues in the context of your communities and that it's a federal, provincial and municipal issue, but it's a first nations issue too. These decisions that you're making in this room affect 634 communities and over one million people of first nations descent. You're making a decision here that is going to perhaps adversely affect our governance. It's really important—I get it. The thing is that it's not just those three levels of government. There are first nations governments that need to be involved in part of the solution.

I couldn't agree more with the comments of the professor. I could not agree more about the lack of resourcing and funding over many years. This could all have been avoided, certainly in the 10 years from 2005 to 2015 when there were massive cuts to funding from the Conservative government. There were a lot of cuts in the resources that many first nations get.

Further to that, what we need to see is more resourcing for mental health and addictions. What these justice centres do in British Columbia is allow for provisions for diversion. We can't see this revolving door. We're going to get the same result again and again. That's what these justice centres do. They help, support and allow our first nations to have the resourcing and, perhaps, even a cultural perspective on how to get out of this revolving door.

The other comment is that there is a direct relation. I know I have talked about colonization and about residential school. There is a direct relation for many of our young indigenous people from the current child care or foster care system to these jails. There's a direct pipeline for many of our people who are really vulnerable. This is why we get overincarceration rates. We're seeing it. We need more data, but I guarantee that you see it everywhere. Certainly a big part of this across the spectrum, and not just first nations, is the issue of poverty. The ongoing issue of poverty is something we're going to see more and more. Access to homes in urban centres and back in first nations communities is an ongoing issue. Some of these are issues we've seen historically in our communities, literally 10, 20, 30 and 40 years ago. You're actually dealing with some of the issues our people were dealing with.

I'm glad to finally answer some of these questions, because what you're talking about is going to affect our people. You're making decisions on our behalf, and it's going to adversely affect us.

Thank you.

Patricia Lattanzio: Speaking of data, Chief, how important is it that the governments collect and share disaggregated data to track whether reforms are making a real difference for indigenous peoples and communities?

What do you suggest we do with the data you may have on hand or that these centres in B.C. may have on hand?

Regional Chief Terry Teegee: We know for sure there's an over-incarceration rate. We make up 30% of the population.

Bail reform is a real knee-jerk reaction. It's not going to solve the issue. There's certainly going to be a lot of people denied bail. Perhaps more jails will be filled. What are we going to do? Are we going to become the next United States and build more jails? It's really becoming a holding place for many of our people. There's a long waiting line in the justice system for many of our people, or anybody for that matter, to get their day in court. When you're reacting and having this bail system, it's going to affect something elsewhere and it's going to put more pressure on the justice system, which is overtaxed and overburdened already.

You have to be really careful about what you're changing here. I would rather try to resolve the disease instead of the symptoms.

Thank you.

• (1640)

The Chair: Thank you.

We'll have enough time for three more rounds of questions, starting with MP Gill, followed by MP Chang.

[*Translation*]

Then it will be Mr. Fortin's turn to speak. He will have two and a half minutes.

[*English*]

Then we will do the changeover to the next round of witnesses.

MP Gill, it's over to you.

Amarjeet Gill (Brampton West, CPC): Thank you, everyone, for coming as witnesses.

Mayor Gillingham, in your time representing Winnipeg, would you say that the current bail system has failed cities like your own?

Scott Gillingham: I had information from the police service just before I came to Ottawa. I'll just share that to answer your question.

In 2024, while total crime in Winnipeg decreased, the number of crimes involving a breach of bail, probation or other similar court order increased for a third year in a row. In 2024, there were 5,561 crimes involving a breach of bail, probation or other similar court orders, and that's an increase of 9% over the previous year. In the first half of 2025, actually, from January to August 2025, that upward trend continued, increasing 50% over 2024.

The number of breaches or the percentage of breaches is not going down, and I would say again what I highlighted. I campaigned on this, and when I was elected, we re-established the partnership between the Winnipeg Police Service and the RCMP for targeting repeat violent offenders in a joint arrest warrant unit. On average,

they've arrested over 800 people in just over two years. On average, that's almost one arrest a day.

I'm hearing what other witnesses are saying as well: It's not just about catching people and putting them away and throwing away the key—not at all. It's also about making those investments in rehabilitation.

However, right now, repeat violent offenders who are threatening our community need to come off our streets.

Amarjeet Gill: How immediate is the need for action on bail reform, in your view?

Scott Gillingham: It's very immediate. I think it speaks to the group of us who are here today as witnesses. It speaks to what the Prime Minister announced and signalled last week. I look forward to the legislation and the details of the legislation that are coming this week.

Amarjeet Gill: In your view, has the government's hesitation to support Conservatives' bail reform proposals put political interests ahead of public safety?

Scott Gillingham: I'm sorry; could you repeat that, please?

Amarjeet Gill: In your view, has the government's hesitation to support Conservatives' bail reform proposals put political interests ahead of public safety?

Scott Gillingham: We do see that the government has announced that legislative changes are coming. The opposition has been calling for legislative changes and the public has been calling for legislative changes, so I think we're at the place now where we're having this discussion, which is really important.

Bear in mind as well that too often, some of the most victimized are the most vulnerable in our community. We struggle with this, as was said a moment ago by the professor. We struggle with homelessness in our communities, with people who are struggling with addictions. Often it's those individuals and that population who are victimized by some of these individuals who continue to repeat.

My opening comment was to please put public safety at the forefront of bail decisions.

Amarjeet Gill: How does the current bail system create burdens for municipalities in terms of policing, victim support and public safety?

Kelly W. Sundberg: The burden falls in a number of areas.

When we're not addressing the root causes, when we're not ensuring that people have the supports they need, when people are released on bail and are then left to their own devices without monitoring, without supports in place, while there needs to be an enforcement component, it's that social support that needs to be in place.

As a key point, there really are four levels of government we're talking about here, and the resources for an urban centre or a suburban centre are going to be different from what they are for a rural or northern community.

When we think of the challenges we already have in ensuring the administration of justice in our rural communities and in our north, especially within first nations communities, then when someone goes through that trajectory and they're released on bail or they're on that trajectory or they're serving their sentence in the community, it is critical that we think about the need to have healthy communities.

We have to have supports for the cities, and it can't be done in the manner that we're doing it. We've seen the disaster that resulted on the west coast. In my mind, we've seen some really dangerous laws and approaches that have been taken over the last while. We have to pull that back.

It's one thing to have laws, but it's a whole other thing to enforce them and administrate them.

• (1645)

The Chair: Thank you.

MP Chang, you have five minutes.

Wade Chang (Burnaby Central, Lib.): Thank you, Chair.

My first question will be directed to Chief Teegee and Ms. Tristary.

The federal government has strengthened bail provisions for repeat violent offenders while requiring judges to consider the circumstances of indigenous accused.

What steps can the provinces and courts take to ensure that this commitment is implemented consistently and effectively?

Regional Chief Terry Teegee: One of the provisions that is provided by the court system is Gladue reports and understanding the context of the first nations perspective, especially those first nations.... There are very young ones who are caught within the system. We're trying to stop this revolving door with regard to offering rehabilitation and, perhaps even more so, getting out of gangs.

Mr. Sundberg has it right. Our most vulnerable are the ones who are being victimized in terms of why some of these issues are really happening.

Definitely, more resourcing needs to be offered to our court system to allow our first nations to have fair representation, such as we have in British Columbia. The way this policy stands regarding these bail provisions, I really can't support it without proper consultation.

I agree with Mr. Sundberg that we need better statistics. Part of that is first nations that are caught in the system and allow them-

selves to either rehabilitate or have some sort of prevention or diversion in terms of reoffending. That's a really important aspect, and this doesn't solve it.

Wade Chang: Mr. Gemmel, in your engagement with local governments, have you identified specific data-sharing or communication challenges that limit the effectiveness of coordination between provincial and municipal enforcement agencies?

Matt Gemmel: Thank you for the question, Mr. Chang.

You mentioned data and statistics earlier. One example would be gathering and sharing data on bail and compliance with bail conditions between provincial agencies and law enforcement agencies. That's not currently happening the way it should be.

I would draw a parallel for the committee between health care data and criminal justice data. We effectively have 13 systems, and they're not always talking to each other. It's hard work to get them coordinated, but that's part of the work that is a reality in a country like Canada. There's a role for the federal government to lead and gather and coordinate that data so you don't have a situation where someone commits a crime in B.C., travels across the border and commits another crime in Alberta, and a judge or a justice of the peace in Alberta isn't aware that they're out on bail. That simply can't be allowed.

Wade Chang: Thank you.

Dr. Sundberg, much of the responsibility for bail supervision and enforcement rests with the provinces. From your perspective, do provincial systems currently have the capacity in terms of staffing, court resources and supervision programs to effectively implement the recent bail reforms?

Kelly W. Sundberg: That's an excellent question.

This is a challenge across our country where we look at the resourcing. We have a dearth of young people entering policing. There are more who are entering as peace officers, bylaw officers and special constables.

This is an excellent question because when I talk about the coordination and the calibration, one thing we need to look at is how we can institute, maybe, a tiered policing model where we have various law enforcement capacity. When we have a limited number of police and a limited number of law enforcement officers, there needs to be partnership in working together.

I do believe that provinces have the opportunity whereby they can start utilizing the services of not just the police, parole or probation but also others in the community, including community organizations and leadership.

That's a great point. We don't have enough bodies. That's what I was saying. When we have legislation, if we don't have the bodies and we don't have bodies that are well resourced, trained and equipped, then it's a moot point. In order to operationalize the law, we need to have the people to do it, and we need to have the best people to do it. Within our criminal justice system, we've seen a significant decline in those who enter into enforcement or regulatory positions. That is a big problem, meaning we now have to re-think, at provincial levels, how we coordinate all of the enforcement functions we need so that we can achieve the outcomes we really need. That is especially true for first nations police.

One thing Alberta is—

• (1650)

The Chair: Excuse me, Mr. Sundberg, but could you wrap it up, please.

Kelly W. Sundberg: Yes.

One really critical component, from when I look at these issues within Alberta, is the value and the importance of first nations police and law enforcement. It is one area that is grossly underfunded and under-resourced that I think is incredibly important and in need of more service.

The Chair: There's emphatic nodding of the head from the chair on that last point, Mr. Sundberg.

[*Translation*]

Mr. Fortin, you have the floor for two and a half minutes.

Rhéal Éloi Fortin: Thank you, Mr. Chair.

Thank you to the witnesses.

I gather that the criteria in place aren't actually all that bad. I think you agreed—correct me if I'm wrong—that reversing the burden of proof for repeat offences could be a worthwhile avenue to explore.

That said, my biggest takeaway from your testimony is that we have trouble funding rehabilitation programs for people who have been found guilty, and we have prevention problems for society as a whole. Mr. Gillingham talked about health issues and addiction. We need to invest more in those resources and in rehabilitation. People are sent to prison, but I'm not sure that a lot of money has been invested in rehabilitating them.

I would perhaps like to hear what our Minister of Public Safety has to say about this. People are detained for a while, they are released and then they reoffend. I think that perhaps not enough effort is being made to rehabilitate them. That is more or less what I understand from your testimony as a whole.

First of all, I'd like you to tell me whether I'm right or wrong. Second, I would like you to quickly give us your opinions on this topic, since there is only a minute left.

Mr. Sundberg and Mr. Gillingham, what do you think?

[*English*]

Kelly W. Sundberg: Your interpretation is spot-on. We do need to have the resources. When someone is on bail and when someone is released from a sentence into the community, we need to think of

the community they're going in to and the supports they have. The amount of money we spend on individuals from overdosing on the street, when you have a fire truck, an ambulance and the police.... When we think of all of these and aggregate all the costs around addressing what we know to be a fairly small cohort of citizens—unfortunately, a large percentage are first nations—we need to have those supports and resourcing.

[*Translation*]

Rhéal Éloi Fortin: Thank you, Mr. Sundberg.

Mr. Gillingham, what do you think?

[*English*]

Scott Gillingham: I have a couple of quick comments.

One, incarceration exists in part to separate people who pose a risk to society from their potential victims. What I have heard through their stories though are people whose lives have been changed while they were incarcerated because they got access to the program and the rehabilitation they finally needed.

At an event recently, a guy got up and told his story. He had been arrested by the Winnipeg police again and again. He sat in jail one day, and finally he said, "I have a young son. I want to be a good dad." He grabbed hold of the rehabilitation program that was available to him. He changed his life. He now has three kids, is married and has had a full-time job for three years because he got access to what he needed while he was in prison.

I agree with the chief. Working with first nations and indigenous leadership is critical to making that progress. As he said, statistically that is absolutely what is needed. I think all parts of the system need to work.

The Chair: Thank you, Mayor Gillingham.

Thank you to all the witnesses for their testimony today. Thank you from all members. I hope you have a great rest of the day. We're done for this hour. You can stay here and watch the next hour, but we'll suspend briefly to rotate in the next group.

• (1650)

(Pause)

• (1700)

[*Translation*]

The Chair: The committee now begins the second part of the meeting.

[*English*]

For the second panel of the day, we have, in their personal capacities, Ari Goldkind, a lawyer specialized in penal law, who is here by video conference.

[*Translation*]

We also have Chloé Leclerc, professor, Centre international de criminologie comparée, Université de Montréal.

Good afternoon, everyone.

[*English*]

We also have, from Victim Services of Brant, Penny McVicar, executive director.

Welcome, Ms. McVicar.

[*Translation*]

From the Women's Legal Education and Action Fund, we have Kat Owens, interim legal director.

[*English*]

I'll remind the witnesses that you each have five minutes for your opening statement. I will give you some reasonable time after the five minutes to sum up, and I'll perhaps remind you, but please try to remain within those parameters.

[*Translation*]

The sound test, which Mr. Fortin cares so much about, was successfully completed.

Rhéal Éloi Fortin: I'm sure you also care about it.

The Chair: We're good to go.

[*English*]

Without further ado, we'll start the first round of witnesses in the order that I announced. We'll have Ari Goldkind first, followed by Chloé Leclerc.

Thank you.

Ari Goldkind (Criminal Defence Lawyer, As an Individual): Good afternoon.

My name is Ari Goldkind. I am a criminal defence lawyer in Canada—in Toronto, specifically—and an extraordinarily busy one. I am also a citizen. More and more each day, those two titles clash. Why?

Every Canadian has the right to feel safe in their community, in their homes, on their streets. Many Canadians, if not most, no longer do. That seems to be across the spectrum. Canadians are spending more money on Ring cameras, Faraday bags, and bollards—a word I never even knew until a couple of years ago—to prevent their cars from being stolen by rings and shipped to far-off countries. Their insurance skyrockets without their ever having an accident. They worry about getting carjacked. You don't have to be a Toronto Maple Leaf to have that happen to you. They worry about the perception that those in charge of their lives are soft on crime. They worry about having their home invaded. They hear unfortunate clips from police departments saying, “Don't fight back” or “Just hand over your keys.” They see ordinary homeowners being charged for defending their homes against home invaders. They ask—and I'm asked this question all the time—what has changed so drastically in Canada in the last decade or so, and what can be done about it.

That is why, I am sure, we are all here.

Many Canadians feel their concerns are falling on deaf ears. They hear and feel that their bail system requires significant reform, that it is a revolving door.

It used to be the case that maybe once a week, or maybe every couple of weeks, you'd read about somebody who committed a crime while out on bail, and you'd think, “Okay, that's an aberration. Maybe that's a unicorn.” Now the unicorn rises every day. You can't open a newspaper in a major city without reading about somebody committing a crime while out on their second or third bail release, or somebody just released on parole or statutory release going out and wreaking havoc, particularly on vulnerable members of the community.

Many people in charge have never sat in a courtroom and watched the human toll that having a loved one raped, killed or assaulted takes on a family. I spent my day today in a courtroom on two murder cases. The toll on the deceased's family is unbelievable. Why do I mention that?

The criminal justice system has a balancing act to do. I represent accused people. I defend them, but I also, as a citizen, watch the toll that this is taking on my country, and rightly or wrongly, there is a perception among the public that the balance has shifted incrementally more in the last couple of decades towards the accused, to the preference of rehabilitation over deterrence and over separating out the truly dangerous from society.

We read about all of these incidents that I mentioned. We see Doug Ford having to act as Batman at a Home Depot to stop a theft. We watch people literally getting away with things. We have rural areas where 911 doesn't lead to the police being able to get out there.

When ordinary, average, law-abiding—and may I emphasize, taxpaying—Canadians are harmed, they have the right to believe that their criminal justice system will respond accordingly so that the same thing doesn't happen to their neighbour, to their friend or to their colleague.

I, as a criminal defence lawyer, also say to you that every Canadian citizen has certain rights. Every Canadian has certain rights: If they're arrested, they have a right not only to be presumed innocent, but also a right to a reasonable bail and to be sentenced appropriately. Those things should never be taken away.

Why are we here? Are we striking the right balance in this country? Are the reforms that have been talked about in the last week or two sufficient? Are we truly dealing with the dangerous among us in the right way? Is that a big number of people or a small number of people? Why are we afraid to touch the third rail of crime? How do you solve it without talking honestly about it?

Our Criminal Code has a number of safeguards in it. The legislation is there. Parliament has spoken. Are the laws and the rules being applied properly at the bail stage, at the sentencing stage and, increasingly, at the parole stage?

The Criminal Code, the law and the charter are living and breathing documents. They have to keep up with the times. In my view, they are not.

• (1705)

A perfect example is the Youth Criminal Justice Act. It is not keeping up with changes in society.

The Chair: Mr. Goldkind, could you wrap up, please.

Ari Goldkind: Sure.

We have a principle of restraint, which is a very good thing. We're a country that wants to be proud of not only how we treat the best in our society, but the worst.

To conclude, I have never understood why crime or punishment is a partisan issue. No criminal before they reoffend ever asks their victim, "Who do you vote for?" Public safety needs to be the goal, not being popular or being called useless or meaningless names. That should be the goal across the spectrum. The only reason I am here today is to talk about what can make our system better.

The Chair: Professor Leclerc.

[*Translation*]

Chloé Leclerc (Professor, Université de Montréal, Centre international de criminologie comparée, As an Individual): For a few years now, here and elsewhere, we have seen criminal matters used as political tools. That's precisely what I'm urging you not to do today, in other words, not to legislate in response to high-profile cases or what we believe are the expectations of the public or the victims.

The experience of past reforms, both in Canada and abroad, is revealing in many ways. First, extreme cases must never dictate the general rule; otherwise, laws are created that are ill suited to most situations. Second, the tools to deny bail or to impose a severe sentence already exist. If judges aren't currently using them, it's because the facts of the case didn't justify it when they made their ruling, not because they don't have the opportunity to do so.

If the reform you are considering is intended to limit judicial discretion to ensure that judges impose harsh sentences, all the research shows that these policies have significant adverse effects. They clog up the justice system by adding more procedures, they create injustices and inequalities and, most importantly, they weaken the principle of individualized sentences, which is one of the strengths of the Canadian model.

Examples in Canada and around the world show that, when the law is too restrictive, people in the justice system develop new strategies to get around the rules and avoid complying with rulings they don't agree with. The result is that the reform does not have the expected effects and exacerbates problems or creates new ones—

• (1710)

Rhéal Éloi Fortin: Mr. Chair, I'm sorry to interrupt Ms. Leclerc's testimony, but I think the interpreters are having trouble keeping up with the pace.

Chloé Leclerc: What a shock! I've never heard that before.

I'll slow down.

In the end, all the scientific research leads to the same conclusion, the most important one: Harsh sentences do not lead to lower

crime rates. Not only do countries that have extremely punitive policies not have lower crime rates, but implementing such measures does not lead to a decrease in crime. The most telling example is the war on drugs in the United States. That policy filled American prisons, but it never reduced drug use or drug trafficking.

Another important finding of the research is that the public and victims are not as vindictive as one might think. When we take the time to listen and carefully assess their expectations, we see that they are much more engaged in looking for an effective, consistent and fair system than just seeking punishment. The research in victimology is exactly the same: More than anything, victims want to be heard, informed and supported, and they also want to make sure that there will be no other victims. It is possible to meet their expectations, for example through psychological support, information and safety measures such as electronic monitoring, without necessarily making sentences harsher.

Public opinion is often shaped by a misunderstanding of the justice system and simplistic media portrayals. A conditional sentence, often characterized as a "Netflix" sentence that would allow someone to serve their sentence at home while watching television, is a good example, when in reality it is an extremely harsh and demanding sentence. People who are sentenced to it often perceive it as a harsher sentence than prison. Freedom is restricted, while seeming more easily accessible, and there are numerous conditions and constant responsibilities.

While a conditional sentence is comparable in severity to a prison sentence, it nevertheless has the advantage of avoiding the negative effects of prison, such as family breakdown, job loss and loss of housing. It also promotes accountability, since people need to show they are taking charge of themselves if they want lighter detention conditions.

In addition, a number of studies confirm its effectiveness. In Canada, a recent Statistics Canada document shows that people under community supervision, which includes conditional sentences, reoffend in 28% of cases, compared to 53% for people coming out of prison. We can conclude that it is a harsh and effective sentence, but it is most certainly underused in our system, mainly because of the negative and often distorted image we have of it.

In closing, I would say that your focus on violent repeat offences is entirely justified and essential. The justice system is currently devoting a lot of its resources to dealing with administration-related offences. In fact, 30% of cases before the courts involve a breach of conditions. Worse, prisons are now mostly used to manage people awaiting trial, who, in some provinces, represent between half and three quarters of the prison population. Case load management definitely prevents the system from focusing on its primary purpose.

The decrease in risk tolerance over time has led to the most effective measures, such as conditional sentencing and conditional release, being offered to people who are least likely to reoffend and who have good reintegration potential. In contrast, those who are deemed to be at the highest risk of reoffending are incarcerated in maximum-security institutions, where there are the fewest services and the fewest supports, partly due to lack of resources.

• (1715)

The Chair: Thank you, Ms. Leclerc. That's your time. You can expand on your thoughts during the question period.

Chloé Leclerc: That's great. Thank you.

[*English*]

The Chair: I'll pass the floor over to Ms. McVicar and then to Ms. Owens.

Penny McVicar (Executive Director, Victim Services of Brant): Thank you, Chair and committee members, for the opportunity to speak with you today on behalf of survivors of violence and the dedicated teams who support them.

My name is Penny McVicar. I am the executive director of Victim Services of Brant and past chair of the Ontario Network of Victim Service Providers.

Victim Services of Brant delivers the victim crisis assistance Ontario program and the victim quick response program-plus, alongside 41 sister sites across the province.

Victim Services of Brant, like our sister agencies across Ontario, stands ready to collaborate with justice partners to ensure that victim safety planning is embedded into bail decisions. We urge the committee to consider mechanisms that allow for timely communication with victims when bail conditions are set or changed and to ensure that supports are in place to help survivors navigate the emotional and logistical challenges that often follow.

These reforms are vital, and they provide us with an opportunity to ensure that victims are not left behind but are fully integrated into the conversation.

As we move forward with reforming bail practices, it is essential that we do so with a trauma-informed lens, one that recognizes the lived experiences of survivors and prioritizes their safety, dignity and voice. Every decision made within the justice system has a ripple effect on those who have already endured harm. Survivors deserve to feel protected, heard and supported, not retraumatized by processes that overlook their needs.

When we speak of bail reform, we must also speak of victim safety. At the heart of victim safety is timely bail notification. Without it, survivors remain at serious risk in the hours and days that follow an offender's release.

What exactly is bail notification? Simply put, it is informing victims as soon as possible when an offender is released on bail or when bail decisions are made. This timely notice allows victims to prepare, protect themselves and access necessary support during their most vulnerable moments. Almost all perpetrators are eventually released back into the community, so the real question becomes

not whether release will happen but how we will ensure victims are protected when it does.

In Brant, where we operate an established bail notification program, I have seen first-hand how crucial this service is. Survivors of intimate partner violence, sexual assault, human trafficking and hate crimes face immediate and serious dangers once offenders return to the community, yet far too often in Canada, survivors do not receive timely or consistent notification and are left vulnerable to repeat harm or worse.

The reality is that current bail notification systems in Ontario and Canada are fragmented and inconsistent. Some jurisdictions rely on police or court staff, but most victims receive no notification at all. More often than not, notifications happen only during business hours, leaving nights and weekends, the times when risk is often highest, largely uncovered. This creates dangerous inequities in victim safety, based solely on location and timing.

Victim services agencies in Ontario that deliver the victim crisis assistance program, including in Peel and Brant, operate 24-7, 365 days a year. Currently, Brant and Peel deliver trauma-informed, survivor-centred bail notification programs that combine real-time notification with safety planning and access to essential safety provisions through the victim quick response program-plus. These include emergency supports, such as temporary housing, lock changes, personal alarms, transportation and other critical tools that help keep survivors safe.

Once notified of a release, survivors are not left to piece together things on their own. We work with them immediately to plan proactively for their safety. That proactive planning reduces repeat calls for service to police, prevents missed opportunities for intervention and increases survivor co-operation in investigations. In short, timely bail notification strengthens both community safety and the justice system as a whole.

Peel's bail notification program stands as Ontario's longest-running model, with over 40 years of proven success. Brant has effectively operated a similar model on a smaller scale for over 25 years. Together, these programs clearly demonstrate that timely, consistent notification saves lives and leads to better outcomes for survivors, police and communities.

At present, these programs are not funded by the government but rely on unstable fundraising dollars to operate in their communities.

Therefore, we, the Ontario Network of Victim Service Providers, recommend that the federal government establish a mandated province-wide bail notification and advocacy program through victim crisis assistance Ontario agencies. Building on the long-standing success of Peel and Brant, this would be an Ontario-made pilot—a program developed, tested and proven here—that could serve as a nation-building project.

• (1720)

By embedding this work within VCAO agencies, we would ensure consistent, trauma-informed and survivor-centred service delivery across the province. Such a program would not only strengthen public safety in Ontario but also create a clear network for national adoption, setting the standard for victim safety across Canada.

Finally, for this program to succeed, it must be fully funded. Funding must consider caseload, geography, community size and risk factors to ensure equitable access for all victims. Every victim in Canada has the right to timely notification and the safety support they need, regardless of where they live.

Thank you.

The Chair: Thank you, Ms. McVicar.

Ms. Owens, please go ahead.

Kat Owens (Interim Legal Director, Women's Legal Education and Action Fund): Thank you. Good evening.

My name is Kat Owens. I am a lawyer and the interim legal director of the women's Legal Education and Action Fund, LEAF. I'm grateful to be joining you here today on the unceded and unsundered territory of the Anishinabe Algonquin people.

As you may know, LEAF is a national charitable organization that advances equality for women, girls, trans and non-binary people throughout Canada. We do this through litigation, law reform and public legal education.

LEAF works with and on behalf of women and gender-diverse people who have faced gender-based violence, intimate partner violence and criminalization.

I will be clear: Gender-based violence in this country is an epidemic, and we absolutely need to do more to end that epidemic. As an organization, we support measures that will meaningfully address gender-based violence and make survivors of intimate partner violence safer.

We'll also acknowledge that there are genuine public safety and trust concerns with how the criminal legal system operates. At the same time, making bail harder to get and increasing sentencing harshness will not solve gender-based violence in this country. Instead, these changes will increase the criminalization of marginalized communities, including women and gender-diverse people within those communities.

I'll focus first on those effects, and then I'll move on to highlight some of the reforms that we need in order to improve public safety and end the gender-based violence epidemic in this country.

As you've heard from people who work directly in Canada's bail system and who study it, the bail system is overwhelmed. People in pretrial custody face appalling conditions. They face lengthy lockdowns and a lack of rehabilitative programming or mental health supports, as well as serious health and safety risks. The consequences for women and gender-diverse people in Canada truly cannot be overstated.

First, and at its most extreme, people in these conditions are dying. In 2023, for example, Sarah Rose Denny, a young Mi'kmaq mother from the east coast, repeatedly asked for access to health care in a provincial jail. She was denied that care and died days later of double pneumonia.

It's not just those extreme cases. When we remove an individual from the broader community, we may see an improvement in short-term public safety, but when that person is released back into the community, we see longer-term negative public safety outcomes. Even short amounts of time in jail can have devastating consequences. These include adverse mental health outcomes as well as loss of income, employment, custody of children and housing. This affects women and gender-diverse people who are detained themselves, of course, but it also affects those who have family members detained, who then lose income, lose access to housing, lose the supports that they need.

When we consider increasing sentencing harshness, it's really important to remember that individuals who are convicted of crimes are also often survivors of gender-based violence. People who are incarcerated, especially Black and indigenous women, are more likely to have experienced intimate partner violence and are more likely to face criminalization by the state, so when we make sentences harsher, we often end up hurting the people we set out trying to help in the first place.

Take, for example, the case of Cheyenne Sharma, which many of you may be familiar with, as it went to the Supreme Court of Canada.

Ms. Sharma was a young indigenous woman, an intergenerational survivor of the residential school system, a survivor of sexual violence and a single mother. She was facing the possibility of eviction from her home, so she decided to act as a drug courier and brought cocaine into Canada.

Strict sentencing laws in place at the time meant that this woman—with a young child, who pleaded guilty, had no criminal record and was facing intimate partner abuse—was ineligible for a conditional sentence and had to be sent to jail. I would just ask this: What is the benefit to society of sending someone like Ms. Sharma to jail?

We need reforms to the criminal legal system. I agree with that and LEAF agrees with that, but they need to be grounded in evidence.

• (1725)

We need an independent, external evaluation of Canada's bail system. We need reforms that disrupt the larger relationship between incarceration, mental health, addiction, discrimination, poverty and social disadvantage. When it comes to gender-based violence, we need a team effort from all levels of government—federal, provincial, territorial and indigenous—to take a proactive approach, focused on prevention, that looks at root causes.

We have ideas, including creating an independent gender-based violence commissioner, exploring restorative and transformative justice models and properly funding the national action plan to end gender-based violence.

The Chair: Please wrap up briefly.

Kat Owens: Thank you for your time. I look forward to your questions.

The Chair: That's very brief. I wish other witnesses took that lead.

I will announce the first two rounds.

Members are familiar with the time slots, but I will remind them when I name them. Just briefly, the order in the roster is MP Brock, and then Chang, Fortin, Baber, Lattanzio, Fortin, Lawton and Dhillon. I'll point to you individually.

Those are the first two rounds. We'll probably get well into the third, if not complete it.

It's over to you, MP Brock, for six minutes.

Larry Brock: Thank you, Chair, and I'd like to take the opportunity to thank all our witnesses for their participation today.

This is a very important study. The country is in desperate need of some reform in this particular area, and victims certainly are asking for it, so I do thank you for your participation.

I'm going to start with you, Ms. McVicar. You and I have had a professional relationship in the past. It's good to see you again.

You've seen violent repeat offenders walk free under conditions that are supposed to protect victims, such as no-contact orders, curfews and weapons bans. In your experience, how often are those conditions actually enforced, and isn't it fair to say that for many victims, bail conditions have become meaningless pieces of paper?

Penny McVicar: I just want to give you an example of something that we dealt with in the last week in my office.

We contact victims prior to bail court. We talk to them about what their safety concerns are if the offender is released. We get that information and we pass it on to the Crown attorney, and they use that as part of the information that they use to set up the bail conditions. It also gives us an opportunity to work with the client to do some safety planning, to do some needs assessment and to see what we can do to help that victim to keep them safer should that offender be released.

Just a couple of weeks ago, we had a victim for whom we'd done all those things. We knew she needed the locks changed. We got a locksmith out to get the locks changed. We knew that she needed some web cameras and things like that for safety, as well as some other safety supports put in place.

We call the victims immediately when we know that an accused is being released. We were on the phone with the victim. On her phone, she was able to watch the web cameras that were out in front of her house and see the offender walking up her front steps. She was terrified, to say the least. We kept her on the phone. We contacted the police. We made sure that they were on their way. The offender left and went down around the corner, which she was also able to see from her web cameras. The police got there. She was able to provide information on where he had gone, and they were able to rearrest him immediately.

We see this. You know, it might not happen as immediately as it did in this situation, but it happens a lot that the offenders think that victims don't know what the conditions of release are, think that they can go back home, think that they can just walk in the door and say, "I'm back", and—

• (1730)

Larry Brock: Thank you, Ms. McVicar. I'm going to move on. My time is very limited.

Your team has supported victims who've seen the same names and the same faces cycling through the system over and over again. What does this do to community trust, particularly to trust in the victim-centric position, when these violent offenders are arrested within hours, if not minutes, of committing the offence of breaching bail conditions?

Penny McVicar: I would say it's hard on victims. They lose some confidence in the system. They lose confidence in what the police can do to help them and what the courts can do to help keep them safe. Sometimes they stop reporting; they say, "What's the point?"

Larry Brock: The Liberal government keeps saying that its bail reforms in the past and those upcoming this week will strike the right balance between upholding the constitutional rights of the accused and ensuring that victim safety and community safety are paramount.

From where you sit in the capacity of executive director, seeing victims who have been traumatized over and over again and are afraid to leave their homes, do you see any balance at all with the current government's approach, or are victims the ones paying the price for a system that simply puts offenders first?

Penny McVicar: As I said before, I think the reality is that all offenders are going to be released at some point, whether it's the next day, six months down the road or a couple of years down the road. What we need to be looking at is how we make victims safe when those offenders are released, and I don't think we have that in place at this point in time. There's no effective....

I mean, we have a Canadian Victims Bill of Rights—

Larry Brock: I want to talk to you about that, so that's a good segue.

I've reviewed the current version of the Canadian Victims Bill of Rights; I see no provision in there regarding absolute bail notification. Do you feel that's a deficiency that needs to be addressed by the federal government?

Penny McVicar: I think that's a major deficiency. Victim notification needs to be enshrined in the Canadian bill of rights.

This is not only about fairness but about building a justice system that protects victims as much as it holds offenders accountable. It says in the Victims Bill of Rights that victims are entitled to notification, but that is viewed differently by police services in jurisdictions all across Canada. There's no consistent process for victims to get information, to be provided with timely bail notification or to be provided with the information they need to keep themselves safe.

Larry Brock: What about bail variations? What are your thoughts?

The Chair: You have about 15 seconds, so be brief.

Penny McVicar: We have victims asking about bail variances from day one, because they're afraid or their family's being torn apart or they don't know what to do.

Part of what we do is help victims to figure out where they can go to get help and what the next steps are for them. Oftentimes, bail variances lead to revictimization, but oftentimes, victims are inviting the offenders back in as well, so it—

Larry Brock: Thank you.

The Chair: Wade, you have six minutes.

Wade Chang: Thank you, Mr. Chair.

In my conversations with my constituents in Burnaby, B.C., I often hear deep concern for public safety. People want to be safe in their homes. I share that concern, but as a lawyer, I also know that lasting safety depends on a justice system that is fair, balanced and guided by evidence rather than emotion.

Each of you brings a distinct perspective to this conversation, so thank you.

Ms. Owens, LEAF has highlighted that broad reverse onus provisions can disproportionately impact women and marginalized groups. What safeguards should the government consider to ensure that bail reforms remain effective and equitable?

Kat Owens: I think one thing that's always important to consider when making changes to the criminal legal system is the communities that are likely to be most affected by these changes.

We think about the terrible cases that happen, the emotional cases, and they are awful, but we don't think about the everyday work

of bail systems. I think taking discretion away from judges and putting an increased burden on accused people is going to harm members of marginalized communities the most, and that's something we need to keep in mind.

• (1735)

Wade Chang: How can the federal and provincial governments better incorporate gender-based analysis and equality analysis when designing or reviewing bail and sentencing policies?

Kat Owens: I would say two things.

The first, I think, is to speak to the communities that are affected and to the people who work with them. Studies like this are very helpful, as is proactively seeking input from those groups.

The second would be to improve the collection of evidence so that we know who is going through the bail system—who's being detained, who's represented and who needs legal aid—so that we can make evidence-based decisions on bail reform.

Wade Chang: Thank you very much.

Mr. Goldkind, drawing on your experience in the courtroom, what measures should be taken to strengthen enforcement on bail breaches without compromising fairness or creating additional backlog in provincial courts?

Ari Goldkind: That's something I deal with every day.

One of the witnesses just talked about how that's a huge part of the criminal justice system, with fails to comply or breaches occurring in about 20% to 30% of cases.

Two things jump out at me. One is something that I don't think anybody ever talks about, so we'll leave that for a second.

The first is that there's no way that police can knock on every door. Again, one of your witnesses said that when an offender gets their bail paper or their promise-to-appear undertaking, it's not worth the paper it's written on. They're out and they're happy to be out. They're told they're on curfew, but they're out past curfew, or they're out on house arrest, but they're out and about with their friends and maybe committing more crimes.

The part that's never talked about is the role of the surety in Canada. Most people on this panel have probably watched a movie involving a bail bondsman or a midnight run. In the movie, you put money down, and if you don't come to court, you don't get it back. In Canada, it's very different.

I don't think we have a sufficiently robust system. It's not really a juicy talking point, but most people who get bail at a bail hearing need to have sureties come and say that they're going to supervise that person. That's how somebody gets bail in Canada, particularly with the serious kinds of crimes that I think we're all here to talk about today. I don't think we're here for shoplifting, necessarily.

When mom and dad come to court and say that they're going to watch their child and make sure that he abides by his curfew or his house arrest, and then the child goes out, and the surety knows that the child is out violating that bail but doesn't call the police, most people here would be surprised to know that there's very little recourse against the surety.

I think that if there was a public perception that if you come to court and say that you're going to be the one who's going to be watching that person in the community and that if that person screws up, the government is going to come after you in what's called estreatment court, it would go a long way toward helping people comply with their bail, because the people who made the promise to watch that person would know there's actually a significant financial penalty if they don't watch them.

Wade Chang: Thank you.

Much of the responsibility for enforcement falls on provincial police and courts.

How could better coordination over data sharing across jurisdictions improve both public safety and confidence in the bail process?

Ari Goldkind: If I understand your question correctly, and I don't know that I do fully, it's that you want to have a centralized system, which we do. We have CPIC and we have onboard computers in police vehicles, for example.

I know there's a movement in many cities to have bail compliance units, a term that I think is very familiar to you, but there are only so many police officers you can take off frontline duty to do compliance checks. I think one of the witnesses talked about door knocking and that sort of thing.

Among the things you see courts very loathe to impose are geographic restrictions. In other words, somebody charged in Kitchener-Waterloo, for example, remains in Kitchener-Waterloo. Forget the passport, as most people aren't leaving the country.

At the end of the day, for the truly dangerous people who I think are the people we all want to focus on—and I think this is probably bipartisan or non-partisan—I think there has to be more notice to the public about those people being out on bail, or not, or for the public to understand that this person has bail.

There's a different part of the question that I will leave, due to time, about what I would recommend, but to me there seems to be a problem in the system with the number of breaches by people who are not taking their bail seriously and with having no recourse over the people who signed those bail papers.

The Chair: Thank you.

[*Translation*]

Mr. Fortin, you have the floor for six minutes.

Rhéal Éloi Fortin: Thank you, Mr. Chair.

I was very interested in Mr. Goldkind's remarks.

That said, I'm going to turn to Ms. Leclerc.

In your testimony, which I very much appreciated as well, you referred to certain statistics and documents. I was taking notes. You said that harsher sentences didn't reduce crime and that “Netflix” sentences were often harder for a prisoner to bear than being in prison, and that they might be more effective.

Could you send us documents and statistics on that?

• (1740)

Chloé Leclerc: Yes, absolutely. In fact, I relied on a Statistics Canada report that shows the reoffence rates according to the different approaches. I could definitely send you that information.

Rhéal Éloi Fortin: I'll stop you there because I don't want to spend two minutes on that. I understood that you'll send us that report. Thank you very much for that. The same goes for repeat offenders. My understanding is that they weren't necessarily all accounted for properly, among other things. If you have any documents pertaining to that, we would really appreciate your forwarding them to the clerk of the committee.

We've heard from other groups of witnesses, and some of the witnesses have asked us to be harsher and stricter about parole and interim release. I would tend to agree with that. I think it's appalling every time people commit a second or third offence and commit more crimes. I don't want to talk about specific cases, because that could go on and on, but a woman was recently killed by her spouse, and it was his 16th offence or something like that. The point is, we agree with what the witnesses are asking for.

This is a really big problem. As of now, judges must consider three factors before granting interim release to someone. First, the judge must ensure that the accused can appear at their hearing on the scheduled date. Second, the judge must ensure that releasing the accused will not compromise public safety, meaning that the accused won't kill everyone on the street upon leaving the courthouse. Last, the judge must ensure that, based on the seriousness of the charge, granting bail will not be detrimental to confidence in the administration of justice. The Supreme Court put those criteria in place, and we have pretty much made do with them ever since.

Nowadays, we are seeing cases that get a lot of media attention. I acknowledge your warning that the media must not dictate lawmaking, but the fact remains that the public is aware of all these cases and is expressing vehement disapproval. Our job as legislators is to address that.

The criteria that once seemed sufficient to grant interim release may no longer be sufficient today. I don't know.

What do you think? Are the criteria sufficient? If not, what criteria should be added or removed?

I will have more questions for you afterwards.

Chloé Leclerc: I'm not sure I agree on the issue of public opinion.

Case in point: When you ask people what they think of the courts, about 70% of them say that they're not tough enough and that sentences need to be longer. However, when presented with real situations and asked to make decisions about the fate of these accused, those same people make decisions that are very similar to the judges' or even less harsh in many cases.

I think we have to be careful about what we think public expectations are. That's the first part of the answer I'd like to give you.

Rhéal Éloi Fortin: I agree with you.

I don't have much time left, so I'll move on to this: Are the current criteria adequate or not?

Chloé Leclerc: I want to say something else: Remand is more common now than ever before. It used to be 20%—

Rhéal Éloi Fortin: Now, it is 72%. We know that.

Sorry to rush you, but I don't have much time left. Talk to me about the criteria, because that's what we have to make decisions about.

Chloé Leclerc: It's important to understand that the criteria are subject to interpretation. The criteria themselves are consistent, but courts may interpret them differently depending on the time, political pressure and public pressure.

In my opinion, the current criteria are not a problem.

Rhéal Éloi Fortin: In your opinion, the current criteria are adequate.

For repeat offenders, if a person is appearing before the court for the second or third time, some people believe the burden of proof should be reversed.

I'd like to hear your thoughts on that. If that were the case, it would not be up to the Crown to prove that the accused may not show up for their hearing, that they may be a danger to public safety or that their interim release would undermine public confidence in the administration of justice. The assumption would be that none of the criteria are met in the case of an individual who has logged a certain number of repeat offences. It would then be up to that individual to prove that they are not a public safety risk, that they will attend their trial and that confidence in the administration of justice will not be undermined.

What are your thoughts on reverse onus? Would it be a good idea in the case of repeat offenders or not?

Chloé Leclerc: Whether the burden of proof rests on the court or the accused, the possibility of keeping them behind bars during their trial already exists. Detention rates are at an all-time high,

which indicates that the courts don't seem to have a problem keeping people in remand.

In my opinion, the question is not whether there should be reverse onus because, at the end of the day, those debates are already taking place in the criminal division and the courts.

● (1745)

Rhéal Éloi Fortin: We only have about 20 seconds left.

Are enough health care dollars being invested in addiction and rehabilitation, or should adjustments be made?

Chloé Leclerc: Adjustments should definitely be made. That is my whole point here today. If you want to work with people who pose a risk, you have to let other people who pose a lower risk go, and that includes people who do not comply with their bail conditions.

Rhéal Éloi Fortin: You're talking about letting them go.

Chloé Leclerc: By “let them go”, I mean invest fewer resources in certain people who didn't comply with their bail conditions.

You talked a lot about how some cases of people not complying with those conditions are very concerning. However, it must be understood that most actions that breach probation or parole conditions are not inherently illegal. Such actions may include not attending a hearing, using certain substances or associating with non-offender peers.

These would not be criminal acts if they hadn't been prohibited. I think that, if we paid less attention to failure to comply with conditions, we might be able to invest more resources in people who present a real risk.

Rhéal Éloi Fortin: Thank you, Ms. Leclerc.

The Chair: Thank you, Ms. Leclerc.

[English]

Roman, you have six minutes.

Roman Baber: Thank you.

Welcome, Mr. Goldkind.

The Chair: I'm sorry, Roman. It's just five, not six.

Roman Baber: Mr. Goldkind, gun violence in Toronto is out of control.

Passed in 2019, Liberal Bill C-75 prescribed the principle of restraint. The Department of Justice's own website says:

The “principle of restraint”...is intended to ensure that release at the earliest opportunity is favoured over detention

Basically, holding an accused pending trial is an exception now.

Could you please tell us whether the Liberal bail reform resulted in more gun violence or less gun violence on the streets of Toronto, and why?

Ari Goldkind: Thank you for your kind words.

I don't think anybody can answer cause and effect. That would be disingenuous, but is there a correlation? Have we watched the numbers go up in the last five to 10 years? There's no question about that. There is a perception of being soft on crime. There is a perception of a criminal justice system that doesn't properly punish.

I heard the word "harsh" used just a moment ago, in the previous answer. Are we sentencing too harshly or not? "Harsh" is a word that's a pejorative. It almost suggests something mean or mean-spirited or unfair. I tend to take this view: Is the sentence appropriate? Is it responsive to the needs of the community? While restraint is not new—it's from the 1970s, and I know you know that, and the 2019 legislation just codified it—there should be much harder questions asked.

My end to my answer on the principle of restraint is that it's a good thing that the system tries to treat people in the most restrained way possible, but that should be for perhaps a first-time offender, maybe a second-time offender and maybe somebody who hasn't committed a serious crime of violence against a vulnerable woman.

When you apply the principle of restraint to everybody, sort of like ketchup, you're really taking away from the meaning of the term. Am I happy as a defence lawyer and as a citizen that we try to use restraint? Yes, that's noble, but there certainly should be times where somebody has, by their own act or deed, taken away that focus.

Roman Baber: Thank you, Mr. Goldkind.

The city of Toronto is falling victim to gang violence. One thing that stands out is that so many of the offenders involved in these gangs are under 18 years of age.

Of course, if a teenager breaks into a vending machine, we don't want them to be part of the correctional system, but I submit to you that the Youth Criminal Justice Act no longer provides enough deterrence for youth involved in gangs or even committing some of the most serious crimes on our streets. What do you think about that?

Ari Goldkind: The Youth Criminal Justice Act provides no deterrence. I think anybody who says differently is gilding the lily. The Youth Criminal Justice Act, when it was created many decades ago, was about two kids arguing over an iPod. Notice that I said "iPod", not "iPhone". It used to be that you'd open up the newspaper and maybe once a week see that some 17-year-old or 16-year-old did something stupid. They'd get anonymity. We never needed to know who they were.

Go and open up a local newspaper of any city now and you'll see 14-year-olds, 15-year-olds and 16-year-olds charged with serious and heinous violent crimes. They are going to be sentenced as a youth. In my view—again, to keep the answer short, given time—you can't have a Youth Criminal Justice Act that doesn't change with the times. Canada has changed. Youth violence has changed.

A 12-year-old is not a 17-year-old, and they should be treated very differently, in different tranches, if I could use that term.

• (1750)

Roman Baber: Thank you.

I want to talk about sentencing and, specifically, parole. Offenders are eligible for full parole after serving only one-third of a sentence.

We know some of the basic principles of sentencing—deterrence, community safety and rehabilitation—but it almost seems as if there is too much emphasis on rehabilitation that doesn't necessarily work. I've heard you talk about Kevin Koehler in Waterloo, a man described as a ticking time bomb, who, a couple of weeks ago, was out on the street again after choking a number of people to death over a period of multiple years.

It seems crazy to me that we now essentially favour rehabilitation alone.

Ari Goldkind: Well, he killed somebody in a car, including a police officer, and then he choked a woman to death, so talk about vulnerable people within intimate partner violence.... Parliament, where you are sitting, literally makes that a much more serious crime.

Here's what I've never been able to get my head around, even as a criminal defence lawyer, and I know this is sacrilege to say. You don't get out at a third because of good behaviour or showing that you're really committed to bettering yourself. You get out automatically. That has never made sense to me.

Now, maybe it makes sense on a non-violent crime. I'm somebody who thinks most drug crimes don't involve violence. That's a very different fish from someone who invades somebody's home in the middle of the night, at three in the morning, and holds a gun to a child's head.

Perhaps we'd be a lot better served by having a parole board or parole where, look, if you get out after a third but then you violate again, should you get out after a third on that next sentence...? Maybe you should be in for two-thirds. Maybe you should be in until warrant expiry, or maybe, if you keep reoffending, we'd have a repeat offender hearing where the public, the judiciary and lawyers like me have to go to court and ask why we are giving this person another chance when we genuinely believe they're dangerous and can't be stopped and, just to end the answer, the Crown hasn't brought a long-term or dangerous offender application. People are sitting ducks—and I used the term for Mr. Koehler—for a ticking time bomb.

The Chair: Thank you, Mr. Goldkind.

Ms. Lattanzio, we'll go to you for five minutes.

Patricia Lattanzio: Thank you, Mr. Chair.

I'll continue with you, Mr. Goldkind.

Public confidence is critical to any justice system, as you may know, but what role, in your view, should transparency in data play in helping Canadians understand how bail decisions are made and monitored?

Ari Goldkind: I think I understand your question. I'm just turning my head to it.

I have been outspoken for about 15 to 20 years in my career in that I do not like the publication bans that are constantly put on bail decisions when a high-profile violent person is released into the community. Now, as you know, the reason given is that it will poison or taint a jury pool.

Patricia Lattanzio: Yes.

Ari Goldkind: I've never bought that. I can't tell you how many days of my life I spend trying to get a mistrial with a jury, and the judge says back to me: "No, juries do what they're supposed to do. They can disabuse their mind of what they don't know."

I think the public is better served by knowing why somebody is released. I do genuinely believe that sunlight is the best antiseptic in educating the public. That's not letting Twitter do it, not letting TikTok do it, and not letting a Facebook post do it, but actually letting the public read why a high-profile person is being released. That's very important.

The second part to your question is that I don't think Crown attorneys.... I know this won't be talked about here, but I feel passionately about it. I'm a criminal defence lawyer. If I have a client who doesn't get bail and who I think genuinely should have been released, I bring what's called the "bail review". I make very little money doing it—I ask for funding to do it—but I do it because I don't think that person should be in.

The flip side is this. Why doesn't the Crown attorney, given the tools in the Criminal Code that exist, when there's a high-profile case and the person got bail—a gunrunner, a shooter, a person out on their third bail whom a judge or justice of the peace has released—bring a bail review to review that decision? If that happened, I think we'd have a much better system, and that tool already exists. It's in the tool box.

Patricia Lattanzio: Okay. That's an interesting perspective.

In your view, how effective are the recent targeted reforms to bail, particularly for repeat violent offenders, and what additional improvements, in your opinion, might help balance safety with judicial discretion?

Ari Goldkind: I think there has to be something in the zeitgeist where judges and judicial officials, justices of the peace, don't feel as reluctant to detain people who are dangerous. There are sections in the Criminal Code that make it clear that justice is not blind, that the court is obliged to look at somebody's background. That often is for very good reason and very proper reason. Somebody who grew up with fetal alcohol syndrome, for example, is very different from somebody who didn't.

There are resource issues, and the system is underfunded, but in terms of the bail system, at the end of the day the tools are there, you know: the primary ground, the secondary ground and the tertiary ground. That is there to prevent somebody dangerous from be-

ing released, but in my view, because of the sections of the Criminal Code that are being applied in the court system, the tie goes to the runner, to use that baseball reference.

I think the pendulum should swing back to public safety. If there's thinking that somebody is truly dangerous and cannot comply with bail, or if perhaps they've had a very significant record over the last five years, it is concerning to the public that the person is getting their fifth or sixth chance.

● (1755)

Patricia Lattanzio: Thank you.

Ms. Owens, public debate around bail can often become polarized, as you've probably witnessed as of late. How can we ensure that future reforms stay grounded in evidence and outcomes rather than rhetoric?

Kat Owens: One of the things that are really important is that we gather accurate data, and that we gather it from the various provinces and territories to get a sense of what the actual facts on the ground are.

I know Ms. Leclerc has spoken about some of the data we have, and I think the data we have reflects a system that is in crisis, but not for the reason that is often publicized. It's in crisis because too many people are detained. In 2024, 76% of bails were denied. We're not seeing this frequent catch and release that is often spoken about.

I think it's bringing that data in, acknowledging the real pain that people who experience crime go through—which is real—and also going back to what the actual facts are.

Patricia Lattanzio: That gives me a segue to pose a question to Madame Leclerc.

[*Translation*]

In your presentation, you talked about that data.

How can this provincial data collection and judicial reporting be improved to better assess the impact of bail decisions on public safety?

Chloé Leclerc: You're raising an issue—

The Chair: Keep your answer brief, Ms. Leclerc, because there's not much time left.

Patricia Lattanzio: Can she send us her answer in writing, Mr. Chair?

The Chair: Yes, that would be better, or someone else, such as Mr. Fortin, can ask her the same question.

Patricia Lattanzio: Okay.

The Chair: I'm going to him now, actually.

Mr. Fortin, you have the floor for two and a half minutes.

Rhéal Éloi Fortin: Thank you, Mr. Chair.

I thank all the witnesses. We could talk about this subject for days. You're providing quality testimony that will be useful to us, so don't hesitate to send us documents. I only have two and a half minutes, and I'm already down to about a minute and a half.

Ms. Leclerc, can you talk to us about rehabilitation? After everything I've been told, I still have one question. I believe in the presumption of innocence and in rehabilitation, and I think it's important to put structures in place.

However, does our criminal justice system have enough resources in terms of both space and personnel to rehabilitate people who are in custody and to provide adequate support to those who are released?

Chloé Leclerc: Measures are in place, but they're drastically underfunded.

A big part of the problem is that too many people are in the justice system using resources. Too many people are in prison who shouldn't necessarily be there. Here's an important statistic: 70% of prison sentences are less than six months. The system has to invest a lot of time in processing their files because it's a revolving door system, but there's very little time to work with them.

Rhéal Éloi Fortin: What is being done in our prisons to rehabilitate prisoners?

Chloé Leclerc: The longer the sentence, the more time can be spent working with people. At the federal level, there's a lot of time. There are programs available in prison, as well as follow-up. There are lots of mental health challenges to deal with. My colleagues also spoke at length about the fact that many offenders were previously victimized, so it's just as important to work on their traumas. That can be done in prison, but there has to be enough time to do it.

Rhéal Éloi Fortin: Okay.

Earlier, you talked about so-called Netflix sentences. What resources are or are not available to adequately support that kind of sentence?

Chloé Leclerc: Resources are available. People can choose that sentence.

The fact is, a lot of people tell their lawyer they don't want that sentence because it's too harsh. The same goes for parole. One in two people turn refuse a parole hearing because they find the conditions to be too harsh.

For that kind of sentence, there should be a little less monitoring and a little more support so it can really help people.

• (1800)

Rhéal Éloi Fortin: Thank you, Ms. Leclerc.

I want to thank all the witnesses.

[*English*]

The Chair: Next is MP Lawton for five minutes.

Andrew Lawton: Thank you to all of the witnesses for being here today.

Ms. Owens, you mentioned earlier the importance of grounding what we do in data. We had the St. Thomas police chief here, and he said at one point that 58% of intimate partner violence in St. Thomas is perpetrated by repeat offenders. Does a number like that surprise you?

Kat Owens: No, it doesn't. I think we see people who cause harm to others repeatedly do so.

The challenge I see is that the criminal justice system doesn't interrupt that pattern of violence in a way that other rehabilitative services might have a better shot at doing.

Andrew Lawton: For a repeat offender, when you talk about interruption, incarceration is an interruption. Is that correct?

Kat Owens: Incarceration is absolutely an interruption, but in the vast majority of cases, as Ms. McVicar alluded to, it is a temporary interruption. What are we doing to set victims up for safety when that person is ultimately released back into the community?

Andrew Lawton: It's temporary because people are being released back into the community.

Kat Owens: Yes, both at the end of a sentence or perhaps when they are released on pretrial release.

Andrew Lawton: It would actually be safer—and I'll say for women, because, sadly, women are the majority of victims of intimate partner violence—if a repeat offender of intimate partner violence were still behind bars.

Kat Owens: Perhaps it would in the short term, but if they don't have access to the programming and rehabilitative services they need to not reoffend, then no, because you're just releasing them back into the community in the same state they were in when they went in.

Andrew Lawton: Thank you very much.

Mr. Goldkind, I'd like to ask you, a defence lawyer, about this. I will preface what I'm saying by pointing out that I believe strongly in the importance to our legal system and our justice system of having vigorous defence available.

I know that you have an obligation to represent your clients to the fullest extent. I believe "unmitigated zeal" is a term I've read in legal scholarship about this. I'll ask you, has it become easier for you to get your clients bail in the last 10 years?

Ari Goldkind: Yes.

Andrew Lawton: When you are representing clients and trying to get them bail, as a defence lawyer you appeal to the principle of restraint, do you not?

Ari Goldkind: I appeal to that and a number of other options available to me in the Criminal Code, based on the client, the client's background, the client's race, the client's cultural background, the client's mental health situation, the quality of the sureties and the criminal record, among very many other things, but yes, bail is one of the focuses of my practice, and I have noticed that anecdotally—obviously, I am just speaking for me—in the last decade or so.

Andrew Lawton: Again, your role is to represent your client. Your primary obligation as a defence lawyer is not public safety, but the system itself could be designed in a way that does prioritize public safety. Is that correct?

Ari Goldkind: That's very true.

You might listen to me today as you and I are talking and hear that I have one view as a citizen mixed with one as a criminal defence lawyer.

When I walk into a courtroom, which I have done every single day of my life for 20 years, there is no guesswork. It is unmitigated zeal to do the very best job I can for that client, whether you want to use more media terms in terms of a trial and getting them acquitted or getting them out on bail even if they've committed 17 crimes and they were out on 15 bails.

This part of my life in which I'm talking to you stops, and when I go into the courtroom, unmitigated zeal is a very polite way to talk of the passion I undertake on behalf of any client who hires me. I am not as concerned in that moment with public safety or the balancing that we're talking about here today. I have one mission, and I choose to accept it.

Andrew Lawton: It sounds, from what you're saying, Mr. Goldkind, as though the Liberal government has handed defence lawyers—has handed perpetrators—a variety of tools that put public safety in jeopardy. Is that correct?

Ari Goldkind: I would think that's a fair comment, but I don't want to point the finger just one way. I think this is something in the ether over the last 10 to 20 years. As Canada changes very much, I think there is a perception, yes, that the government of the day is soft on crime.

That's why I thought last week's announcement in advance of this committee was of significant interest to me, but there are other factors at play. I want to be fair. There are judges, justices of the peace, the cultural perception of certain things, Canada changing and the Criminal Code in certain sections, but yes, I think I would be being disingenuous with you if I said I thought that we have a government similar to the one south of the border, which is making it clear that law and order are top of mind and crime is going to be harshly punished no matter who you are.

• (1805)

Andrew Lawton: Thank you.

I have 10 seconds left here.

If we were to repeal the principle of restraint from the Criminal Code, would that make bail harder to get for repeat violent offenders?

Ari Goldkind: I think it might in certain circumstances. I really draw the line—in the 10 seconds we have—on violence versus non-violence. I'm not in favour of repealing the principle of restraint. I think it's important as a civilized country. I just think it should be applied differently to those who are not getting the message from many previous chances to get the message.

The Chair: Thank you, Mr. Goldkind and Mr. Lawton.

MP Dhillon, you have five minutes.

Anju Dhillon: Thank you very much.

I will start with Ms. Owens.

My first question for you would be, do you believe it should be harder for repeat offenders accused of intimate partner violence to get bail?

Kat Owens: I don't think there is a legislative solution to the problem of gender-based violence to be found within the Criminal Code.

I think it's incredibly tempting—and I say this as someone who is a lawyer—for us to look to law as the solution to these problems, but as you've heard from, I think, many witnesses, the tools exist in the Criminal Code. It's a question of how those tools are applied, and it's a question of the supports that are provided, both to people accused of crimes and to victims to ensure they are safe.

I would say that I don't think there are changes that need to be made in the Criminal Code at this point.

Anju Dhillon: My next question is for Ms. McVicar.

As you know, we brought forward Bill C-75 on intimate partner violence. There's a reverse onus that was created for bail for repeat intimate partner violence offenders, and it required courts to consider past violence. Are these the kinds of measures you think would help victims in the long run and would strengthen accountability?

Penny McVicar: It's important that you look at history. I think it tells you a lot about what future behaviours are going to be. That's important, especially in cases of intimate partner violence.

One of the speakers talked about sureties. There are some things we ask when we're doing our bail notification, when we're talking to victims prior to bail court. Who is a good surety? Who is not a good surety? Who do you feel is not able to do that public duty of being the bailer in the community? I think it's important that we listen to victims in those areas because they know the people in the offender's life, especially with intimate partner violence, and they know who might be appropriate and who isn't appropriate.

I also agree that the use of the estreatment hearings would go a long way if people found out it was going to cost them money or some other consequence if they didn't do their job to ensure that the offender remained on their conditions.

Anju Dhillon: The Conservative Party has promised to repeal Bill C-75, which would remove these very protections. From your perspective, would that be a mistake for those victims of intimate partner violence?

Penny McVicar: I think the conditions that are placed on bail are really important for victims. That's why bail notification is so important. We have to make sure that there's an absolute right that victims have, which is to have a copy of those conditions of release so that they know what the offender is and is not allowed to do, and also to have the information on what to do if those conditions are violated. That's victim empowerment.

Anju Dhillon: Thank you so much.

[Translation]

Ms. Leclerc, do you want to add any comments to what your colleagues just said?

Chloé Leclerc: I 100% agree with my colleague. I have nothing to add.

Anju Dhillon: Thank you. That's great.

[English]

Ms. Owens, would you also agree with what Ms. McVicar said?

Kat Owens: Yes. I would say that LEAF supported the passage of Bill C-75 and would like to see it continue to be law.

Anju Dhillon: Thank you so much.

The Chair: Now we have the opportunity to jump into the third round. We'll probably get through three people, starting off with Mr. Gill for five minutes and then MP Maloney.

[Translation]

Mr. Fortin can wrap up the meeting with his two and a half minutes.

[English]

Mr. Gill, please go ahead.

Amarjeet Gill: Thank you, Chair.

Thank you, everyone, for coming today.

Ms. McVicar, you testified previously that some victims are no longer reporting violent crime because they fear the suspect will be quickly released. Do you believe there has been a significant increase in these situations?

• (1810)

Penny McVicar: I've been doing this for 25 years, and yes, there are a lot of victims of repeat offenders, and they do get frustrated. They do start to feel that there's no point, because he's just going to get out again, that the conditions are going to be the same and that he's just going to breach another time. That's primarily when we're talking about intimate partner violence, gender-based violence situations. It is a concern because it's so important that they do report. There's the ladder of release: the more frequently the victims report, the more the offender moves up that ladder, which can be very important for holding accountability.

Amarjeet Gill: What are the consequences for victims when bail decisions prioritize presumption of release over community safety?

Penny McVicar: Women are displaced from their homes. They end up at a shelter, or we put them in a hotel because it's not safe for them to stay in their own homes. We do our best to provide them with safety supports so that they can remain in their own homes.

Whether they're in custody, especially with intimate partner violence, or whether they're released, the offender may no longer pay child support or help support the family. This is a big issue of concern for victims who have children. All of a sudden, all of their financial supports are gone, and they don't have ways to support their families. It takes a while for them to apply for things like family benefits.

Oftentimes, especially with intimate partner violence, the offender controls all the resources, all the bank accounts, everything. It's a big financial burden, and that's part of the reason they allow them to come back into the home or that they ask for a variance. They need that financial support back. It's hard to raise a family or to look after children when you have no financial resources.

Amarjeet Gill: Given the urgency of this issue, do you think that the government's reluctance to adopt existing Conservative motions is costing us valuable time and putting politics ahead of the safety of Canadians?

Penny McVicar: My personal opinion is that we need to look at what we can do better to support victims. We have the Canadian Victims Bill of Rights, but there's no meat to that bill if it's violated, if they aren't provided with information or if they aren't allowed input into the process to express their concerns. They're then put at greater risk. That's what I see as one of the biggest downfalls of the system: victims' lack of ability to give input and to have information.

Amarjeet Gill: Thank you.

Mr. Goldkind, Canadians are seeing violent crime up 55%, gun crime up 130% and extortions up 330%. Much of this is driven by repeat offenders on bail. Where do you draw the line between protecting rights and protecting the public?

Ari Goldkind: Good afternoon to you.

As I said in my opening remarks, I think the balance has shifted too far one way. The public is feeling it. Most people who are in positions of elite institutions say, "Well, the public is wrong" or "They can't see what's right in front of their eyes or their ears." I disagree with that. I think the public is onto something. I don't think it's unreasonable or harsh for a member of the public to not want to have to lock their door at night, to not want to have seven Ring cameras and six security cameras. I think the balance needs to go back somewhere towards the centre.

Right now, with regard to the bail courts, I'll say two things. One is that too many people have to wait too long to get bail. That's an answer that this committee may not like. There are certain people who should be out who have to wait two, three or four days because there are no courts or no justices. They just wait three or four days to get out, but they should have been released from the police station.

I believe your question is about somebody who's truly dangerous. When I keep hearing the term “presumed innocent”, which is a fair point—it's a great talking point—there has to be a difference, and I'll end my answer, perhaps, here. There's a difference between somebody who's presumed innocent—where the evidence against them stinks, it's “he said, she said” with no forensic evidence and they're not going to be convicted—and somebody who's presumed innocent but is on candid camera, who is on high-definition TV waving at the camera, saying, “I'm committing a crime”.

It's really important that the bail stage look at the strength of the Crown's case, not just on the tertiary ground but also at whether there is a real reason to keep this person in—a strong Crown case—because then there are also the individuals I'm concerned about, who have been in three nights too long and should be out. I think there should be more of this talked about at the bail stage.

• (1815)

Amarjeet Gill: Thank you.

The Chair: Mr. Maloney, you have five minutes.

James Maloney: Thanks, Chair.

Thank you to all the witnesses for coming today. Your evidence is very helpful.

Mr. Goldkind, I have some questions for you. I've sort of followed your career, both from a legal perspective and from a political perspective, with some interest, and I thank you for being here today.

I want to talk a little bit about the principle of restraint. You said that it's been around for a long time, and it predates the 2019 legislation. How is your approach to dealing with the principle of restraint in a courtroom during a bail hearing any different now than it was before the legislation, if at all?

Ari Goldkind: Good afternoon, I think that's a good question.

I appreciate your kind comments. I didn't know that, so thank you.

I don't think my general courtroom approach is different. I am a bit of an attack dog. I am passionate in court. I will argue until the cows come home that somebody should be out—oftentimes, as many criminal defence lawyers do, when you know in your heart of hearts that they shouldn't.

I think your question is asking me what tools I have had more at my disposal in the last five, six, seven or 10 years—

James Maloney: I'm sorry. I don't mean to interrupt—

Ari Goldkind: Please do.

James Maloney: —but my question is really this. People are trying to say that this legislation imposes the principle of restraint on the court system and that it's made it easier to get out on bail. What I'm hearing you say is that your submissions in court—and probably those of your colleagues—haven't changed much because it already existed. Is that fair?

Ari Goldkind: I think that's fair, and the short answer is that it has simply codified—

James Maloney: That's right.

Ari Goldkind: —through Parliament what was already there.

James Maloney: Thank you. So, it's a red herring.

You said that you believe it's easier to get out on bail now in the last 10 or so years. Perhaps that is a trend, but there are a lot of reasons for that, wouldn't you agree with me?

Ari Goldkind: If you suggest some, I'm happy to say yes or no, but yes, I think that's a fair proposition.

James Maloney: Well, as an example, you just mentioned how people are waiting two, three or four days to get bail hearings. You also mentioned the fact that Crown attorneys don't often seek bail review applications. One of the problems is that the provincial system, which runs the criminal justice system, is under-resourced. Isn't that right?

James Maloney: Have you ever met a Crown attorney who complained about having too many resources?

Ari Goldkind: Yes.

Ari Goldkind: I've never met anybody in the system I've worked in for two decades who will ever come here and tell you they have enough resources—period, full stop, end of story.

James Maloney: Right. That applies to people in the penal system with respect to jails and it applies with respect to justices of the peace and other people who are presiding over these hearings. Isn't that right?

Ari Goldkind: Yes, sir.

James Maloney: All of that factors into the problems we're now experiencing in the bail system. Is that fair?

Ari Goldkind: I think that's fair that everything factors in. Some things factor in more than others.

James Maloney: All right. Thank you. To put all the blame in one place versus another is irresponsible. Would you agree with that too?

Ari Goldkind: I would never do that, because I think it would be kind of childish and intellectually dishonest. I'm all in favour of having adult conversations, but I also think those conversations should touch upon hot buttons or third rails. That's something that's very important to me. As you mentioned, you do follow what I say.

James Maloney: I couldn't have put that better myself. Thank you.

There probably isn't data on this, but how often do Crown attorneys seek bail review applications?

Ari Goldkind: That's such a good question. I know it's not a juicy answer, and we're tight on time. It is something I've never understood. I see it happen the fifth of never. Maybe it's done once in a blue moon, when there's so much public pressure because the person has a Bernardo-adjacent name. I mean, you don't get that many names. I can tell you that defence lawyers bring them all the time. There's a court literally dedicated to defence lawyers bringing bail reviews.

I almost never see it, but that's me answering for myself. I really think the tools are there and they should be used by the Crown attorneys.

James Maloney: Unlike you, Crown attorneys have the resources—at least they get paid—to bring these applications. You might be doing it for free or because your legal aid certificate has been denied.

My last question, probably, is with respect to the delay surrounding bail hearings. We've heard from other witnesses too about the two or three days and how Crowns will have 25 bail hearings in one day but they only get through 10, etc. Are there situations where bail hearings are then waived and you come to an agreement with the Crown prosecutor because it's expedient in the circumstances?

Ari Goldkind: Yes. You work on something that's likely time served or something that's much shorter and sharper. I can tell you that I go nuts—I know that's not parliamentary language—when a court closes at 3:30 or tells me we won't start a bail hearing at 3:45. I literally go ballistic.

• (1820)

James Maloney: For those people for whom bail hearings are waived and they get out, they're still out on bail. They would fall into the statistical category of people out on bail if they were to commit another crime. Is that correct?

Ari Goldkind: Maybe I misunderstood your question. Are you saying that the bail hearing is waived and the Crown consents because they haven't had their bail hearing reached?

James Maloney: Yes.

Ari Goldkind: That does tend to happen, but I think in fairness to my friends the Crown attorneys, they wouldn't pull that trigger if they felt the person was dangerous. They would just think they're close to the end of their sentence and for an extra day or two it's not in the interest of justice to keep them in.

James Maloney: But it does happen that it would fall into that category of statistics.

Ari Goldkind: I'd have to say that across Canada, I'd be shocked if I could tell you that it doesn't happen. Of course, lawyers negotiate every day, trying to do the best they can with the limited deck of cards they have.

James Maloney: Thank you very much.

The Chair: Thank you.

[*Translation*]

Mr. Fortin, you have two and a half minutes.

Rhéal Éloi Fortin: Thank you, Mr. Chair.

Mr. Goldkind, I find our discussions to be very interesting.

Crown prosecutors don't often seek a review of parole decisions. Do you think that could be because the courts are already backlogged with a lot of cases they can't rule on within the time required by the Supreme Court in Jordan and because of all the conditions?

Does the backlog in the courts partly explain why the Crown doesn't often seek a review of parole decisions?

[*English*]

Ari Goldkind: Well, I think it should. I think too many things are held for a bail hearing. I'm giving you a very natural defence lawyer answer now. Sometimes Crowns make you have a bail hearing that takes up half a day or a quarter of a day for somebody whose release they should have consented to. But I can tell you that on the—

[*Translation*]

Rhéal Éloi Fortin: Thank you, but I have to interrupt you because we only have two minutes. I'm sorry for being rude.

[*English*]

Ari Goldkind: Of course.

[*Translation*]

Rhéal Éloi Fortin: In your opinion, do you think the justice system is underfunded?

Given that the administration of justice is a provincial competency, shouldn't we pressure the government to send more money to the provinces so they can fund the justice system?

Would that go some way toward fixing the problem we're discussing today?

[*English*]

Ari Goldkind: Given the time pressures we're under, I think it never hurts to have more funding.

I'm somebody who thinks taxpayer dollars should be respected, but when you have the Toronto Regional Bail Centre, at Finch and Highway 400, which was created and built to do nothing but bail hearings, having 37 bail hearings in the line and only four or five getting done in a certain day, that, to me, is ridiculous. That's my answer to your question.

[*Translation*]

Rhéal Éloi Fortin: Thank you, Mr. Goldkind.

I have one last question for you. I have about 30 seconds left.

Could electronic bracelets be used more often in bail or parole cases? It's problematic because of the presumption of innocence.

Would you please comment on that? Are electronic bracelets a good idea or not?

[*English*]

Ari Goldkind: It's a very important tool.

To your question, courts now are looking less favourably upon that given the number of people cutting them off or violating them, but it is an important tool, particularly for someone who doesn't have a surety, because you may not know this, but the government—you may know this, obviously, as you're the government—actually funds those, so it's not the way it was a year ago—

Rhéal Éloi Fortin: I am not the government.

Ari Goldkind: Well, if not.... Okay. I take it back. My mistake, but you understand where I think I am.

Rhéal Éloi Fortin: Yes.

The Chair: Hopefully, he never is in this country. He doesn't want it either—

Voices: Oh, oh!

Ari Goldkind: That's an inside joke. I don't get that inside joke, so I'll stay out of that.

The Chair: It's the last thing the Bloc Québécois wants.

We don't have time for a full round for the last two members.

Mr. Baber, we'll give you two minutes and then have two minutes for Mr. Chang.

Roman Baber: Mr. Goldkind, in a TV appearance last week, even though we haven't seen the new Liberal bill yet, you've said that the new Liberal bill is probably going to be window dressing. Can you please tell us why?

Ari Goldkind: Yes, in fairness, I think that's quite possible. It doesn't touch upon the third rails, the hot-button issues that I think you have to talk about in bail. I gave some examples earlier. Until there's a real, meaningful move and the dangerousness becomes the top order of the day and the idea of harshness changes, as I've talked about, I don't think there will be a massive change in the numbers.

To end my answer—again, because of time pressures—the devil will be in the details. I can't answer that scientifically for the next five to 10 years, but if it were up to me to change the bail system, I'd be making some much more serious and harsh changes.

Roman Baber: I was with some Toronto police officers last week at an event. An officer in 31 Division told me that 5% of the criminals are responsible for 95% of the crime. What can we do specifically? What do you recommend we do specifically, by way of the Criminal Code, to change that?

• (1825)

Ari Goldkind: I think everything in the Criminal Code is there. There are some sections that I would have a concern about. As I said, I think justice should be blind. In certain circumstances, I think it's important to look at somebody's culture or cultural background. I think that in other circumstances, it creates a multi-tiered system.

The number one concern that I think the bail system should have is the balancing of somebody's right to reasonable bail with the idea that some people are just dangerous. No matter whether or not mommy and daddy run to court and offer to put up their house or \$5,000 to \$10,000, some people are just incorrigible, and they will not stop.

If the public feels that way, which I think is real, it is not inappropriate for the courts to also understand that some people—whether it's the 5% you just mentioned, or 10% or 15%—just will not abide by court orders, and there's nothing harsh or mean-spirited about saying that.

The Chair: Thank you.

Mr. Chang, you have two minutes.

Wade Chang: Madam Leclerc, based on your comparative research, are there lessons from other countries that Canada should consider as we continue assessing reforms?

[*Translation*]

Chloé Leclerc: Yes. If we compare ourselves to other jurisdictions, especially the United States, it's easy to see that all of the very punitive reforms filled prisons but did absolutely nothing to reduce crime. I think that's worth noting. Measures that force people to do things have a lot of undesirable consequences. Consider mandatory minimum sentences, the requirement to serve sentences consecutively and the fact that certain decisions are forced.

I can give you some examples of cases we've seen. When judges disagree about mandatory minimum sentences, they start by withdrawing charges and use all kinds of circuitous strategies. They end up being unable to prevent what they set out to prevent, and the system ends up dropping people even though the reform tried to tackle these problems.

I would say it's fairly dangerous to propose limiting discretionary power. Reform has to start with conversations with people in the judicial system to make sure changes address the problems they experience every day.

[*English*]

Wade Chang: Thank you.

The Chair: This completes the second and third hour.

[*Translation*]

I would like to take a moment to thank you. Your testimony is very important to our study.

[*English*]

I wish you all a great evening. You can leave at your will. Just for the benefit of members who are here, we have a budget that was circulated to you to compensate the witnesses and continue the financial support for this study. I assume there's no objection to it, but we formally need to approve it.

Some hon. members: Agreed.

The Chair: Excellent.

There is a list of witnesses who have asked to appear. I would encourage you before the next meeting to get back to us if you want any of those witnesses to appear, and we'll schedule them for the next witness round.

Thank you very much.

Patricia Lattanzio: Mr. Chair, I don't mean to interrupt you.

Will I be getting that response in writing from the witness?

The Chair: Yes.

Patricia Lattanzio: Thank you.

The Chair: The meeting is adjourned.

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