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• (1630)

[English]

The Chair (James Maloney (Etobicoke—Lakeshore, Lib.)):
Good afternoon, everybody.

I'd like to call this meeting to order.

Welcome to meeting number 15 of the House of Commons Standing Committee on Justice and Human Rights.

Pursuant to the order of reference of November 18, 2025, the committee is meeting to begin the study of Bill C-14, an act to amend the Criminal Code, the Youth Criminal Justice Act and the National Defence Act regarding bail and sentencing.

Today's meeting is taking place in a hybrid format, pursuant to the Standing Orders. Members are attending in person in the room and remotely using Zoom, although there is no one on Zoom today.

Before we start, I would like to make a few comments for the benefit of the witnesses and members. Please wait until I recognize you by name before speaking. The comments about Zoom don't apply, so I'll skip that. This is quite easy today.

I want to thank our witnesses for appearing today.

In the first hour, we have the Honourable Sean Fraser, Minister of Justice and Attorney General of Canada. Thank you for attending, Minister.

Along with the minister, I would like to welcome our witnesses for today's first hour from the Department of Justice. They are Owen Ripley, senior assistant deputy minister, policy sector; Matthew Taylor, senior general counsel and director general, criminal law policy section; and Chelsea Moore, team lead and senior counsel, criminal law policy section.

Minister, again, welcome. I will turn the floor over to you, sir, for your opening remarks.

Hon. Sean Fraser (Minister of Justice and Attorney General of Canada): How much time do I have, Mr. Chair?

The Chair: You have 10 minutes.

Hon. Sean Fraser: Thank you so much.

I want to wish everyone a happy new year.

I'll endeavour to take less than the time allotted to allow more time for questions, knowing that I have a hard stop at 5:30 and I don't want to avoid the questions you may have or be seen to avoid them.

Let me start out by saying that crime and criminal justice reform are obviously pressing priorities for Canadians who have experienced certain challenges in their communities in different parts of the country that demand the attention of the Government of Canada. The fact that they're a priority for Canadians has made them a priority for the Government of Canada, which is why we've conducted ourselves with commitment to the cause from the moment this government took office, by advancing new laws as part of a broader strategy to improve public safety.

Before I get into the specifics on the bail and sentencing reform act, which we're here to discuss today, it's helpful to situate it in the context of the broader public safety strategy.

The first pillar of this strategy is in fact to adopt stronger criminal laws to help promote safety in our communities. That includes, of course, the combatting hate act, the bail and sentencing reform act and, apropos of the timing, the protecting victims act, which is being debated in the House of Commons this week.

In addition to adopting significant reforms to Canada's criminal laws, we're also making additional investments in the front line to help promote safety in our communities. This includes major investments in the RCMP, with 1,000 new officers, and major investments in the border, with 1,000 new CBSA officers, but it also includes support for frontline organizations, particularly those that support survivors of violence and victims of crime.

In addition to these supports on the front line, we are looking at making upstream investments that will have a positive impact on violent crime in the long term. This includes investments in mental health and addictions. It includes investments in affordable housing and supportive housing. It includes programs that target at-risk youth and infrastructure that helps build stronger communities and healthier people, which will promote public safety in the long term.

[Translation]

It is vital to respond to the priorities of Canadians, for whom crime is a very important community issue. The strategy includes the three aspects I just mentioned in English.

When we have an opportunity to reform criminal justice, we must make the most of it and bring about changes that will protect our communities.

[*English*]

The bill we're here to discuss today is on what I would suggest is perhaps the biggest political priority for Canadians when it comes to criminal justice reform, which is addressing the challenges in bail and sentencing that Canadians are calling for. Indeed, the measures we've included in this bill are gaining the support of law enforcement organizations, police, those who work in the courts, provincial governments of different parties from different regions, municipalities and other actors within the justice system.

Though the long-term solutions to public safety can be very nuanced, this bill has at its core two main themes: bail and sentencing.

When it comes to bail, there are a number of measures that I want to draw your attention to.

The first is changing the way we deal with the principle of restraint by directing courts to ensure they're considering the public safety imperative and communicating that release is not mandatory, but that, in fact, if public safety cannot be managed, there are grounds to detain a person who appears before the court at a bail hearing.

We are also urging the court to consider new factors, including not only the seriousness of a charge that a person may be facing, but also the number of charges they have faced in history, to ensure we're dealing with violent crime, but also with very high-volume offenders who are changing the dynamic of downtown cores across the country.

We also seek to impose new conditions on bail. They follow largely the offence to which they're tied. When it comes to organized crime, having non-communication orders seems like a good idea. When it comes to people who have been facing many charges for home invasion or auto theft, prohibiting the possession of break-in devices is the kind of thing we're talking about. There are other examples, but they all naturally follow the logic tied to the crimes to which they're attached.

In addition to these conditions, a major feature of the bail reforms—informed, again, by law enforcement and actors in the criminal justice system—is to implement a series of reverse onuses, insisting that in all instances it should not just be the Crown that bears the onus of demonstrating that a person should be detained, but that for certain crimes, where there is potentially a higher risk of recidivism or in some instances ties to organized crime, there's an opportunity to flip the script, so to speak, and to insist that the person facing these charges demonstrate why they ought to be released, by putting forward credible information as to why the public safety imperative can be managed and why the public confidence in the justice system should remain.

In addition to these important reforms when it comes to bail, there are certain changes we're making to the sentencing framework that exists in this country. This includes new aggravating factors that touch on repeat violent offenders, crimes committed against our first responders, organized retail crime and crimes that, though

they may fall in the class of crimes that are theft under \$5,000, often have outsized impacts on our essential infrastructure.

● (1635)

We're also looking at adopting consecutive sentences for a range of different crimes, including, for example, extortion and arson, which I've seen in the news in Winnipeg as recently as this morning being an issue that needs to be addressed, with certain arrests that have been made. This would also apply to people who are facing charges for home invasion and auto theft, which has obviously been a pressing priority. I'll note that the crime rate has significantly dropped in recent years when it comes to auto theft in particular, but there is more work we need to do to continue this positive trend.

I will also be prioritizing the principles of denunciation and deterrence when it comes to home invasion, auto theft and organized crime, and ensuring that conditional sentencing orders will not be applicable for sexual offences, including sexual offences against children.

[*Translation*]

When we have an opportunity to strengthen the criminal justice system rules, it is essential to involve people with experience in conveying information about the process.

[*English*]

These policies were not dreamed up behind closed doors on Parliament Hill. They're the result of extensive engagement with people who live and breathe the justice system, the people who are charged with the responsibility of keeping our community safe and administering our systems.

I've endeavoured to be under the clock that I have been allowed, Mr. Chair. You've been very gracious to give me 10 minutes. By my count, I have seven. Let's donate the additional three minutes to the questioners.

Thank you.

The Chair: Thank you, Minister. Your clock is the same as mine, and we appreciate the extra time.

All right. We'll start off the six-minute rounds with Mr. Lawton.

Andrew Lawton (Elgin—St. Thomas—London South, CPC): Thank you very much, Chair.

Minister, thank you very much for being with us today.

You said in your remarks that bail is the most pressing criminal justice priority for Canadians. Why was Bill C-14 not your first criminal justice bill in this Parliament?

Hon. Sean Fraser: Thank you very much, Mr. Lawton.

The answer is fairly simple. We wanted to ensure that we had the opportunity to engage extensively with the people who we had faith would give us the advice we needed. As I mentioned, this wasn't a matter of sitting down for a meeting in a boardroom on the Hill.

I had the opportunity, over the course of the summer and into the fall, to engage with police leadership, provincial governments, municipalities and advocates for change across a range of different issues. I didn't want to present a bill before I had faith that the advice and expertise of the people who would strengthen it could actually be captured and included in the bill.

• (1640)

Andrew Lawton: This committee's first priority in this Parliament was a study on bail. We heard testimony from witnesses, including municipal leaders, a range of police chiefs and police association leaders. All of them said that Liberal justice laws in the last 10 years have made things markedly worse.

I'll quote police chief Marc Roskamp from St. Thomas, Ontario, which is in my riding. He said, "I believe Bill C-75 has created less safe communities; that is my opinion, based on a near 30-year career in policing."

Mr. Chang asked this question of Brian Sauvé of the National Police Federation: "From the RCMP's perspective, how have these changes [in Bill C-48] improved the safety of victims and the safety of officers on the front lines?" Mr. Sauvé said, "I don't think they have".

Why is law enforcement to believe that Bill C-14 will be any different, when we've had these promises in the past that have not made things safer for communities?

Hon. Sean Fraser: I think the key difference is the process of engagement, including some of the names that you've mentioned. Brian Sauvé, for example, was one of my first phone calls. That was in the context of the strong borders act, which he still continued to advocate for Parliament to adopt. The response from law enforcement, I think, speaks volumes. They see themselves in this bill because their advice led to the creation of the proposals that are included in the bill.

I don't want to debate the different laws that were adopted over the course of Canada's distant or recent history. We have an opportunity to change the path going forward. By listening to law enforcement, I have faith that we have put together a bill that's going to improve their experience of policing in our communities and, importantly, improve public safety outcomes for Canadians.

Andrew Lawton: Chief Roskamp and numerous other police officers have specifically singled out Bill C-75 largely because of the principle of restraint. This is a section of the Criminal Code that says judges should give "primary consideration to the release of the accused at the earliest reasonable opportunity and on the least onerous conditions". Bill C-14 puts a clarification there, which says, "For greater certainty, section 493.1 does not require the accused to be released." A clarification is not a fundamental change.

Are you of the view that the principle of restraint has been misinterpreted by judges and a clarification is all that's required to address this issue that law enforcement has been raising?

Hon. Sean Fraser: I take a slightly different view. If you'll allow me maybe 30 seconds, I'll try to give you the nuanced answer.

First, Bill C-75 has other measures that I believe are very important. It makes it harder for people who've been charged with intimate partner violence offences, for example, to be released on bail. We should protect that.

One thing that's essential to understand is that simply doing away with the language that's in the code today wouldn't get rid of the principle of restraint at law, because that was brought into Canadian law through the Supreme Court of Canada's decisions. That makes it part of the body of common law, which has application today.

By not just putting in clarifying language, but directing the courts to deal with that principle differently, we can have a more profound impact than would be the case if we simply removed it. Specifically, it doesn't only clarify that it doesn't mandate release; it demands that courts consider the public safety imperative and communicates with no equivocation that if the public safety imperative cannot be managed, there are grounds to detain the person who appears before the court. That's an important change we should make.

Andrew Lawton: That was closer to 60 seconds, but I did want to give you an opportunity to explain this.

Is it your view that judges have been interpreting the principle of restraint incorrectly? By clarifying, it seems that you're effectively saying that all of these police officers who have said the principle of restraint has made it easier to get bail are wrong when they tie it to that section of the law.

Hon. Sean Fraser: The principle of restraint pre-existed the changes that were made to bring it into the code through the history of decisions that now form part of the body of law that comes from our courts in Canada.

I think we need to communicate for two reasons. One is to give direction to the court as to how we wish that it should be interpreted. It's also to give faith to Canadians that a very real and pressing priority, based on their lived experience, has the full attention of the government and we can't have any equivocation.

I certainly don't want to criticize the court or judges en masse or individually, but I do think that this direction is timely and important.

Andrew Lawton: Criminals can vouch for criminals as sureties under our current system. This is an ongoing problem we've seen. Police have raised it as an issue.

Bill C-14 does not address sureties. If this was something that you wanted to get right, why have you left out that key piece that some of the very people you've consulted with have said, even before this committee, that we need to deal with?

• (1645)

Hon. Sean Fraser: We had an opportunity to engage on the issues that people raised with me, with our department and with my political team as priorities. The endorsements we've seen from law enforcement have communicated to me that we've done a pretty good job of incorporating their feedback to the extent that the work that this committee has conducted should inform proposed amendments. Know that, so long as they don't oppose the spirit of the bill, if they are going to have a positive public safety outcome and don't create unwanted collateral consequences....

I don't want to be dogmatic about these things. I just want communities to be safer.

Andrew Lawton: Would you be open to amendments on sureties?

The Chair: Thank you, Mr. Lawton. That's all your time.

Hon. Sean Fraser: We can discuss that subsequently.

The Chair: Mr. Chang, you have six minutes.

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

Welcome to the justice committee. Thank you for being here and for your continued engagement with the committee. We appreciate the work that you and your officials are doing to protect Canadians and to make sure our justice system remains fair and responsive to the challenges that Canadians are facing every day.

My very first question for you is this. Since introducing Bill C-14, what kind of reaction or feedback have you heard from the provinces, territories, police leaders and frontline justice partners?

Hon. Sean Fraser: Look, I'll answer your question slightly differently from how you asked it, only because their reactions started to come in before we released Bill C-14. This was because of the way we engaged. There was pleasant surprise, frankly, in some instances, with the approach we took, because we so sincerely wanted provincial governments to inform the final version of the bill.

I think to myself about the engagements I've had with my Conservative counterpart in Ontario, Attorney General Doug Downey. Many of the ideas, including how we're going to look at a new process for reverse onuses, came from conversations I had with Attorney General Downey. I think about my engagements with Matt Wiebe in Manitoba and the advocacy he put toward, including specific provisions that would deal with attacks against first responders. I think about Niki Sharma insisting, in response to the horrific murder of Bailey McCourt, that we make changes about refusing bail when someone has been convicted pre-sentencing.

Their reaction didn't just follow; it was actually part of the process. They appreciated that engagement. When we included that feedback in the version of the bill we presented in the House of Commons, they didn't just say nice things in public; in some instances, they asked to be present at press conferences to feature some of the elements that they had advocated to be included in the bill.

To answer your question summarily, it's been a uniquely positive reaction.

Wade Chang: Thank you.

Bill C-14 focuses on repeat and violent offending. Why was it important to be targeted and precise?

Hon. Sean Fraser: Look, we see real challenges. Provinces in particular, which have a constitutional responsibility to administer the justice system, are facing real challenges when it comes to volume. We're looking at trying to ensure that we change the system by putting our focus on people who pose danger to our communities, who have a history of committing violent offences and committing violent offences repeatedly, who are tied to organized crime and who we know can achieve a level of scale that is far greater than any single individual. We really wanted to address the measures that we thought would have the most profound impact on public safety and that would ensure that the precious resources that provincial governments put into the justice system have the greatest impact.

Wade Chang: Thank you.

Stakeholders have long pointed to the challenge of the uneven bail decision-making processes across Canada. How does Bill C-14 help promote greater consistency in the application of bail principles nationwide, and what mechanism will the government rely on to ensure that Parliament's intent is reflected in those provisions applied in practice?

Hon. Sean Fraser: I think things like the exchange I had with Mr. Lawton on providing not only clarifying language but also direction on how certain principles ought to be applied is a healthy start. I do think we would be kidding ourselves if we said that any one particular law, in and of itself, will solve all these problems. We need to complement the measures that we put into the Criminal Code with collaboration with provincial counterparts to ensure that as rules change, there are training resources put in place and we actually have the capacity for people to meet the demands on a system that is under pressure with the volume it's facing right now.

Through continued engagement, bringing together the different provinces and territories with the federal government, making sure we're continually engaging with not just with lawyers and judges and court administrators but also law enforcement, municipalities and provincial governments, we can bring everyone on the same page and pull in one direction more effectively.

Wade Chang: Thanks.

Minister, B.C. Attorney General Niki Sharma has stated that what happened to Bailey McCourt "should never happen again", and that she's hopeful that these bail reforms will prevent another tragedy like hers. Can you please explain how Bill C-14 will better protect victims of intimate partner violence before a situation escalates to that point?

• (1650)

Hon. Sean Fraser: Yes. Look, this was a tragedy, and sadly a preventable tragedy. I've had the opportunity to meet family members of Bailey McCourt. This is a cross-partisan issue of concern.

I should point to not only Attorney General Sharma's feedback. As I mentioned, she's uniquely responsible for us making the decision to include reforms around refusing bail post-conviction, presentence, as well as changes to the law that would create a reverse onus for cases of assault involving choking or strangulation.

Frank Caputo, our colleague with the Conservative Party, has been doing really good work and has engaged routinely with me in a collaborative way to find a path forward so that we could support a private member's bill with potential amendments that would achieve a greater degree of protection for crimes in an intimate partner violence context. We've seen our colleague Steve Fuhr, who was actually the first person to raise the case of Bailey McCourt with me as a pressing priority for the community that he calls home, with advocacy for similar measures touching on those that are in Frank's bill and that AG Sharma has put forward.

That level of engagement has led us to include certain measures not only in Bill C-14 but also in a private member's bill that I expect will see some amendments and hopefully attract the support of all parties in the committee, as it did in the House of Commons.

Wade Chang: Thank you.

The Chair: Thank you.

Mr. Fortin, you have six minutes.

[*Translation*]

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

Minister, welcome to the committee.

Ladies and gentlemen, thank you for being with us.

The introduction of Bill C-14 has, of course, been met with positive reactions from most police associations. It also raised some questions or criticisms from certain civil rights associations and defence lawyers.

Can you tell me who exactly was consulted before Bill C-14 was adopted? Which groups were consulted?

[*English*]

Hon. Sean Fraser: I won't be able to give you a complete list in a few minutes or from memory. If it's something you'd like to discuss off-line afterwards—

[*Translation*]

Rhéal Éloi Fortin: Can you name a few off the top of your head?

Hon. Sean Fraser: I've had conversations with police organizations in provinces, territories and municipalities, as well as national organizations and organizations that promote the public interest on a range of topics.

[*English*]

Excuse the quality of my French.

There were a number of different groups that I had the opportunity to meet with, and I'd be happy to provide a list of engagements if that's useful.

[*Translation*]

Rhéal Éloi Fortin: Did you consult the Quebec Bar Association, Minister?

Hon. Sean Fraser: Just a moment.

[*English*]

I'm trying to go from memory. There were many dozens of groups that I had.... I'm trying to remember which—

[*Translation*]

Rhéal Éloi Fortin: All right.

Did you consult the Canadian Bar Association?

Hon. Sean Fraser: Yes, I've had conversations with—

Owen Ripley (Senior Assistant Deputy Minister, Policy Sector, Department of Justice): The minister had the opportunity to participate in a round table with representatives of the Uniform Law Conference of Canada, or ULCC. That conference is held every year with—

Rhéal Éloi Fortin: Were consultations held to seek the opinion of the bar's leadership?

Hon. Sean Fraser: It's hard to say. When I have meetings, it's not always with a specific group. Sometimes organizations are involved in the conversation in a different space.

[*English*]

I'm trying to go from memory with round tables with 10 or 20 groups.

[*Translation*]

Rhéal Éloi Fortin: Thank you, Minister.

According to experts who have appeared before the committee on various occasions—I unfortunately no longer have the figures at hand—more than 70% of inmates in provincial prisons are there on remand. Those people have not been sentenced, and they have not been found guilty. They're awaiting trial.

Again, that isn't marginal. That's about three-quarters, if not more, of inmates.

I would like to know if you are aware of that statistic and what you think about it.

Hon. Sean Fraser: This is an important issue. This problem in the justice system can be seen across the country, not just in Quebec.

Here's one way to address it. First, rules could be created to promote public safety. Investments in the justice system could also be adjusted to address—

Rhéal Éloi Fortin: Aren't there already too many prisoners in our prisons, even before they're convicted?

Don't you think our prisons should be used mainly to detain people who have been convicted, at the very least?

• (1655)

Hon. Sean Fraser: We agree.

I'm going to continue in English, because it's difficult for me to express myself properly in French.

[*English*]

My starting point is that we have to have the right framework to promote public safety. The answer to our process challenges is not to weaken the criminal laws that we have, but to have the levels of government that are responsible for different aspects of the system make the investments necessary to keep up with the demands.

The changes we're making in this law come uniquely from requests that have arrived from provincial governments, which are being excellent partners and want to make the investments necessary. Sometimes that will include resources of the federal government with additional appointments to the superior courts, and most often that includes investments from the provincial system, but I just wouldn't accept that the right solution is to weaken the law in order to solve that issue.

[*Translation*]

Rhéal Éloi Fortin: Thank you.

I'm sorry to rush you, Minister, but you know that our time is limited.

The experts also tell us that they don't really have any data or statistics on the number of repeat offences or on rehabilitation. There also isn't any data on whether people held in remand are going to reoffend before or after being sentenced. Those statistics don't seem to exist, even though they have been recommended by a number of experts.

Is your department doing anything right now to try setting up a database to collect that data and use it to improve the work with the prison system?

Hon. Sean Fraser: I think it's a good idea to work with the justice systems in each province. You're right. It's a problem when the data doesn't exist. However, there are a few municipalities that are able to get the information. It should be noted that the data varies from province to province.

I think it would be a good opportunity for this committee to make recommendations that improve co-operation between the provinces and identify the federal government's role.

[*English*]

I think data collection, in terms of what we collect, as well as in terms of uniformity and best practices, would be a huge opportunity to improve the quality of the decisions that we can make.

[*Translation*]

Rhéal Éloi Fortin: I have a few seconds left.

Do you have any ideas about investments that can be made in the provinces or possible money transfers to improve prisoner rehabilitation and limit recidivism?

Is anything under way?

[*English*]

Hon. Sean Fraser: In the seconds that I think we have remaining.... Maybe we should have a deeper conversation about this.

Mr. Chair, are we out of time?

The Chair: You have four seconds.

Hon. Sean Fraser: Let's discuss this off-line, perhaps, to improve the situation. I think there are areas for collaboration.

Rhéal Éloi Fortin: Thank you, but I don't believe that's an answer to my question.

Hon. Sean Fraser: We'll have to wait until we have that opportunity. Thank you, Rhéal.

The Chair: Mr. Fortin, the good news is that you'll get another opportunity in just a few minutes.

Mr. Baber, we'll start the five-minute round with you.

Roman Baber (York Centre, CPC): Thank you, Chair.

Welcome, Attorney General.

One of the big failures of Liberal Bill C-75 is that it created a diversionary regime for offences involving failures to comply with court orders, so offences such as failure to appear, breach of undertaking or even breach of bail conditions may often go unpunished. Basically, Bill C-75 allows Crowns to divert or to remove those offences from the docket. This has been a spectacular failure.

Why is this not addressed in Bill C-14?

Hon. Sean Fraser: From a philosophical point of view, there are dangerous people who need to be incarcerated because they pose a public safety risk. The circumstances surrounding an administrative charge can vary significantly. In some instances, particularly when you're dealing with low-income Canadians, there may be somebody who missed a court date because they had no access to child care, or there was no public transportation and they couldn't afford a car. I don't want somebody in those circumstances to necessarily be incarcerated when they don't pose a public safety threat.

If there are people who are violent repeat offenders who are also acting in contempt of court, there are increased penalties included in Bill C-14, which is a better way, in my view, to deal with that.

Making sure we don't use too blunt an instrument to incarcerate people who pose no public safety threat but, through life circumstances over which they have no control, find themselves before the court in these kinds of proceedings.... This is an important thing that we need to allow courts to deal with.

Roman Baber: Attorney General, our committee heard from Mr. and Mrs. Best, the parents of Kellie Verwey, 28 years old, who was killed in a car crash last January by a drunk driver. At the time of this tragic incident, there was a warrant for his arrest for breaching bail conditions. In fact, that was not the first but the second time that he was wanted for breach of bail. He had already breached before. The mom, Meechelle Best, said to us that Kellie's death was completely avoidable.

Let's talk about that as a philosophical issue. What would you say to Kellie's parents about why Bill C-14 does not go far enough to punish those who breach bail conditions?

• (1700)

Hon. Sean Fraser: I would say, first of all, that there is no tragedy that can compare to someone losing their child. There is no answer you can give in the Criminal Code that will bring someone back to life. It is a pain that too many people in this country have felt personally and know deeply.

My understanding of that case is that the person was actually released on Crown consent, so I don't understand that it was a shortcoming of these specific rules but perhaps of how things played out in that particular instance.

If there are dangerous people who are also breaching bail conditions, that is absolutely something the court should be considering. Making sure we're dealing with people who pose a public safety risk is precisely the kind of thing I believe Bill C-14 will do. It's not going to bring back someone's loved ones, but it does have the potential to prevent further loss of life in the future.

Roman Baber: Attorney General, I'm especially concerned that there may be no real consequence for those who breach bail conditions. If someone breaches bail and commits a violent offence, I believe they should be detained almost every single time instead of the revolving door that we currently have.

I want to move to young offenders. The new prevalence of young offenders, especially in gang violence in Toronto, is very troubling, but there is no sentencing reform in Bill C-14 with respect to young offenders. You close a loophole clarifying what violence is for purposes of custody, but the bill still does not increase sentences. For second-degree murder, for instance, the Youth Criminal Justice Act limits custodial sentences to four years. They often wait for one to two years, get two for one in pre-custody time, and then by the time they're sentenced, they're sentenced to a year or no time at all, and then they come out and terrorize our community.

Why doesn't Bill C-14 increase sentences for young offenders?

Hon. Sean Fraser: I think there are some questions that we need to study and identify the correct responses to. It may be very appropriate to bring those questions to this committee for deep study.

The process of engagement that we undertook identified certain reforms that disproportionately fell into the category of those that apply to adults. We weren't necessarily hearing the same level of feedback when it came to youth criminal justice, though there are some elements that we touched on in Bill C-14.

One particular piece we heard, subsequent to the development of Bill C-14, was the need to ensure that we're targeting people who

would recruit young people into crime. Monsieur Fortin was one of the people who first raised this issue with me, and it is present in Bill C-16. Therefore, this committee will have an opportunity to consider that particular issue.

However, if the committee wants to advance further work on youth criminal justice, I would welcome a study that benefits from deep engagement with, and the expertise of, Canadians who spent their careers identifying solutions in this space.

The Chair: Thank you, Minister.

Thank you, Mr. Baber.

We will now go over to Ms. Dhillon for five minutes.

[*Translation*]

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

Minister, thank you and your team for being here.

To be clear and set the record straight, can you confirm that people convicted of sexual assault aren't eligible to serve their sentences under house arrest?

Can you briefly explain how the Criminal Code appropriately limits the use of conditional sentences for these serious offences?

Hon. Sean Fraser: Crimes of a sexual nature are heinous. We must ensure that sentences reflect the serious nature of those offences.

I don't think it's appropriate for someone who commits a sexual offence to serve their sentence under house arrest. Bill C-14, which is currently under discussion, has changed the rules to ensure that this situation won't be possible in the future.

[*English*]

This is extremely serious. People who commit sexual crimes, which, in my view, are posing an epidemic of gender-based violence and sexual violence across Canada, need to be met with serious penalties, not only to separate that person from potential future victims, but also to send a strong message of deterrence and denunciation. If you commit sexual crimes in Canada, the Government of Canada does not believe that house arrest is an appropriate sentence.

Anju Dhillon: Thank you, Minister.

• (1705)

As you know, in Quebec, there have already been five femicides. We're still just in January, and since the beginning of 2026, we've had five femicides.

Bill C-14 expands reverse onus for serious violent offences, and there's nothing more tragic, sad and preventable than intimate partner violence. Can you clearly outline which offences are captured by this expansion of Bill C-14?

[*Translation*]

Hon. Sean Fraser: Before I answer the question, it must be said that every femicide is an unacceptable tragedy. We need to change the rules to protect women. I watched the news and saw the announcement of the fifth femicide committed this month in Quebec. That is a shame and unacceptable.

Bill C-14 changed the rules on reverse onus. I'm looking for the right word in French.

[*English*]

That would protect against sexual assaults where we know there is a predictive value that a further crime could be committed, and sometimes a fatal crime could be committed.

In addition to the measures that are included in Bill C-14, there are massive changes in Bill C-16, the protecting victims act. These target intimate partner violence and gender-based violence, including the creation of constructive first-degree murder charges where we would have cases of femicide, where murder is carried out in the context of a sexual offence, where murder is carried out with the motivation being hatred toward someone, including the fact that they are a woman, or where a murder is carried out following a pattern of coercive and controlling behaviour.

There are a number of other measures included, but I don't want to presume that I should talk out the clock on your time here.

Anju Dhillon: I think it's a very important topic, so if you can, please go ahead.

Hon. Sean Fraser: Certainly.

In addition to the femicide charges—again, getting into a separate but related bill, in my view—we also want to make changes to the criminal law that will potentially intervene before a relationship becomes violent and before violence becomes fatal. That's why establishing a stand-alone crime of coercive control is so important.

When it comes to reverse onuses, to go back to your previous question, we also have measures that apply to human smuggling and human trafficking, which can often be intertwined with some of the issues you raised. There's a lot of material to help address some of these challenges, but to the extent that the committee identifies further ways in which the criminal law can offer protection to women facing violence or prevent femicides going forward, I would welcome your feedback.

Anju Dhillon: Thank you so much.

I think I have 30 seconds.

We're talking about reverse onus. Can you please tell us how this bill would withstand charter scrutiny?

Hon. Sean Fraser: Reverse onuses exist in Canada's criminal law already. We have not changed the law so that, for every single charge, suddenly the accused faces the burden, but there are certain charges that have become a significant social problem, sometimes

because of the seriousness of the crime or the likelihood of recidivism, or because they line the pockets of criminal organizations. When we're looking at reverse onuses—as examples, for home invasion, auto theft, trafficking, assaults that involve choking or strangulation—all of these touch on some of those categories that I've established.

We want to ensure that our policies do not fundamentally shift the burden in all cases but are targeted toward certain crimes for particular reasons.

The Chair: Thank you, Ms. Dhillon.

Mr. Fortin, I go to you for two and a half minutes.

[*Translation*]

Rhéal Éloi Fortin: Minister, I only have two and a half minutes, so I'd like to go a little more quickly if I may.

Bill C-48 had a provision for a parliamentary review after five years.

Bill C-14 doesn't have that. In a few seconds, can you tell me why?

[*English*]

Hon. Sean Fraser: I'm confident that the rules we put in here reflect the collective thinking of law enforcement and those who have administered the justice system over many years. To the extent that this committee wishes there to be reviews, I'd be interested—if that is actually the majority view of this committee.

[*Translation*]

Rhéal Éloi Fortin: Do you think it's helpful or necessary?

Hon. Sean Fraser: It's possible, but I have a lot of confidence in the process we're carrying out with the experts. Those are good ideas. However, it's up to the committee to propose amendments.

Rhéal Éloi Fortin: You're talking about femicides. Obviously, the subject worries all of us. We want to put an end not only to femicide, but also to violence in general. However, the issue of violent crimes between spouses is particularly worrying.

According to the data I have, those crimes are often committed out of anger. I have my doubts about this, so perhaps you can reassure me.

Will people who commit this type of crime really change their behaviour because they will receive longer sentences under the provisions of Bill C-14?

Shouldn't we focus mainly on raising public awareness to prevent people who commit such crimes from committing others?

Isn't that the aspect we should be working on, not the sentences?

● (1710)

Hon. Sean Fraser: I think both aspects are important.

[English]

I'll say it just quickly in English, because we'll run out of time.

To me, it's not just denunciation through longer sentences, but also changes to the bail system when we have an underlying offence that has predictive value that may lead a person to commit a further violent and potentially fatal offence against someone going forward. Yes, denunciation and deterrence, I believe, can have an impact, and having better rules at bail can have an impact. However, to your point, the long-term solution will require investments in frontline organizations and upstream supports that will build healthier people who are not prone to violence over the course of their lives, at the same time as we change the criminal law.

The Chair: Thank you, Mr. Fortin. I apologize, but that's all your time.

Mr. Lawton, go ahead for five minutes.

Andrew Lawton: Minister, we have seen the broken Liberal bail system tax police services tremendously, because they spend so much time and energy having to, in some cases, uphold unenforceable bail conditions and go after the same small number of people over and over again. This is part of why so many police services have come out, in the last few weeks, and said they want nothing to do with your government's gun confiscation scheme. Every single police service of jurisdiction in my riding—the St. Thomas Police Service, the Aylmer Police Service, the London Police Service, the Ontario Provincial Police—has said that going after law-abiding gun owners is not a policing priority. Why is it a priority for your government?

Hon. Sean Fraser: Very quickly, when we're dealing with a certain class of firearms that were not designed for a civilian application but were designed to kill people, I don't believe that those particular firearms belong on our streets. The first few days have seen, now, more than 20,000 firearms returned as part of this process, which is having a positive impact.

However, I do want to turn back to the priority of the day, which is the bail and sentencing reform act. We've missed the opportunity for months. I don't want to necessarily get into the argument as to who's responsible, because we have different views on that, but we're here today, and we have an opportunity to pose questions about the motivation for the changes in the bail and sentencing reform act.

When my colleague from Public Safety comes before the appropriate committee, I would suggest the questions would be best put then.

Andrew Lawton: I hope you'll tell him to do that soon. The invitation has been outstanding for many months.

The reason it is important is that police are saying that your government is not aligned with what their core priorities are, so I'll ask it in a different way. How many lives do you think will be saved by seizing firearms from lawful, vetted firearm owners in Canada?

Hon. Sean Fraser: I disagree with your characterization that police are saying their priorities are not aligned with the government's. Their priorities are embedded in the piece of legislation that

is before this committee, which we're not talking about in this exchange right now.

Police have asked us to make these particular changes. We're here to advance changes on bail and sentencing. It's been informed by law enforcement, and we have an opportunity to do what they've asked us to do.

Andrew Lawton: It is relevant, Minister, because police are saying that the people causing them the greatest grief are people who are out on bail because of your reforms.

You have not acknowledged or accepted this committee's invitation to testify on your mandate and priorities in many months, so I have to ask you this now: Will you be accepting the Federal Court of Appeal's decision that your government's use of the Emergencies Act was unconstitutional, or will you be appealing it?

Hon. Sean Fraser: As you're well aware, as a legal counsel engaged on the file on behalf of the Government of Canada, when you have a case that's recently been before the court and that's still during the appeal period, where the department is analyzing the content of the Federal Court of Appeal's decision, we're not at liberty to discuss the specifics of the file.

Andrew Lawton: You're not answering.

I yield to Mr. Baber.

Roman Baber: Attorney General, in Bill C-48, the government already tried the reverse onus strategy, but that still resulted in catch-and-release, even for offences where bail was sought with a reverse onus.

Wouldn't Canadians be right to be concerned that even though you're expanding the list of offences to which reverse onus bail would apply, the result of this bill, Bill C-14, would be the same as that of Bill C-48, which is the revolving door in our bail system?

Hon. Sean Fraser: My impression, until this moment, based on statements that have been made publicly by your colleagues, was that the Conservative Party of Canada has long supported the use of reverse onuses to help improve the decisions in the bail system.

I believe it has had a positive impact, to some degree, in Bill C-48, and that the changes proposed here will have a further positive impact. In addition to the reverse onuses, we're also changing how bail is operated, not just by providing clearer direction on the principle of restraint, but also in looking at the tertiary ground of bail, which is ensuring there is public confidence in the system by looking at not only the seriousness but the number of offences that a person has put in place.

To just take a step back, even if we get bail reform perfect, we also need to make investments in the front line and upstream in communities to help reduce crime over time. There is no silver bullet.

• (1715)

Roman Baber: If I may, Attorney General, while the Conservatives certainly support expanding the list of reverse onus bail offences, it doesn't mean that bail should continue to be undermined with the principle of restraint, or the ladder principle, which this legislation fails on.

I'd like to take you further and talk about the fact that Bill C-14 expands the list of reverse onus offences but doesn't clarify the burden of proof to be met in reverse onus offences. This would lead to inconsistent applications by the courts. We've heard from multiple police forces that are asking the government to clarify the burden of proof to be applied on reverse onus hearings. Why doesn't Bill C-14 do that?

Hon. Sean Fraser: Actually, it does. There are two things you mentioned that I want to address. One, you spoke to the ladder principle, which the bill makes clear does not apply in cases of reverse onus.

On the substance of the issue you've just mentioned.... This came directly from conversations with my Conservative counterpart in Ontario, Attorney General Doug Downey, who worked with us to say not only that we need to put the burden of proof on the accused in the reverse onus scenario, but specifically that they would be required to present credible information on which the court can conclude that they do not pose a public safety threat. That was the result of conversations to find the best path forward.

I think it works. I think it's going to work well, and it's been included in the bill.

The Chair: Thank you. That's your time.

Next is Mr. Housefather for five minutes.

Anthony Housefather (Mount Royal, Lib.): Thank you very much, Mr. Chair.

Thank you very much, Minister, for being here.

I want to clarify. You're here in your capacity as Minister of Justice to defend a bill that you're putting forward as Minister of Justice of Canada. Is that correct?

Hon. Sean Fraser: I sure hope so.

Anthony Housefather: Yes, and you are not here as Attorney General, because that's a different function that you also occupy.

I also wanted to mention something, since it came up and it seemed to be a universal claim.

[*Translation*]

Police officers in my riding and across Quebec will take part in this effort to collect firearms. Not all police officers in the country are against that.

[*English*]

I wanted to point that out.

We were both elected in 2015, and it sounded to me a bit like there was a claim that the principle of restraint and the ladder principle somehow arrived in Canada with Bill C-75. These are both concepts long rooted in the common law tradition. Is that correct, Minister?

Hon. Sean Fraser: Certainly. Specifically, we could point to the Antic decision, for example. There's a slew of decisions that have discussed these principles at length long before Bill C-75 was introduced.

Anthony Housefather: Bill C-75 wasn't even the first time they were codified. They were codified in the bail reform act in the 1990s. Is that correct?

Hon. Sean Fraser: I'd have to look at the date, but that's my understanding.

Anthony Housefather: Can you talk me through this? The idea of simply uprooting these principles and completely getting rid of them would probably be unconstitutional, would it not? I understand that we are limiting, for example, the ladder principle by saying that when there's a reverse onus—where the applicant has the onus to prove why they should get bail—we're eliminating the ladder principle, but you wouldn't be able to eliminate it for every single person seeking bail. Is that right, for either of these concepts?

Hon. Sean Fraser: That's right. The answer is yes.

The key point here is that what Parliament could choose to do is remove the language from the code. However, with regard to the point you made in your previous question, the principle remains as a result of common law decisions and would continue to be interpreted in a way without the guidance of Parliament.

The correct path, if we have a sense of how bail hearings should operate and how these principles should be applied, is that we should direct the courts with the language that we put into our laws rather than delete it from our laws, knowing the underlying principle remains to be interpreted in a different manner.

Anthony Housefather: I'm completely in agreement with you.

You would say that community safety is one of the absolute focuses of your portfolio right now. It's not only a focus of your portfolio but a focus of the government. Is that correct?

Hon. Sean Fraser: Absolutely. In one of the recent conversations I had with the Prime Minister, he reiterated for me and others that protecting Canadians is the number one job of the Government of Canada. This is a top priority, and it takes a back seat to no other issue.

• (1720)

Anthony Housefather: He reiterated those comments yesterday at Holocaust Remembrance Day when he talked about this being an absolute priority, to protect our communities and keep them safe, which is part of a suite of measures that you brought forward.

You're not going to achieve every single thing in one bill. You actually have three bills before Parliament right now—two of them before the justice committee and one of them before the House—that will all contribute to public safety. Is that correct?

Hon. Sean Fraser: That's correct. I would take it one step further and say that criminal law reform is one important tool we must get right, but in and of itself it won't solve the problem unless we also support the people who enforce laws and the people who administer the court system, and make the upstream investment to build healthier communities and people who will be less prone to criminal lifestyles over the course of generations.

Anthony Housefather: Over time, this has been one of those issues where parliamentarians from all three recognized parties have been able to work together to implement bills that meet the needs of the times. One of the needs of the times today is to keep Canadians safer and keep communities safe. This should be a non-partisan exercise, in my view.

You, Minister, have always shown your openness to accepting amendments from other parties and working together to try to craft the best possible bill. That would be the case for Bill C-14 as well. Is that correct?

Hon. Sean Fraser: Absolutely. We did the best job that I think we could in collecting the feedback from different actors in the justice system and putting it into this bill.

If, by virtue of this committee study into bail and sentencing previously, there are other ideas that you have, I know that we would consider them in good faith. My sense is that if we can send a strong signal to Canadians that there is bipartisan agreement on the path forward on bail reform and on sentencing reform, we would collectively be doing a great service to the country.

Anthony Housefather: That's perfect.

Thank you, Mr. Chair.

The Chair: All right.

Thank you, Mr. Housefather.

We're going to make sure that we end at 5:30 p.m., Minister.

For the third round, I'm going to go for three minutes to Conservatives, for three minutes to Liberals and for two minutes to Mr. Fortin.

Ms. Kronis, I understand you're going for the Conservatives.

Tamara Kronis (Nanaimo—Ladysmith, CPC): Thank you very much, Mr. Chair.

Minister, thank you so much for coming today.

One of the things that I observed in the back-and-forth between the folks who have been trying to make the whole area of bail and sentencing better for Canadians is that there have been some real differences of philosophy. One of the things you've done is that

you've brought back a number of offences. There's an ongoing dialogue with the courts over a number of these things that are contained in the bill.

I'm wondering what you're going to do if the Supreme Court of Canada decides that any of the provisions of this bill are unconstitutional.

Hon. Sean Fraser: Well, we've taken great care in how we've drafted the bill to take the feedback from law enforcement and from actors in the justice system and to apply our own assessment as to the constitutionality of the provisions. I'm confident that the measures we put forward are, in fact, constitutional.

I don't want to go down the path of making assumptions that a bill I would put forward is unconstitutional. I swore an oath to protect the Constitution, so I won't accept the notion that we will need to deal with the unconstitutionality of the bill that Parliament is now addressing.

Tamara Kronis: That's wonderful in theory, but in practice, the reality is that it does happen and there is an ongoing dialogue between the courts.

I'm going to ask you again what you would do if it turned out that some of these provisions are unconstitutional.

Hon. Sean Fraser: I revere the courts in this country. Their role must benefit from independence. To the extent that they have feedback on how we can promote public safety within the boundaries of the Constitution, I would accept it, to the extent that it's the court... In fact, governments, in my view, do not have a reasonable option but to respect the independence of the courts.

We all have to know what our role is if we're going to protect democracy in this country. At a time when rule of law is threatened around the world, including in many countries that have seen an erosion of the liberal democracies that were built up over generations, I think it would be dangerous to project that we would consider seeking to oppose the ability of the court to do its job, independent of political actors.

Tamara Kronis: Thank you for that, Minister.

I'm wondering if you think you could identify a category of offender who will now be detained, under Bill C-14, who wouldn't have been detained under the existing law.

Hon. Sean Fraser: One thing that's really important is that we don't categorize offenders. Criminal law is uniquely individualistic, as is sentencing and as are bail hearings. It's really important to me that we maintain the ability of the court to dig into the facts of an individual case.

I do think that there are classes of offences—for example, those that we've identified in the reverse onus provisions included in Bill C-14—where a person who's facing charges of those specific offences will be less likely to be released on bail.

I think that categorizing offenders as groups of people would be a dangerous prediction to make.

• (1725)

The Chair: We're going to move to Mr. Housefather, who's going to get two minutes. Then I'm going to give Mr. Fortin three minutes.

[*Translation*]

Anthony Housefather: I'm happy to give a minute of my speaking time to my friend Mr. Fortin.

[*English*]

I'm going to say one thing, which is that I think this is a really important bill. I think it needs to move forward through this committee, go back to the House, go through the Senate, become law and keep Canadians safer.

Minister, you've had a lot of opportunity to answer some questions today. You had a statement. Is there anything left that you didn't get a chance to say that you'd like to say before we close your time on Bill C-14?

Hon. Sean Fraser: Since you put it to me, there's one message I'd like to share that I haven't through my remarks. It's "thank you". The number of people who've been willing to give many hours of their time to the development of this bill is extraordinary.

I think about the national policing organizations—not just the Canadian association of police chiefs, the National Police Federation or the Ontario police association. I think about Ryan Leil, the chief of police in New Glasgow, my hometown. I think about the small-town prosecutors and defence lawyers who've shared their experiences with me. I think about the mayors of big cities and small communities who fed into this process.

I think about my provincial counterparts in particular. I have never been involved with an exercise in consultation and engagement where people so willingly gave their time and energy to something that may not have been their legislative responsibility, because they cared and wanted to have a positive impact on the country. This was co-operative federalism at its best.

To the extent that we can embed their recommendations into Canada's law, I think we would be doing justice—no pun intended—to the very real feedback that they've shared based on their own life experiences.

The Chair: Thank you, Mr. Housefather.

Mr. Fortin, you have three minutes.

[*Translation*]

Rhéal Éloi Fortin: Thank you, Mr. Chair.

Minister, I would first like to say that I appreciate Bill C-14. However, I can only encourage you to consult not only the police services, but also the provincial bar associations, mainly the Barreau du Québec—Quebec has a different legal system from the other provinces—and the bar associations for defence lawyers. That can certainly give us a different perspective on this type of bill, which could significantly infringe on individual freedoms.

My question is about release plans. This is new, so I'd like to know who was consulted on this opportunity to introduce such

plans. Have there been any studies on the impacts of these release plans?

Hon. Sean Fraser: There have been conversations with members of my team at the department. There have been some with me, the parliamentary secretary and the Barreau du Québec. I have had conversations with defence lawyers.

When I took part in the consultation process, I didn't ask any questions about their perspective—

Rhéal Éloi Fortin: That's fine. I don't have much time left. I understand what you're saying. That was just a general comment.

Allow me to insist on the question about release plans.

[*English*]

Hon. Sean Fraser: I didn't show up and say, "On this specific aspect of the bill, what's your feedback?" I said, "We're looking to reform bail and sentencing. Tell me how we can improve the system." We got these different ideas from different parties, not because I was seeking feedback on each specific piece with each group but because, more globally, I was asking what priorities would inform the legislation.

[*Translation*]

Rhéal Éloi Fortin: Thank you, Minister.

Who proposed the release plans? Where did this idea come from? I don't know how you say it in English. Could someone help me out? I'm talking about release plans.

Hon. Sean Fraser: Okay.

The first person who looked into this was the Attorney General of Ontario, Doug Downey. He's the one who first proposed this idea. Other people looked at Mr. Downey's proposal and supported it.

Rhéal Éloi Fortin: What's the purpose of it? Will it be useful, relevant? What's behind this idea? Where did this idea come from? It's a new concept.

• (1730)

Hon. Sean Fraser: Yes.

[*English*]

Again, I will respond in English, for time, because I don't want to talk out the clock.

The initial conversation started with proposals around changing the standard of proof that someone would need to make, but it would create many uncertainties. We wanted to ensure that courts would make a decision based on real information about whether someone poses a public safety threat. That conversation evolved into a new idea that, rather than changing the standard of proof, we would be able to provide reliable information to the court in order to allow the court to make an informed decision.

[*Translation*]

Rhéal Éloi Fortin: Thank you, Minister.

Hon. Sean Fraser: Thank you.

[*English*]

The Chair: Thank you, Mr. Fortin.

Minister, thank you very much. We have stopped right at 5:30. We appreciate all the demands on your time, and we're grateful for your taking the opportunity to come and speak to this important piece of legislation.

I'll suspend for a few minutes and get the next panel ready.

• (1730) _____ (Pause) _____

• (1735)

The Chair: We resume the meeting now. Thank you, everybody.

I'd like to welcome the witnesses for the second hour. Madame Moore and Mr. Taylor are staying with us for the complete meeting, so thank you for that.

Now we're being joined, from the Department of Justice, by Joanna Wells, senior counsel, criminal law policy section; and Samantha Reynolds, counsel, youth criminal justice division. Thank you for joining us this afternoon.

I now turn, for the first round of six minutes, to Ms. Kronis.

• (1740)

Tamara Kronis: Thank you very much, Mr. Chair.

I thank the witnesses for coming today. It's always a real treat to have the depth of legal knowledge that we have when the group of you come to this committee.

I want to start by framing the questions that I'm going to ask. Since Bill C-75, the principle of restraint really has become the dominant lens through which bail decisions are made. While the Criminal Code has always permitted detention on public safety and confidence grounds, the statutory emphasis on restraint has really shifted judicial culture toward release as the default outcome over the last number of years, particularly in Crown onus cases.

I think what we see with Bill C-14 is that the government has admitted that this approach just isn't working. At the same time, while Bill C-14 attempts to recalibrate the culture by stating that restraint doesn't require release, it leaves section 493.1 intact and unaltered, which means that it still prioritizes or appears to prioritize, from a legislative perspective, release first and conditions second.

Given that judges already have clear authority, under subsection 515(10), to detain, and that this legal authority already exists, I'm wondering whether you could talk about what concrete changes we can expect to see in day-to-day bail outcomes, in terms of what Canadians can expect from the bill.

Chelsea Moore (Team Lead and Senior Counsel, Criminal Law Policy Section, Department of Justice): Thank you for the question.

One change that is fairly new to the Criminal Code is that the bail provisions will make clear that the principle that release ought to be the starting point at bail won't actually apply in a reverse onus situation. This proposal has the objectives of reinforcing the presumption of detention in reverse onus hearings and trying to give more teeth to the reverse onus bail hearing. In addition, there's a proposal in Bill C-14 that would make clear that the latter principle doesn't apply to people in a reverse onus situation, and it will clari-

fy the burden of the accused at the reverse onus hearing, so I think—

Tamara Kronis: Can I ask a bit about the practical...? You're still talking about the theory. I want to know what the practical difference is. I asked the minister what category of offender will now be detained who wouldn't have been detained under existing law. I want to know how this is actually going to change things. What will defence counsel have to do differently? Who will stay in jail who wouldn't be in jail now? Can you give us some concrete examples?

Chelsea Moore: No one can automatically be denied bail, and we can't guarantee that certain provisions are going to result in the detention of anyone, because judges will always have discretion at the bail stage of proceedings, to be consistent with the charter—

Tamara Kronis: However, more than that, section 493.1 is still in place, and so it's still the basis of their decision-making. What is new? What is different? What is going to change?

Chelsea Moore: The objectives are to ensure that there's more scrutiny given to bail release plans, particularly for people who are in a reverse onus, and that stronger bail plans will have to go before the court in a reverse onus hearing before someone is released on bail.

Tamara Kronis: So it is marginal.

Chelsea Moore: I wouldn't say "marginal", no.

Tamara Kronis: Well, what makes it not...? The bail plans are already supposed to be there. This is the job of counsel. It sounds like what you're saying is that counsel will have to do a better job. What is going to be different?

Chelsea Moore: The hope is that more scrutiny will be given to bail decisions and that more information will also be before the court. There are a number of amendments in the bill that will ensure the court has more information. You have to remember that bail hearings often happen 24 to 48 hours after someone is arrested, so there is limited information, but I think the code can draw courts' attention to certain risk factors that are important to consider.

Tamara Kronis: With all due respect, hope is not a strategy, which is what you started the last answer with. We are in exigent situations: 24 to 48 hours. What new information is there? What is going to change? I'm genuinely interested in knowing what will be different, other than more paperwork.

Chelsea Moore: I'm not sure there will be more paperwork. I think, as I said, that there is going to be more pressure—

• (1745)

Tamara Kronis: A stronger bail plan is, presumably, more paperwork.

Genuinely, other than signalling some hope that things are going to change, what new tools do judges have? What tools have been taken away in the context of the underlying provision not changing?

Chelsea Moore: There's also going to be an expansion of the grounds for detention, which is quite significant. The tertiary ground will be expanded so that courts are looking at outstanding charges and determining whether confidence in the administration of justice will be undermined.

I think that historically courts tended to focus, the way they're looking at it, on whether there is a pattern of behaviour. Are there past convictions? What we've heard, and what the minister has heard also, is that there are concerns that people are being released, and then they're caught again and they're back in the system. The government thinks that ensuring that courts are taking into account factors such as outstanding charges would make a difference in this bill. Expanding the tertiary ground is one way this bill will do that.

The Chair: Thank you.

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

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

Thank you, officials, for being here this afternoon, ready and willing to answer all of our questions on this very important bill.

Canada's bail system is built on the principle of restraint, which is about how decisions are made and not about guaranteeing release. Can you explain how Bill C-14 is providing direction to the courts and police on how to apply the principle of restraint while making it clear that detention remains an option for repeat and violent offenders?

Chelsea Moore: The Supreme Court has interpreted the charter as requiring restraint at the bail stage, since bail is about imposing restrictions on people, on the liberty of individuals who are still presumed innocent. The changes in this bill aim to provide clear direction to police and courts in applying the principle of restraint.

For example, as I mentioned, the bill specifies that early release should not be favoured over detention when someone is in a reverse onus situation. There would be further direction provided to police to not release an accused person under certain circumstances, including for public safety. Police, when they're deciding whether or not to release or detain someone, need to look at whether there's the need to establish the identity of the accused, the need to secure or preserve evidence, the need to prevent reoffending or the need to protect the safety and security of any witness. The bill would direct police, and if any of those circumstances apply, they will have to detain an accused person. A direction will also be provided to bail courts to not release accused persons who are a flight risk, who are a danger to public safety or whose release would undermine confidence in the administration of justice.

Patricia Lattanzio: Thank you.

Provinces have asked for tools that work in practice and not on paper. What feedback did officials receive from provinces and justice partners during the development of Bill C-14, and how is this reflected in the final draft of this bill?

Matthew Taylor (Senior General Counsel and Director General, Criminal Law Policy Section, Department of Justice): I can start in a high-level way and build on what the minister said earlier.

For the last number of years, at an officials' level, a deputy ministers' level and a ministers' level, those responsible for the criminal justice system have been collaborating on ways to strengthen the bail regime and the operation of the bail system. Part of that includes strengthening the bail laws in the Criminal Code. Part of that includes ensuring that the bail laws that are in place are being implemented as intended and being operationalized as intended. Part of that also includes working together on getting more information, more data, on bail to have a better picture of that.

The same holds true for the sentencing parts of the bill. We have been working collaboratively with PT officials to discuss ways to strengthen sentencing laws in the Criminal Code in a way that's responsive to pressing public safety concerns in Canada.

Those are the different ways in which we're engaging with the provinces. That collaboration will continue after Bill C-14. If Bill C-14 receives royal assent, we will work to support the bill's implementation. There is an ongoing, constant conversation with our partners.

Patricia Lattanzio: Thank you.

On the subject of the charter, can you explain how the bill was designed to withstand charter scrutiny and avoid the kinds of constitutional problems that have led to bail provisions being struck down in the past?

Matthew Taylor: Sure. Thanks for that question.

You will know that in the work we do as officials in the Department of Justice, supporting the minister and the government in the development of criminal law reform, we work very closely with colleagues in the department who have expertise on the charter. We obviously look at case law. We look at constitutional decisions. That informs the policy and the legal advice we provide to the minister.

The minister talked about his obligations under the Department of Justice Act, which are twofold. Under section 4.1, he has an obligation to table a report in Parliament when he believes a piece of legislation is inconsistent. He has not done that. As he said in his testimony, he does believe the legislation is constitutional. We also have the charter statement, which talks about how the proposed changes in a piece of legislation intersect with charter rights and the kinds of considerations that inform the overall assessment around the constitutionality of the legislation.

• (1750)

Patricia Lattanzio: Thank you.

One concern that has often been raised is the uneven application of bail laws across the country and across jurisdictions. How does Bill C-14 promote greater consistency in how bail is applied by the courts all across Canada?

Chelsea Moore: I can give two examples of this. We've heard concerns that the principle of restraint is not being applied consistently across Canada. There were concerns that people were being released even though they posed a risk to public safety, for example, under the secondary ground of detention. Bill C-14 would give more direction to courts on how to apply the principle of restraint and ensure that it's being implemented as intended consistently across Canada.

We've also heard that the reverse onus regime is not being meaningfully applied in practice and that it doesn't have enough teeth. Bill C-14 has a number of proposals, as I mentioned earlier, that would reinforce the presumption of reverse onus cases and improve screening in these cases across the country.

The Chair: Thank you, Ms. Lattanzio.

Mr. Fortin, you have six minutes, sir.

[*Translation*]

Rhéal Éloi Fortin: Thank you, Mr. Chair.

Thank you, ladies and gentlemen, for being here.

Earlier, I spoke with the minister about release plans, which is a new concept. I was wondering where that came from. I suspect that the release plan is an idea aimed at making the accused more involved in their parole, which, as such, could be valid.

I'd like to hear your opinion on that and know where that idea came from. I'm not saying that it's a bad idea, but I'd like an explanation behind telling the accused that, because of section 515 of the Criminal Code, we have to detain them unless they can prove, through a release plan, that it's a good idea to release them. I summarized the idea in my own words.

What can you tell me about that?

Chelsea Moore: Thank you very much for your question.

Every time an accused appears in court for an offence and the matter of bail comes up, the following question gets asked: Can the accused be released safely? The key question is always what plan will be presented before the court to ensure that the accused no longer poses a risk to public safety or a flight risk.

This is already a practice used in court when it comes to bail. However, when it comes to reverse onus, it's unclear what's expected of the accused. As was said earlier, the provinces and territories have raised many concerns about reverse onus, something they find inadequate because not enough is being asked of the accused to convince the court that they should be released.

For that reason, Bill C-14 will clearly establish that it's absolutely necessary for the accused to show that the plan presented to the court will reduce the risks.

Rhéal Éloi Fortin: It won't just be a reverse onus, then.

For example, the judge won't ask the accused person—whether they're a man or a woman—to prove that they will appear in court the next time they have to, to prove to the judge that they won't re-offend.

The judge won't necessarily have to intervene like that. If I understand the concept, and correct me if I'm wrong, the onus will be on the accused. It will be up to them to establish that, to be proactive and tell the judge what they're proposing to guarantee that they aren't a danger to public safety, that they will be present at their own trial and so on. That's more or less the idea.

Can you confirm whether I'm right?

• (1755)

Chelsea Moore: Yes, that's exactly it.

Rhéal Éloi Fortin: Do you have an idea of what should be included in the release plan?

Chelsea Moore: It really depends on the situation. Each case involves different risks depending on the offence. For example, the plan could indicate whether the accused lives with their parents, whether people are available to supervise them or whether their phone needs to be taken away. It's important to know what conditions should be imposed on the accused to mitigate the risks.

Rhéal Éloi Fortin: Those would be the usual conditions but in a plan. I understand.

Does the concept of requesting a release plan exist elsewhere in Canada, in any given province?

Chelsea Moore: It exists. We see this practice in bail hearings. It's a practice across Canada right now.

Rhéal Éloi Fortin: The accused submits a plan—

Chelsea Moore: They submit a plan to show the court that they can be supervised or that they can—

Rhéal Éloi Fortin: Does that work?

Do we believe that there's less recidivism when the accused acts on their own and is proactive in submitting such a plan?

Chelsea Moore: It depends on the plan, but I would say, yes, the idea being that if there's a conversation that's a bit more focused on the plan, it's possible to mitigate the risks associated with the accused in question.

Rhéal Éloi Fortin: Okay.

I was talking about statistics with the minister earlier. If I understood correctly, we don't have any statistics on recidivism and rehabilitation.

Do you have anything on that? Is that coming? Do you have any idea what can be done with that?

To be clear, I'm talking about data collection. We know that about three-quarters of inmates are currently awaiting trial. We don't really know what happens with them. They have their trial; they're released.

Did the time spent in custody help them rehabilitate or not? What's the percentage of recidivism or rehabilitation within our penitentiary system?

Chelsea Moore: One second please. Thank you.

Unfortunately, there isn't any national data available at this time. The provinces and territories are responsible for data collection. However, a number of them don't provide data—

Rhéal Éloi Fortin: What about our federal penitentiaries?

Chelsea Moore: Yes, we have national statistics on penitentiaries. However, when it comes to data on accused individuals who breach their bail conditions, it's the provinces and territories that manage those types of statistics. They're the ones with that information.

Rhéal Éloi Fortin: Can we have a—
[English]

The Chair: Thank you, Mr. Fortin. That's your time.

Mr. Baber, go ahead for five minutes, please.

Roman Baber: I want to go back to Ms. Moore to follow up on the line of questioning by my friend Ms. Kronis.

You've already tried this. In Bill C-48, you created various reverse onus offences. What you seem to be doing in Bill C-14 is expanding the list of reverse onus offences where the accused has to prove that it's up to them to get bail, as opposed to the Crown having to prove it. You may try to restrain the principle of restraint, which directs judges to put mind to the earliest release possible, but nothing is being done about the ladder principle, which basically directs the court to consider the least onerous circumstances and the earliest circumstances under which an accused would be granted bail.

What, in effect, are we doing here, then?

Chelsea Moore: The ladder principle is actually about the financial conditions that attach to an accused when they're released on bail. Every time you go up a rung of the ladder...the top of the ladder is cash bail. It provides that the Crown has to justify why you're doing that. This bill would actually provide an exception to the ladder principle to say that the ladder principle doesn't apply to reverse onus provisions.

• (1800)

Roman Baber: The challenge, especially when it comes to cash bails, is that Crowns are very hesitant to insist on serious cash bails, especially for folks without means.

We also know that this is often a problem with sureties. In fact, there was some discussion about the fact that we need to re-evaluate the way that sureties are able to place a bond as opposed to placing hard cash. This is something that is also absent from this legislation.

I think Ms. Kronis is correct in saying that not much is going to change. We're going to be back here again and again until we decide that the ladder principle is going to be repealed, and that is something that every police association in the country is calling for.

Why is the Liberal government failing to repeal the principle of restraint and the ladder principle?

Chelsea Moore: Just to be clear, there is a provision in the bill that would impact sureties. It's an estreatment provision that ensures that all the information that sureties provide about their financial assets will go to the court to ensure that those assets can be taken if an accused breaches bail and an estreatment process is started. I just wanted to clarify that.

In terms of repealing the principle of restraint—

Roman Baber: You have to disclose the assets; it doesn't mean that those assets are going to be taken. It's not as if you're placing them as collateral. I have to correct you there, Ms. Moore.

Chelsea Moore: Yes. The goal is that it will be easier to take assets if they know where those assets are. That was an ask from provinces and territories to help them with—

Roman Baber: You know that never happens.

Chelsea Moore: —the estreatment process.

Roman Baber: That never happens, regrettably. Sureties are never actually prosecuted. It would be a quasi-civil proceeding to try to seize assets of a surety. I think there was an astonishing stat to the effect that in the province of Ontario, in the last couple of years, it has not happened once.

Chelsea Moore: We certainly are seized with the issue, along with the provinces and territories, and it's something that we are looking into right now. Every province operates differently in terms of estreatment, so we really need to engage all provinces and territories to come up with a solution for the Criminal Code.

Roman Baber: Ms. Moore, there was some conversation in this committee about the fact that a custodial sentence doesn't actually mean the time period that the custodial sentence implies. For instance, in the last couple of years, it is more prevalent to see courts giving two for one or three for one credit for time in custody before trial, especially if conditions in prison are not good.

As provinces are dropping the ball, we're seeing, by virtue of our sentencing scheme, that pretrial custody time eats significantly into custody time imposed by the court. I wonder why the legislation is silent on that.

Chelsea Moore: I'll turn to my colleague Joanna Wells to answer this question.

Thank you.

Joanna Wells (Senior Counsel, Criminal Law Policy Section, Department of Justice): Thank you for the question.

I believe you're referring to credit for pre-sentence custody for offenders who are held pretrial. This comes down to the principle of parity in sentencing, which holds that individuals who are similarly situated, who commit similar offences in similar circumstances, should be treated the same, or as similarly as possible, and so courts are permitted to take into account the time they spend in prison before their trial and sentencing so that the ultimate time behind bars comes out to be about the same.

The Criminal Code provides for a 1.5:1 ratio—

The Chair: Thank you, Mr. Baber. That's all your time.

Mr. Chang, it's over to you for five minutes.

Wade Chang: Thank you all for working so hard to protect Canadians.

My first question is as follows: Can any of the officials please explain how safeguards in Bill C-14 are designed to protect vulnerable individuals while still respecting personal autonomy?

Joanna Wells: I can speak to that from a sentencing perspective to start out, if I don't step on my colleagues' toes.

Specifically with respect to the sentencing reforms, although the bill proposes signals to the judiciary that longer or stricter sentences should be imposed in particular cases, judicial discretion is still available and would allow judges to craft sentences that would be appropriate to, for example, respond to an offender who is more vulnerable or who has personal characteristics that may require a slightly different approach, so there's still that room in the bill for judicial discretion.

• (1805)

Wade Chang: Can any of you please explain how the sentencing-related amendments in Bill C-14 operate in practice, and what tools they give judges when dealing with repeat or violent offenders?

Joanna Wells: I'm happy to take that question. Thank you.

Bill C-14 has four general categories of sentencing provisions. It proposes consecutive sentencing provisions for certain types of offending, such as violent or organized crime-related auto theft, break and enter, and extortion and arson when committed together. The bill proposes that those sentences must be served consecutively, which, as I indicated, is a legislative signal of a longer penalty being imposed.

It also proposes aggravating factors, which are factors that a judge must consider on sentencing and that would signal that a longer sentence might be needed. For example, if you've committed an offence and in the previous five years you have a previous violent offence, the court must consider that as aggravating and take it into consideration at sentencing.

There are also some principles that the court must give primary consideration to: denunciation and deterrence in certain cases, for example, for organized crime-related offences or second and subsequent offences of motor vehicle theft.

Those factors all together are meant to send a very strong signal to judges when imposing sentences that conduct falling into those categories should be treated more seriously.

The fourth category is the proposals that would limit the availability of conditional sentence orders, in particular to prevent their imposition in cases of sexual assault and sexual offending.

Those are the four categories of sentencing proposals.

Wade Chang: Thank you.

From your perspective, can you explain why Bill C-14 has been described as practical, responsible legislation rather than a political slogan?

Matthew Taylor: I would pick up on what Minister Fraser said. A lot of the reforms that are reflected in the bill are the result of long-standing, meaningful and direct conversations with those responsible for administering the criminal justice system. There are changes that reflect the things they believe are needed to ensure that the bail system is working more effectively and that our sentencing laws are more prescriptive in situations of repeat violent offending.

Wade Chang: This is my final question.

Bill C-14 expands reverse onus for serious violent offences involving weapons, repeat offending and intimate partner violence. Can you clearly outline which offences are captured?

Chelsea Moore: Sure, thank you.

There are a number of offences that would be the subject of a reverse onus as a result of Bill C-14.

I'll start at the top of the list: assault, aggravated assault, sexual assault and aggravated sexual assault involving choking, and those offences are in sections 266, 268, 271 and 273; violent car theft and organized crime-related car theft, both of which have a maximum penalty of 14 years of imprisonment; extortion involving violence; break and enter of a dwelling; trafficking in persons; trafficking in persons under the age of 18; and human smuggling offences under sections 117 and 118 of the Immigration and Refugee Protection Act.

There's also reverse onus in section 523 with respect to accused persons convicted, but not yet sentenced, of a criminal offence where the Crown is seeking to revoke bail, and there's the existing reverse onus that's targeting repeat and violent offending, which was enacted by former Bill C-48. It would be expanded. The Bill C-48 reverse onus was narrowly tailored to capture those who are charged with a violent offence involving a weapon if they have a conviction for a similar offence from the last five years. This bill would ensure that the past conviction dates back to 10 years, because there was a concern that it was too narrow to capture those who were serving a longer sentence and who might just be released on bail and not be captured by the reverse onus. The bill would expand that reverse onus to ensure that it captures relevant convictions in the last 10 years.

The Chair: Thank you, Mr. Chang.

Mr. Fortin, we'll go to you, sir, for two and a half minutes.

• (1810)

[*Translation*]

Rhéal Éloi Fortin: Thank you, Mr. Chair.

My question is for whoever can answer it.

Bill C-14 adds the concept of random or unprovoked violence. I'd like to know how that concept will factor into deciding whether to keep someone in custody and determining the appropriate sentence.

I imagine that, in a case of random violence, someone goes somewhere in an unpremeditated way and attacks everyone.

I'm not sure I understand the distinction, since the crime is basically the same.

How do you see that?

Chelsea Moore: The bill adds this idea of unprovoked or random violence to the factors the court has to consider during bail hearings. It really addresses Canadians' concerns about stranger attacks. For example, people may be afraid to ride a bus because they don't know if they're going to be attacked. That came up a lot in Winnipeg.

In terms of bail, it's just important to ensure that the court is aware that this could pose a danger to the public.

Rhéal Éloi Fortin: If I understand correctly, when we say that the judge or court will have to take this into consideration, the idea is that if the acts of violence were random and unprovoked, there's a greater danger to public safety.

Is that what you're saying?

Chelsea Moore: If I may, I'm going to answer in English to clarify my point.

[*English*]

Frequently, when courts are trying to determine the risk assessment of who's going to reoffend while on bail, they will look at the past criminal record, because convictions are a good indicator of future behaviour. But in some cases, there could be random violent attacks where the accused doesn't have a prior conviction. There was a concern that some bail courts were not giving weight to the

fact that this person might be a danger: There's no pattern here. This person hasn't had a criminal conviction before. This person can be safely released.

The concern with random violent attacks is that it's an indication of unpredictable behaviour. The idea is to just ensure that courts are aware of that concern.

The Chair: Mr. Fortin, thank you very much. That's your time.

[*Translation*]

Rhéal Éloi Fortin: Thank you.

[*English*]

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

Andrew Lawton: Thank you very much to all our officials for being here on Bill C-14. It's long overdue that we get to try to fix some of the problems with the broken Liberal bail system. I appreciate your assistance in this.

Let me ask you this, Ms. Moore. You said earlier that nobody can be automatically denied bail. Did I understand you correctly on that?

Chelsea Moore: That's under the charter, according to the charter jurisprudence.

Andrew Lawton: Okay.

When we talk about a rampant repeat offender, a prolific offender, as police say, someone who has been convicted multiple times and is terrorizing communities, you're of the view, or this government is of the view, that we cannot make bail denial automatic.

Matthew Taylor: What I would say is that the Criminal Code is very clear that there are three grounds for detention. If those grounds of detention are present, as you know, the judge should order detention. That is the foundation of our bail system. To speak to your specific example, where there is a public safety concern and where the evidence presented to the bail court demonstrates that there is a public safety concern, the law mandates their detention.

Andrew Lawton: But we have seen prolific offenders, as police call them, given bail time and time again. Clearly, something is not working in this system.

The Conservatives had proposed a "three strikes and you're out" approach to this, where people who have repeatedly committed these offences over and over again would be denied bail. Is that something that was ever considered when Bill C-14 was being drafted?

Matthew Taylor: Certainly, I would say that when we are supporting a government in the development of law reform, we look at all options. Three strikes laws we're familiar with in the United States, although it's a different context in the United States. It's more applicable in the sentencing context. We're aware of some of the proposals by the Conservative Party in this respect. Yes, we have given consideration to those as part of the general advice we would give to the government.

• (1815)

Andrew Lawton: I think that's important context. You're not the decision-makers. It's safe to say, then, because you considered that, that the government that crafted and tabled the bill specifically did not think that one should be kept behind bars if one had broken the law and been convicted three times. They did not take that suggestion.

Matthew Taylor: Certainly, the bill before you is a reflection of what the government believed was the right response to strengthening the bail system.

Andrew Lawton: In your conversations with the minister, did he ever say how many strikes he thinks are enough and should actually result in someone being denied bail?

Matthew Taylor: Obviously, I can't disclose the conversations we have directly with the minister, but I think it's fair to say that Bill C-14, as you've heard him say, is a clear response to a clear problem that has been identified around repeat violent offending in Canada.

If I can just quickly build on that comment, we know through the conversations we've had with the provinces, exactly to your point, that there are situations where, notwithstanding what the bail laws say, individuals are being released. That has shaken public confidence. It has, as you know, led to calls for significant law reform. A lot of what you see in Bill C-14 is a direct attempt to nudge the system, consistent with the charter, to look more closely at these issues.

Andrew Lawton: I'll use a local example from my riding. St. Thomas had a case that I brought before this committee previously, where someone who was homeless—who had no fixed address—was charged again. They were a repeat offender. They were released on bail. One of their bail conditions was a curfew. They had to be in their home between 10 p.m. and 6 a.m., and the bail document said they had no home.

I realize this is a specific case, but is there anything in Bill C-14 that would prevent such an unenforceable bail condition from being granted?

Chelsea Moore: There is, actually. It's one of the components of the principle of restraint. That's already in the code. There are two elements to it. One is—

Andrew Lawton: It's already in the—

Chelsea Moore: It's already in the code.

Andrew Lawton: You're saying the law already didn't work. The existing law didn't work in that case.

Chelsea Moore: The law requires that conditions be tailored and appropriate in every case, and that comes from the guidance we've

received from the Supreme Court in Antic, Zora and many other decisions over the past 30 years.

Andrew Lawton: I appreciate that, Ms. Moore.

If existing laws are not working, how can Canadians feel like new laws will? We went down this road with Bill C-48. Everyone thought it was going to be this transcendent law, but it actually didn't disrupt the status quo.

Matthew Taylor: If I can answer that question, I think it is a real challenge to ensure that the laws, as enacted, are applied as intended. I talked a bit about how we're trying to support that work.

We have heard over the last number of years—going back to Bill C-75, then to Bill C-48 and now to Bill C-14—that there is a constant need to continue to calibrate the bail system within the confines of what is possible in Canadian law and having regard for the charter to ensure that those responsible for making submissions on bail proceedings and making determinations on whether bail should be denied are taking into consideration the right things when they're making those decisions. Of course, those decisions don't always get made correctly, but that doesn't mean the development of laws to try to nudge the system in the right direction shouldn't be done.

The Chair: Thank you, Mr. Lawton.

The last set of questions comes from Ms. Lattanzio for five minutes.

Patricia Lattanzio: Thank you, Mr. Chair.

Ms. Wells, earlier you spoke about the importance of looking at what happens before someone even reaches the bail hearing. Can you expand on how Bill C-14 fits within that broader pre-custody picture and what it does and does not address at that early stage?

Joanna Wells: My previous comments were more focused on Mr. Baber's question about credit for pre-sentence custody.

Bill C-14 doesn't have any proposals in it that would impact the current criminal law framework with respect to pre-sentence custody. I think the minister spoke very clearly, however, about the need to make investments upstream, before you get to the criminal justice system, in order to have the intended impact. It's not just law reform; it is also societal investments and enforcement capacity. To build on his remarks, all of that is critical in ensuring that criminal law ends up in a way so that Canadians feel protected and our charter rights are respected.

• (1820)

Patricia Lattanzio: When judges are deciding whether someone should be released or detained, public safety is a key consideration, of course. Can you explain how Bill C-14 reinforces the ability of the courts to detain an accused when there is a real risk to public safety?

Chelsea Moore: As mentioned earlier, the principle of restraint.... There would be clearer direction to judges. Currently, the principle of restraint says that it's subject to the grounds of detention in subsection 515(10) of the Criminal Code. This bill would actually spell that out a bit more clearly and direct courts to detain individuals if there would be risks to the safety of the public under the secondary ground of detention.

Part of ensuring that the courts are looking at the risk factors appropriately is also about ensuring that the reverse onus regime, for example, is meaningfully applied. Ensuring that there's a more robust screening process, which some of the proposals aim to address in this bill, will also help to ensure that public safety is better addressed.

Patricia Lattanzio: There's a lot of public confusion about what the reverse onus actually means. In practical terms, can you explain how the reverse onus works under Bill C-14, and what changes for repeat or violent offenders are suggested at bail hearings?

Chelsea Moore: A reverse onus at bail presumes that the accused should be detained pending trial and requires them to demonstrate to the court why they should not be detained, having regard to the grounds for detention. It doesn't mean that the accused will obtain bail or that the accused has to disprove the commission of the offence, but it shifts the burden of proof from the prosecutor to the accused and ensures better screening of the bail application that's before the court. It also reflects Parliament's intent that it ought to be more difficult to obtain bail in certain circumstances.

As mentioned, there were concerns that reverse onuses are being added but the reverse onus regime doesn't actually have any teeth; that it doesn't clearly spell out what the burden is that the accused has to meet; and that it is unclear what the relationship is between the reverse onus regime and other provisions in the code, like the principle of restraint and the ladder principle, resulting in some inconsistent applications across the country.

The bill would make it clear that, for example, the ladder principle doesn't apply to a reverse onus and that the starting point is not release when you're in a reverse onus situation, and it would clarify that the burden on the accused is to ensure they have a strong bail plan before the court that addresses the risk they pose, before the court could release them, if they're on a reverse onus.

Patricia Lattanzio: Can you clarify for us the control of the ladder principle so that it's clear to all members on this question?

Chelsea Moore: The ladder principle governs the use of financial obligations or sureties at bail. The ladder principle was added

to the code in 1972. I believe our colleague referred to the Bail Reform Act of 1972. It essentially requires courts to consider the least restrictive form of release first and then move up the ladder to consider more restrictive forms of release. The prosecutor has to justify at each rung of the ladder why a less onerous form of release would be inadequate to manage the risks of the accused.

The bottom rung of the ladder is release with no financial conditions. The second rung is a promise to pay. The accused would say that they promise to pay \$100, for example, if they breach their bail conditions. The third rung of the ladder is release with a promise to pay and a surety. A surety is someone whom the accused would put forward to supervise them while they're on bail. It could be a family member. It could be a colleague. It could be a neighbour. The fourth rung of the ladder is a release with a deposit of money—what we refer to colloquially as cash bail.

The bill would clarify, as I said, that the ladder principle does not apply to reverse onus hearings. This doesn't mean that you start at the top of the ladder in reverse onus situations. It just means that you don't start at the bottom of the ladder. You don't start at the bases: no financial obligations, no conditions of release.

The Chair: Thank you, Ms. Lattanzio.

That takes us to the end of the questioning for the day. We have only a couple of minutes left and we do have one small piece of committee business.

I will just say thank you to the witnesses. We appreciate your taking the time to be here. You're free to leave.

Committee members will have received in their email a draft budget for this study on Bill C-14. We do need to review it and answer any questions that may be on anybody's mind about additions, subtractions or alterations to the budget, or we can just approve it as is.

Does anybody have any questions or comments? Is everybody good with it?

Some hon. members: Agreed.

The Chair: The budget is approved. That takes care of that.

On that basis, I will adjourn the meeting and say thank you to everybody.

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