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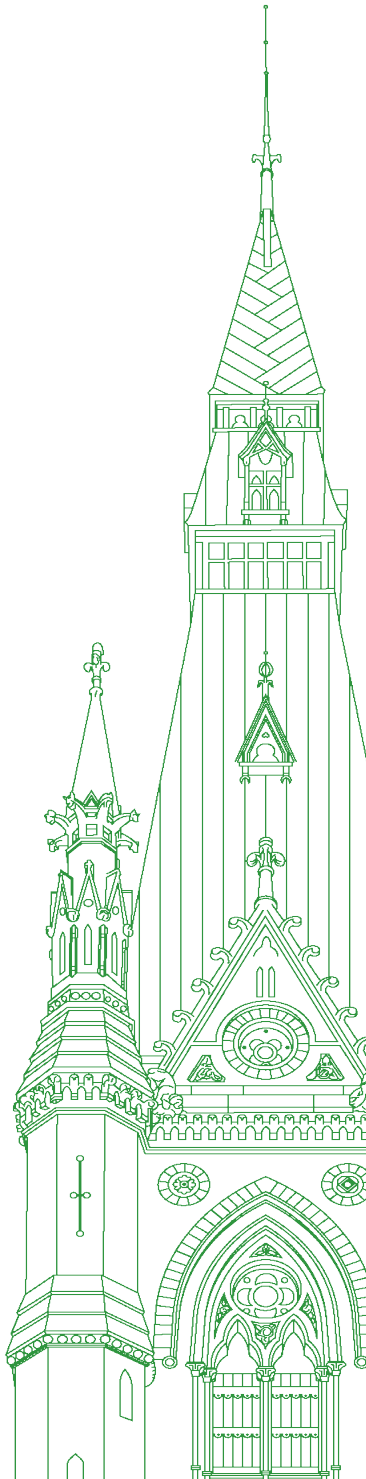

Chair: James Maloney

Standing Committee on Justice and Human Rights

Monday, April 13, 2026

● (1105)

[*English*]

The Chair (James Maloney (Etobicoke—Lakeshore, Lib.)): Good morning, everybody. Welcome back. I hope everybody had a pleasant and productive couple of constituency weeks.

Welcome to meeting number 23 of the House of Commons Standing Committee on Justice and Human Rights. Pursuant to the order of reference of February 2, 2026, the committee is meeting to resume its study of Bill C-16, an act to amend certain acts in relation to criminal and correctional matters: child protection, gender-based violence, delays and other measures.

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 the Zoom application.

For Mr. Housefather and Ms. Lattanzio, sound tests were done. Nod if you can hear me.

Ms. Lattanzio, was your sound test done?

Patricia Lattanzio (Saint-Léonard—Saint-Michel, Lib.): It was not, Mr. Chair. I'm waiting.

The Chair: Okay. Maybe you can do that while I carry on with the opening remarks.

Patricia Lattanzio: Sure.

The Chair: Somebody will let us know if there's a problem.

I will dispense with the rest of the online instructions as we know them well.

Please wait until I recognize you before speaking. For those participating by video conference, you know the drill. For those on Zoom, you have all of the instructions on your screens.

This takes me to the welcoming of our witnesses. In our first hour, we have, from the National Association of Women and the Law, Suzanne Zaccour, director of legal affairs. From the Regroupement des maisons pour femmes victimes de violence conjugale, we have Karine Barrette, lawyer and project manager, and Louise Riendeau, co-lead, political affairs.

Thank you very much for joining us today. We're grateful to you for taking the time.

Each organization will have up to five minutes to make opening remarks, and then we'll open the floor to questions.

Ms. Zaccour, we'll start with you.

Suzanne Zaccour (Director of Legal Affairs, National Association of Women and the Law): Thank you, Mr. Chair.

The National Association of Women and the Law, or NAWL, is an award-winning organization that advances women's rights through feminist law reform advocacy. The focus of our brief will be on technical amendments to improve Bill C-16. I'll group them under three themes.

The first theme is where the bill may backfire against survivors. If they're not amended, new provisions on coercive control, mandatory minimums and constructive first-degree murder—which is labelled as femicide—will have adverse consequences for survivors of gender-based violence. Since I have very limited time, I'll focus on coercive control.

This offence would cover “controlling or attempting to control the manner in which the intimate partner cares” for children. That's proposed subparagraph 264.01(2)(c)(ii). This needs to be removed. We've seen that family courts have already started labelling survivors of domestic violence as engaging in coercive control, because their attempts to keep themselves and their children safe are seen as controlling or alienating. If this proposed subparagraph is not removed from the offence, abusers will exploit it to threaten survivors with criminalization. That will make it more difficult to leave an abusive situation.

My second theme is “positive developments but with some arbitrary restrictions”. One example is the criminal harassment offence. Under the reformed offence, it will be illegal to willingly cause fear to your intimate partner, among others, if a reasonable person would have been afraid but not if your partner was in fact afraid. When abusers cause fear to their partners or ex-partners, really it's irrelevant whether an imagined reasonable victim would have been afraid, since the abuser is specifically targeting the fears and vulnerabilities of a person they know very well. NAWL urges the committee to define harassing conduct as one that either causes subjective fear or would reasonably be expected to cause fear. As long as the accused willingly causes fear, it does not matter if the victim's fears and phobias are reasonable, as it's not the victim who is on trial.

Further, that the bill recognizes that abusers use violence against animals to control and terrorize victims is a positive development, but the bill then draws an arbitrary distinction based on the ownership relationship with the animal. In criminal harassment, saying “I will kill your dog” is threatening conduct, but saying “I will kill your mother's dog” is not. Where threats to animals are recognized, which is in criminal harassment and coercive control, we recommend changing the language from an animal that is in the care or property of the victim to any animal known to them.

NAWL also supports various measures in the bill that are procedural protections for victims of intimate partner violence, but does not support limiting them to cases of serious offences involving physical violence and threats. This is a little bit ironic in a bill that seeks to recognize coercive control. Throughout the bill in many places are protection measures that are called for in cases of an indictable offence “in the commission of which violence was used, threatened or attempted against an intimate partner”. We recommend replacing this language throughout with “any offence committed against an intimate partner”.

The bill also seeks to increase protections against the use of victims' therapeutic records without applying the same protections to other records that can also be highly sensitive and very private, such as child protection records, personal diaries and sexual assault centre records. All personal records should be treated with the same care such that they are only produced in criminal trials when they contain evidence that can raise a reasonable doubt as to the guilt of the accused.

Third and lastly, NAWL's brief identifies several loopholes that this bill can and should close, including an overly restrictive definition of deepfakes, where abusers just have to make the image non-realistic to escape criminalization. A deepfake set in a bedroom would be criminal, but the same deepfake where you change the background to be an under-the-sea castle is no longer realistic, so it no longer fits the definition of a deepfake. Again, that's an arbitrary distinction, because the harm of the deepfake is not that people may think the victim has done something sexual. The harm is that their sexual integrity is violated.

● (1110)

In our brief, we also point to a dual regime, where some firearms owners who are domestic abusers will lose their firearms, but not if they are police officers. We also point to and suggest closing loopholes regarding the use of sexual history evidence.

I want to point out that both of these proposals and all the other proposals in our brief come with specific drafted proposed amendments. I'm really happy to go through them in more detail in the question and answer period.

Thank you.

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

Ms. Barrette or Ms. Riendeau, one of you will start us off.

[*Translation*]

Louise Riendeau (Co-Lead, Political Affairs, Regroupement des maisons pour femmes victimes de violence conjugale): I will start, and then I will turn it over to my colleague.

Thank you for inviting us to share our views on Bill C-16.

Regroupement des maisons pour femmes victimes de violence conjugale has been actively advocating for the creation of a coercive control offence and applauds the Minister of Justice for including such an offence in the bill.

In our view, criminalizing coercive control would be a major step forward not just for women, but also for society. That is true for a number of reasons. The measure would provide a new tool for identifying domestic violence and intervening more effectively. The measure would especially send a clear message to Canadians: all coercive and controlling behaviour is dangerous and unacceptable, and should be reported. The measure would finally recognize the fact that victims experience not just physical violence, but also a wide range of controlling behaviours day in and day out, behaviours that affect their lives and their health, as well as the lives and health of their children. Coercive control affects the entire family. The arbitrary rules, tension and fear imposed by the abuser are detrimental to the well-being of the children, who are also victims.

An examination of the full experience of victims and their children contradicts the limited view that these are isolated incidents, which does not reflect their actual experience. The criminalization of coercive control would help the justice system better respond to domestic violence by taking into account the context and history of the violence.

Lastly, coercive control is a significant predictor of homicide, so the creation of a new offence would provide another effective tool to break the cycle of violence sooner and properly assess the dangerousness of the domestic violence situation throughout the legal process.

Nevertheless, criminalization must go hand in hand with measures for optimal implementation. These measures are important. Women's rights advocates fear that the criminalization of coercive control could be used against victims. The fear is that it will result in more victims being charged in cross-complaint situations than is currently the case. It's also feared that certain groups of women will pay the price, especially indigenous and racialized women.

Karine Barrette (Lawyer and Project Manager, Regroupement des maisons pour femmes victimes de violence conjugale): There were similar fears in Great Britain, where we carried out two missions to talk to a range of stakeholders about the actual effects that criminalizing coercive control had. We learned that those fears did not materialize. In our discussions with people in England and Scotland, we came to realize that it was possible to prevent these perverse effects. The solution lies in training police officers and prosecutors, and giving them the tools to properly assess who the main aggressor is when both partners claim or seem to be victims. Through the coercive control lens, criminal justice actors examine the pattern of coercive and controlling conduct, consisting of repeated instances, not isolated events, and are thus able to determine who the real aggressor is and who used defensive or reactionary violence.

Australia put controls and case review mechanisms in place to deal with the problem of the law being weaponized by perpetrators against victims. Before the bill comes into force, it's important to take the time and provide the necessary resources to adequately train all social and legal stakeholders, to develop the appropriate guidelines for police and prosecutors, to strengthen legal and psychosocial supports for victims, and to conduct education and awareness campaigns for both victims and the general public. That is precisely why we are asking that the coercive control provisions in the bill not come into force until two years after royal assent.

Drawing on the experience of the Australian states we visited in September, we recommend that panels made up of national, provincial and territorial experts in the field be responsible for the coordinated implementation of the new provisions, and that police and prosecution data be collected and tracked. This will ensure that criminalization is having the desired effect, not unintended consequences. In that vein, we recommend a legislative review every two years for a period of six years, informed by the reported data.

As for amendments to Bill C-16, in the French version, we recommend changing the wording "*en danger*" to "*menacée*" in provisions that refer to the person's safety being at risk. This would be consistent with the English version, which refers to the person's safety being "threatened". In our view, "*menacée*" requires a lower burden of proof. We also recommend that the definition of femicide in the French version specify that it is the murder of a woman or girl, specifically "*une femme ou une fille*". Lastly, we oppose giving police the power to apply alternative measures instead of proceeding with the laying of an information against the alleged perpetrator in domestic violence cases. Whether prosecutors should have a similar power also warrants consideration.

The rest of our recommendations appear in our brief.

Thank you very much.

● (1115)

[*English*]

The Chair: Thank you very much.

We'll move into the first round of questions.

Mr. Gill, you have six minutes.

Amarjeet Gill (Brampton West, CPC): Thank you so much.

Good morning, everyone. Thank you to the witnesses.

In my community of Brampton, intimate partner violence has been declared an epidemic by Peel Regional Police. Peel police respond to 46 intimate partner violence calls per day. That's one every 30 minutes. It is important to my community that we take the right steps to end this epidemic. I welcome every step we take to stop crime and provide safety to Canadians.

Ms. Zaccour, do you think the government has gotten it right in this bill by making intimate partner murder a first-degree murder charge?

Suzanne Zaccour: Thank you for the question.

As currently drafted, we do not support the constructive first-degree offence, which is misleadingly labelled "femicide" even though the offence is not gendered. The marginal note that calls the crime "femicide" is not part of the legislation. We support gendering that offence. The reason is that if it's not gendered, it risks being used to overcriminalize the survivors who kill an intimate partner in self-defence. They should be acquitted based on self-defence, but sometimes they do not argue self-defence. They instead will plead to a lesser offence, which is currently manslaughter. With this new provision, we fear that some of these survivors will plead to second-degree murder to avoid the first-degree murder conviction.

We recommend that the committee gender that offence, saying that it's the killing of a woman or a girl, as my colleagues also proposed.

Amarjeet Gill: The government is calling the murder of an intimate partner "femicide". Is that actually what femicide is?

Suzanne Zaccour: No. As I was saying, femicide has various definitions, but in all the definitions that I'm aware of, it has to be the murder of a woman or a girl. If the committee changes that to the murder of a woman or a girl, then it's less important to limit that constructive offence to where there's coercive control. It could be an intimate partner, but only if that limit is placed to avoid backfiring against survivors.

Amarjeet Gill: We know that Liberal catch-and-release policies have deprived victims of the peace of mind they deserve. Regarding the Victims Bill of Rights, you call for the government to grant actual rights and remedies to the victims of crime. How has the government failed in Bill C-16 to put victims first for a change?

Suzanne Zaccour: Bill C-16 proposes changes to the Canadian Victims Bill of Rights that are positive changes in general, but the Victims Bill of Rights is premised on rights that are granted to victims without actual remedy. There's actually a provision in the bill of rights that says it does not grant an actual remedy where victims could sue someone if their rights are not respected. That's what we propose in our amendment. In law we sometimes say that there's no right without a remedy, which means that if you have a right but nothing happens or it's violated, then what's the point of having that right?

● (1120)

Amarjeet Gill: Your brief suggested amending clause 28 of Bill C-16 by removing the sections on the treatment of a child or animal. What did the government get wrong on this? How will it impact victims if left unchanged?

Suzanne Zaccour: Could you please repeat the provision you're referring to?

Amarjeet Gill: It's clause 28 of Bill C-16. It's with regard to removing the sections on the treatment of a child or animal.

Suzanne Zaccour: The issue, as I said in my testimony, is that survivors could be criminalized through this provision or threatened with criminalization sufficient to prevent them from leaving an abuser. Because there are cultural myths and stereotypes about mothers, especially, being controlling in their home, we think this should be removed from the list. It's a non-exhaustive list. If there's actual abuse being committed in any form, it can still fit into the offence, but this calls attention to the ways in which someone controls how people care for their children. Sometimes this is born out of safety concerns, so it should be removed.

Amarjeet Gill: Conservatives believe that this bill, while flawed, has some potential to protect victims and avoid revictimizing them in the legal process. Do you agree?

Suzanne Zaccour: I think there are some good provisions in the bill, but some of them need to be amended to either prevent problematic sections of the bill or go even further in those sections that are positive developments and make sure they cover all survivors and victims.

Amarjeet Gill: You mentioned that you don't want women to be criminalized if they use lethal force to defend themselves against their partner. Do you think a change like the one proposed in Bill C-270, the Conservative stand on guard act, could address that?

Suzanne Zaccour: The issue is not to say that women should not be criminalized if they kill an intimate partner. It's really about cases where it is self-defence. These are cases in which the killing is done to protect yourself.

The real solution, obviously, is to give women an out for these abusive situations, which we'll also discuss in the next bill you're studying, Bill C-223, so that women can leave the situation. Then, they're neither killed nor kill their abusive partner. That's where we should direct our efforts. However, when tragedy happens and there is a murder of an intimate partner, if it's in self-defence, then the survivor should not be criminalized.

Amarjeet Gill: My question is for Ms. Riendeau. I would like to focus on your organization's trip to Australia. You had issues with Australian laws criminalizing victims. Did the government make the same mistake with Bill C-16?

[*Translation*]

Karine Barrette: What mistake do you mean exactly?

We are learning from Australia's experience. What we liked about various Australian states is that they worked extensively on the law's implementation, beyond just passing it. New South Wales, for instance, did a lot of work on that, making sure to set up expert panels and working groups to oversee data and training, among other things, in preparation. Reporting measures were put in place to determine whether the offence satisfied the objectives set out by lawmakers or whether certain populations were experiencing more harm. Those mechanisms were established.

[*English*]

The Chair: I'm going to have to ask you to wrap up, Ms. Barrette. I'm sorry.

[*Translation*]

Karine Barrette: All right.

We learned what things they did right and what things we would do differently from Australia.

[*English*]

The Chair: Thank you.

Thanks, Mr. Gill.

Mr. Housefather, I go over to you for six minutes.

[*Translation*]

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

Thank you to the witnesses from both organizations for their presentations.

I'm going to start with the representative from the National Association of Women and the Law.

[*English*]

Ms. Zaccour, first of all, let me just say that your brief is structured in exactly the way that I think everyone's brief should be structured. The way you explained each of your amendments and gave detailed legal language to us was exemplary. I just want to thank you for that because it makes it so much easier for members of the committee to do their job. For example, one thing that you pointed out was the ownership of an animal and the fact that the bill would require an animal to actually be owned by the person concerned, not their mother and not their sister. That was just a really interesting point that I hadn't noticed in reading the bill. Anyway, again, thank you.

My first question for you relates to the question of protecting “unreasonable” women from criminal harassment. Can you just talk about your concern there, your proposed language and why that is important?

● (1125)

Suzanne Zaccour: Thank you for your kind words about our brief, and thank you for the question.

There are two ways to criminalize causing fear in the context of criminal harassment. One is subjective fear. That asks this question: Was the person afraid? One is objective: Would a reasonable person be afraid?

Generally, you may not want to criminalize causing subjective fear. What if I don't know that the person is afraid? If I give someone a pen and it makes them afraid, that's “unreasonable”. I'm not going to be criminalized. However, in the context of criminal harassment, there's already a requirement that the accused know that they're causing fear. Once I know.... If my colleague tells me, “I'm very afraid of spiders”, for example, it's unreasonable to be afraid of spiders, but I know it's the case. In the case of criminal harassment, it's often intimate partners or former intimate partners, so I would know, intimately, that the person has those fears. Once I exploit those fears and deliberately cause fear to the victim, then the question really is not whether the person was afraid.

In our brief, we do propose to keep both objective and subjective fear. The reason is that there was a case in Quebec where the accused did something that would cause fear—stalked a politician and harassed them—but the politician, instead of being afraid, was angry, and the accused was acquitted. I think that's what the bill is trying to respond to.

Anthony Housefather: What you're basically saying is that for a stronger person, who doesn't feel fear that the average person would feel, the matter should still be a criminal offence.

Suzanne Zaccour: Protect both the unreasonable victim and the resilient victim. It really doesn't matter how the victim lives their feelings. It's really focusing on the behaviours of the accused. That's why we proposed that dual standard.

Anthony Housefather: Thank you. I appreciate it.

Next question, can you explain to everyone the importance of changing the “or” to an “and”? In the bill, you have “coercive or controlling conduct” throughout, and you've, I think, suggested replacing that with an “and”. Can you explain again, in terms of the pattern of abuse survivors, why that's important?

Suzanne Zaccour: I can, absolutely.

Coercive control is already recognized in family law, so we're learning from the way courts are dealing with coercive control in family law. Some of the ways they're dealing with that is in finding that the victim is the abuser, because they focus too much on control.

As I explained before, there's this stereotype that if the woman is constrained to the house, then she has control in the house. Sometimes judges really miss the power dynamic. If the mother is trying to protect the children, for example, or protect herself by saying, “You cannot drive the children around when you've had a few beers” or “I don't want my ex to see the children right now, because he's dangerous and I'm afraid they might be harmed or killed”, in family law, they can be found coercively controlling, and now they're going to maybe be found to be a criminal. Even if they're not convicted, the threat of criminalization is already problematic.

The goal is to refocus on coercion, on power imbalance, which is the heart of coercive control. We suggest changing the “or” for “and”, which is the framing of the offence, in addition to the other change that I explained about being controlling at home. That's not how we intended coercive control.

Anthony Housefather: I totally understand.

I want to move to deepfakes now. I think Bill C-16 takes a very important step by expanding the offence of non-consensual distribution of intimate images to include deepfakes. I've called for this for a long time.

One of the things that you've mentioned is the importance of including the word “creating” in the bill, meaning that the simple creation of a deepfake—the non-consensual creation of intimate images—should be a criminal offence. Can you explain why? The bill currently talks about publishing, distributing and transmitting these images, but it doesn't talk about creating them.

Suzanne Zaccour: Absolutely. We support the criminalization of the creation of deepfakes for a few reasons. One of them is just understanding what the harm of deepfakes is.

Again, the harm is not some people thinking that the victim has done sexual things. That's a really outdated conception of the harm of deepfakes. The harm is using someone's image and recognized face and body to create sexual materials. If we criminalize the creation, first of all, it means that the law and the state can intervene before more harm is caused. Currently, creating deepfakes would be legal as long as they're not distributed, and once they are distributed, it's too late for the law to intervene.

We recommend criminalizing the creation and also expanding the definition, because the definition is so narrow. It doesn't cover all sexual content. It needs to be explicit sexual activity, and, as I already explained, there's the realism issue. It's a step in a good direction, but if we're going to target deepfakes, we should target them in a way that will allow us to intervene before more harm is created and to intervene with the distributors of deepfakes.

● (1130)

The Chair: Thank you, Mr. Housefather.

Mr. Fortin, it's over to you for six minutes.

[*Translation*]

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

Thanks to all three of you for being here this morning. Your input is very valuable.

I'd like some clarification.

First, you said that the definition of femicide should specify that it's a crime against women and girls. I was a bit surprised by that, I must say. I thought it was clear that a femicide necessarily means a crime committed against a woman or girl. Could you start by providing more details on that?

Louise Riendeau: In the summary, the French version refers to "*une femme*", a woman. The provision itself refers to the murder being committed against an intimate partner, regardless of gender. That's why we're asking that the definition be clarified. The French version should specify that femicide refers to the murder of "*une femme ou une fille*", a woman or girl. Then, the various contexts come into play. The pattern of conduct applies in cases of intimate partner violence. It could also be in cases of sexual exploitation, for instance. Nevertheless, we feel it's important to clarify that at the outset. I don't think that should be assumed in the bill.

Rhéal Éloi Fortin: What would your definition of femicide be? Generally, it's a crime committed against a woman or girl, but I want to ask about more specific circumstances, because I have only five minutes. Say a woman is killed when she walks into a bank in the middle of a bank robbery. Should that fall into the same category as a woman who is killed by her controlling and coercive partner? A third case comes to mind, the Polytechnique shooting, where an individual killed women he didn't know simply because they were women. To my mind, those are three pretty different scenarios.

I'd like to hear your views on that. Do all three cases constitute femicide? Does something in particular need to be specified?

Louise Riendeau: Yes, I think it's necessary to specify that these women and girls were murdered because they were women and girls. That applies in the case of spousal homicide when there's a controlling dynamic. We feel that's an important aspect. It would also apply in cases like the Polytechnique shooting. However, as far as we're concerned, it wouldn't apply in the case of a woman who just happened to be killed during a bank robbery.

Rhéal Éloi Fortin: Let's look at a classic case, where a woman is killed by her partner. Should the reasons for the murder be taken into account? For example, the husband could have decided to kill his wife because she had a good life insurance policy and he was having money trouble. This is just made up, but he killed his wife because he would benefit financially from her death. Does that fall under the heading of femicide? In order for the murder to be considered femicide, is it necessary for the man to have killed his partner because he thought that her skirt was too short or that she looked at the neighbour a little too long, for example?

I don't want to seem insensitive. I just want to make sure I have a clear understanding of what constitutes femicide.

Louise Riendeau: As far as we're concerned, there clearly has to be a pattern of conduct. Otherwise, it could be considered first-degree murder when a victim kills her violent spouse in self-defence, for instance. In our view, what matters is showing that a pattern of conduct, in other words, a domestic violence situation, led to the murder.

Rhéal Éloi Fortin: Speaking of self-defence, I want to follow up on something you mentioned in your opening remarks. It seems to me that the Criminal Code already provides for cases of self-defence, whether a man or woman is involved.

Is it necessary to add something that specifically covers a woman who is subjected to controlling behaviour and who acts in self-defence? Does the current definition of self-defence fall short in that regard?

● (1135)

Karine Barrette: I can start, and then my colleague can provide more information.

One of the problems is that proving self-defence can cause significant stress. Currently, some women who kill their partners in self-defence either face a charge of second-degree murder or negotiate to have the charge reduced to manslaughter. That puts a lot of pressure on them; they wonder whether they should take the risk.

Sorry, but people are talking.

Rhéal Éloi Fortin: Sorry, Mr. Chair, but it's quite noisy.

[*English*]

The Chair: I was going to make the same comment.

Gentlemen, the witness is having trouble hearing and I'm having trouble hearing as well. If you don't mind....

[*Translation*]

Karine Barrette: Thank you.

Rhéal Éloi Fortin: Thank you, Mr. Chair.

Karine Barrette: What I was saying is that there's a risk. There are no guarantees. Women who are charged could argue that it was self-defence, but some women wonder whether they should take the risk or plead guilty to manslaughter instead. Sometimes defence counsel will advise them to plead guilty to a lesser charge, even though they acted in self-defence.

That is why having a pattern of conduct as a prerequisite provides another guideline or safeguard. It helps to prevent victims from being criminalized, as my colleague mentioned.

Rhéal Éloi Fortin: Say a woman killed her spouse while he was trying to kill her. In what situation would the current self-defence guidelines be inadequate, such that she would have to rely on the specific criteria you're talking about to make the case that it was self-defence? Can you think of any examples?

Suzanne Zaccour: Historically, self-defence is considered to be in response to an immediate attack. In the case of a woman who kills her partner, it's important to understand that once the immediate attack occurs, it's usually too late. In some cases, then, a woman kills her partner in his sleep, but after she's tried to escape or call police numerous times. It was really self-defence, because there was no other way for her to escape alive.

The courts have made room for recognizing self-defence in those cases, but it's always somewhat risky, as my colleague explained. It's like rolling the dice: risk life imprisonment—the sentence for murder—or plead guilty to a lesser charge. That's where plea bargaining comes into play. Arguing self-defence can fail. In that case, working out a compromise or receiving a lesser sentence isn't an option; in a murder case, the only option is life in prison.

[*English*]

The Chair: Thank you, Ms. Zaccour.

Thank you, Mr. Fortin.

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

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

Thank you, witnesses, for your attendance today.

I, too, want to thank you, Ms. Zaccour. I echo Mr. Housefather's compliments to you. It was a well-structured submission, and I would encourage all witnesses to take that as an example. It certainly aids us in the work that we have to do.

You and I spoke online in advance of your testimony, and we talked generally about your submissions. We certainly did not get through all of them, so I don't want to repeat a lot of the opportunities already presented to you by several members, but I do want to circle back on some things that I do not think you have commented on.

I want to start off with the firearm issue. You specifically address that as a gap in Bill C-16.

I want to get through maybe five or six different examples in the five minutes I have, so if you can keep your remarks pretty concise, I can get through my entire list. Thank you.

Suzanne Zaccour: A couple of years ago, Parliament amended the Firearms Act so that people who commit domestic violence or family violence—there are different ways to get at that result—lose their firearms. This will only apply to people who are subject to the Firearms Act regime, which excludes certain professions, including police officers. That means that a police officer who is an abuser can keep their work firearm, and we know there are high rates of domestic violence among police officers and other professions.

We suggest mirroring that new regime in the Criminal Code so that it also applies to police officers. There are other small loopholes that are very technical but are close to fulfilling Parliament's intent to make sure that if someone is an abuser, they don't have access to firearms—that's to avoid femicides.

● (1140)

Larry Brock: You also speak at great length about the concerns you have regarding the introduction of sexual history evidence, particularly under section 276 of the Criminal Code. Can you expand upon that?

Suzanne Zaccour: Absolutely.

This comes from some research I've done outside of my work at NAWL as well, where the Criminal Code prohibits accused people from using the victim's sexual history evidence to diminish their credibility and argue that they consented to the sexual violence.

In my research, I saw that there are gaps in how courts interpret that. The accused will not be able to say, “Let me bring in some sexual history evidence to show that she consented.” Instead, they say, “Let me bring in some sexual history evidence to show that I believe that she consented.” They'll say something like, “I thought she consented to rough sex because she has consented to it in the past.”

That is not a ground for a valid defence in Canadian criminal law, but it is being used to introduce sexual history evidence. We suggest expanding what are known as the twin myths about why you cannot introduce sexual history evidence to, now, three scenarios to protect victims' privacy and sexual integrity and the integrity of the criminal justice process.

Larry Brock: On the same issue of records, you also had concerns regarding personal records. Specifically, the bill and the current legislation only speaks about therapeutic records. Where is the gap in Bill C-16?

Suzanne Zaccour: There have been concerns among survivors that we need to raise the threshold for admitting these highly sensitive and often not very relevant records. The usual response is that it would not be constitutional to ban the use of these records. However, the government is deciding to raise the threshold for the therapeutic records. We believe there is a belief that this is a constitutional threshold, since that's what's proposed in the bill, but then it makes a very rough distinction between a therapeutic record and every other record.

There's no reason to believe that all therapeutic records are more sensitive than all non-therapeutic records. I gave the example of child protection records and sexual assault centres' records.

If the government and this committee believe that this standard of raising a reasonable doubt to guilt or innocence is a constitutional standard for the production of records, just raise the threshold for all the other records. This will also avoid the need to debate which type of record something is and will make it consistent to protect victims' privacy.

Larry Brock: I have time to explore one further area, and that's publication bans. What are your comments on where Bill C-16 is lacking?

Suzanne Zaccour: Again, a couple of years ago, Parliament amended the publication bans regime to make it more difficult to criminalize survivors who share their own stories. What we're hearing from survivors is that it didn't go far enough and it's still problematic. Survivors can't get a straight answer from a lawyer on whether they can or cannot do something. Survivors can share their stories, but it's not clear that they can share their stories in the media.

We suggest making it clear that publication bans are bans against other people sharing the identity of the victim survivor and are not bans against the survivor sharing their story. Currently, if you are a victim of sexual assault, you can share your story, except if there's a criminal trial, which can cause problems. That's why we suggest revisiting and expanding the protections for survivors.

Larry Brock: Thank you very much, Suzanne.

Suzanne Zaccour: Thank you.

The Chair: Thank you, Mr. Brock.

We'll now go to Ms. Lattanzio for five minutes.

[*Translation*]

Patricia Lattanzio: Thank you, Mr. Chair.

Welcome to all of you this morning. It's a pleasure to see you again. The first time we saw you was when we were consulting on this fine bill. I want to thank you for your comprehensive brief.

In your brief, you recommend distinguishing the femicide provisions from those pertaining to hate crimes. I'd like you to talk a bit about that. How would that distinction provide greater legal clarity and specifically recognize gender-based violence?

Louise Riendeau: We proposed this distinction because hate crimes can target women specifically, as we saw at Polytechnique. However, hate crimes can also target other categories of people, such as individuals with a particular religion or characteristic. It seems that, in both cases, it could be considered first-degree murder. That's why we asked for this distinction.

● (1145)

Patricia Lattanzio: You also pointed out that the concept of coercive control makes it possible to look beyond the rationale of isolated incidents. Could you confirm that, without this new offence, our justice system is indeed unable to take action at an early stage, so to speak, and thereby prevent the escalation to serious or even fatal violence?

Karine Barrette: In recent years, we've trained over 14,000 justice system players in Quebec, including more than 5,500 police officers. The fact is that certain behaviours fall outside the scope of Criminal Code offences. Some behaviours don't cross the threshold of criminal harassment. These behaviours include humiliation, blaming, gaslighting and financial control. In short, there are many factors of this nature. They're extremely dangerous, given that we know that one-third of spousal homicides aren't preceded by physical violence. The police officers confirmed this in the field. They lack the legal leverage to interact, step in or detain people.

So, in our opinion, the criminalization of coercive control is vital. It isn't the only solution, since it must go hand in hand with significant measures. However, it's an essential step in protecting many women who currently face a lack of protection in the legal system.

Patricia Lattanzio: Could you explain in general terms why you think that this bill constitutes a major step forward, particularly with regard to the recognition of coercive control and the dynamics of violence?

In addition, what aspects of the bill in its current form do you consider particularly positive?

Karine Barrette: As noted in Australia, a survey showed that the survivors mainly wanted to express their support for these measures as a means of condemning the actions so that society understands that they're unacceptable and dangerous. For the survivors, it meant a public condemnation and a clear message to send to society.

It can also provide leverage, as we said. Police officers or prosecutors can act before the femicide and other serious acts take place and stop the violence in its tracks.

It also plays a role in victims' trust. How often are they told that they experienced a serious situation, but that it isn't enough? The criminalization of coercive control finally gives them the feeling that their entire experience is being acknowledged. People aren't victims of domestic violence on February 24 and September 16, for example. One prosecutor said that domestic violence wasn't a photograph, but a film. The recognition of coercive control in the Criminal Code acknowledges the experience of victims and their children and the potential impact. It also helps to recognize the barriers to separation. How many times are these women told that they just need to leave their spouse? Yet separation is an extremely dangerous time. The criminalization of coercive control provides tools, but also validates victims' feelings in the process.

It can also, as discussed earlier, provide a great lens for analyzing the situation and identifying the primary aggressor while taking a step back. We currently focus a great deal on isolated incidents, such as what happened today, on April 13. We don't want to look at previous patterns and dynamics. By criminalizing coercive control, we're actually examining what happened in the previous weeks, months and years. This sheds light on the seriousness of the offences and the danger involved and creates a more appropriate safety net for victims.

Patricia Lattanzio: In terms of the bill's effectiveness, how do you think that it could improve the protection of victims, but above all their access to justice?

Louise Riendeau: We believe that, for this bill to make a real difference, it requires essential conditions. Police officers and prosecutors must be given training so that they can recognize coercive control and document it for use as evidence. Prosecutors and police officers must also receive guidance. In addition, victims must be offered social and legal support. Resources are needed.

That's why we're saying that all these measures should be implemented at the same time as the bill. One section of the legislation alone won't change everything. We're seeing this with criminal harassment. Even after a number of years, some police officers still misapply the concept. They think that it requires repetition, even though certain sections state that this isn't the case.

So, if the goal is to improve access to justice, the necessary conditions must be put in place. Moreover, a follow-up is needed to ensure that there aren't any unintended consequences, that the objectives are being achieved and that the women whom we wanted to protect are indeed being protected and not, on the contrary, being blamed. The whole thing must be revisable if necessary.

● (1150)

Patricia Lattanzio: Thank you.

[*English*]

The Chair: Thank you.

Mr. Fortin, it's over to you for two and a half minutes.

[*Translation*]

Rhéal Éloi Fortin: Thank you, Mr. Chair.

Ms. Barrette, first, we obviously need to stop the scourge of controlling and coercive behaviour. We've been talking about this here at the Standing Committee on Justice and Human Rights for a number of years. For all sorts of disappointing reasons, the work of Parliament has been interrupted. We're now getting back to this topic, and I'm glad.

That said, Ms. Barrette, I would like to address something that I heard you say earlier. I may have misunderstood, so I'll ask you to provide a further explanation. You said that we might need to wait two years for these provisions to come into force. I'm a bit surprised. I would have expected to hear about the urgent need to bring them into force quickly. You also talked about a review every two years, which seems perfectly reasonable.

I would like you elaborate on the coming into force of these provisions.

Karine Barrette: We're actually eager for it to come into force. I want to be clear on that. We were hoping for the adoption of Bill C-332, but we're happy with Bill C-16. The idea is that we don't want any unintended consequences.

We visited England. The issue that arose in England, one of the first countries to criminalize coercive control, was that the players involved received training after the offence came into force. This meant that certain players received training, starting with the police. However, the prosecutors, who weren't trained, couldn't build the cases. Everything fell apart, which left the police feeling unmotivated.

The key is to ensure that the entire chain receives training and tools. Otherwise, the players involved will be let down, as will the victims, who knock on the doors of police stations and end up receiving a poor response. The people aren't in a position to have cases that go all the way to trial. Other scenarios result in bad case law, which creates a long-term problem.

We're also a big country. Other countries sometimes had only one national police force. In Australia, the states of New South Wales and Queensland each have their own police force and group of prosecutors. We need to think of Canada as a whole here. In Quebec, we've been lucky enough to work on coercive control with the justice system players. We're making good progress. That said, it takes time to train people and to develop tools for asking the right questions during the statement phase of the police response. Tools have been developed in Quebec, for example. We need to make sure that Canada as a whole can access this training before the bill comes into force.

In our view, the key is to avoid rushing into things and then building the plane while flying it. We really want this to proceed with proper planning and under optimum conditions in order to avoid any unintended consequences. That's why we're proposing this two-year period. We need to give ourselves the resources to do things properly and to avoid any need to start all over again later on.

Rhéal Éloi Fortin: The issue that you raised—

[*English*]

The Chair: Thank you, Mr. Fortin.

[*Translation*]

Rhéal Éloi Fortin: Thank you.

[*English*]

The Chair: Mr. Fortin, I'm sorry, but that's all of your time.

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

Andrew Lawton (Elgin—St. Thomas—London South, CPC): Thank you very much, witnesses, for your thoughtful comments on this.

I'd like to delve into the deepfake aspect, Ms. Zaccour. This is something where the laws are updated less frequently than the technology is advancing, and we've seen even in the last few months some really rapid changes. A friend of mine was targeted by someone who used Grok to put her in a state of undress, and it was, to your point, incredibly humiliating for her.

I also want to make sure that we are not so broad with what we do that we're limiting things that probably shouldn't fall under criminal law. I want us to get it right, so I'm hoping to work through some of your suggestions on this.

One of the things you mentioned in your proposed amendment was the idea of using “nearly nude” as opposed to just nudity or sexual behaviour. Another thing that you've talked about is eliminating the realism component. To use an absurd example of that, if someone were to put someone's face on the *Little Mermaid* wearing a clamshell bathing suit top underwater, would that, in your view, fit what you think should be captured by this definition of criminal law?

Suzanne Zaccour: Thank you for the question.

The “nearly nude” is necessary to cover situations of being dressed in a bikini. It's a put her in a bikini kind of thing.... Removing the realism is necessary to address the issue of just changing the backgrounds and making it a different setting, as I've addressed.

I believe that what the realism was trying to get at was a recognizable face and body. It is up to you as a committee to decide if that's the threshold you want to keep: recognizable face or body or only recognizable person. If you put someone on a dog's body, that would be an example of where you can make that decision, but that's not a question of realism. It's more that it's a recognizable person that would cover it, or with the *Little Mermaid* deepfake, or something like that, with someone's face, that would be a recognizable person. One of the ways we propose is a “reasonably convincing manner”. That would not have to pass the test of realism—I believe it's true—but it has to be reasonably convincing that it actually depicts the person. There are different ways that you can make that threshold.

● (1155)

Andrew Lawton: I've always viewed this issue as being that the threat comes from people believing that a photo or video is real, and that is the harm. Your view is that it isn't actually the harmful component. It's the degradation or the humiliation that comes from the image itself. Do I understand that correctly?

Suzanne Zaccour: Some examples we've seen are of victims of crimes who have died and were being put into deepfakes. That is not.... Everyone knows that the victim has died, so it's not that it is realistic.

Engaging in sexual activity is not shameful per se. It's not the fact that someone may have engaged in sexual activity. It's really the non-consensual part. It's the difference between wearing a bikini because you want to wear a bikini and someone forcing you to undress. It's completely different.

Yes, we believe that the harm is in the non-consensual use of someone's image for sexual purposes, not the fact that the person is believed to be sexual or to have had a sexual past.

Andrew Lawton: What role, if any, do you believe civil law could play in this? Again, criminal law is a very big tool. Could there be a route through defamation or privacy where people have a remedy, but we're not threatening to throw someone in jail if they make an image that is, again, humiliating, perhaps, but not something that people believe is legitimate? Again, I don't know where I am on this. I'm just trying to understand what our options are as we deal with this issue.

Suzanne Zaccour: What victims most want is a remedy to remove the photo from the Internet. That is, I think, the number one thing—the online harms kind of remedy. That is starting to appear in different jurisdictions. I always make a point of arguing for things that you can do in the federal jurisdiction, but yes, what victims want is for the image to disappear. That's why targeting the creation might also enable the law to intervene with the companies that diffuse these, that share these images.

Yes, there's definitely a role for civil law, but civil law, if it's just defamation, takes time—and it's too late. It's really about removing the images. Our proposals are limited to federal jurisdiction, but yes, absolutely, that would be part of the solution. It's also the teaching on what is acceptable and what is not acceptable. If the limit is different in civil remedies, in online harms and in criminal law, it may create confusion, but it definitely must be part of the picture.

Andrew Lawton: Thank you.

The Chair: Thank you, Mr. Lawton.

Mr. Chang, you're next. I'll give you about three minutes, and then we'll have to stop there.

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

Ms. Zaccour, we know that many victims are delaying leaving abusive relationships because shelters cannot accommodate their pets, which creates a real barrier to safety. From your perspective, are there any legal or policy measures that could accompany Bill C-16, such as protection orders for pets or better coordination with shelters to ensure victims can leave safely?

Suzanne Zaccour: Yes, that is a real issue. It's an issue that is related to shelters not having enough money and also not accommodating pets. I believe some of the briefs that were submitted touched on that specifically.

Yes, we do support solutions that include recognizing that harm to the animal is part of the dynamic of coercive control and domestic violence. It's the same abuser who abuses the mother, the child and the pet. It should be seen as one issue that needs to be addressed in all its facets.

Wade Chang: Thank you.

There has been discussion about defining “femicide” as the killing of women and girls, so based on gender or sex. To ensure legal clarity and that no victims are excluded, how should the law be applied in cases involving gender-diverse individuals, such as, for example, in a gay relationship where one of the partners identifies as a woman? Based on your experience, what approach can ensure the definition remains legally clear, inclusive and focused on the underlying dynamics of gender-based violence?

● (1200)

Suzanne Zaccour: The one premise that's really important is that murder is already a crime. It's really about the government deciding that it wants to do something more and something special to recognize femicide. However, murder is already a crime, and it's the most serious crime in the Criminal Code. No one will fall through the cracks in that way.

That being said, if the government decides to go forward with this femicide legislation, which raises a lot of issues, the definition of femicide as the murder of a woman or a girl would be more specific, and it would have to include both cisgender and transgender women and girls. It's also possible to decide to define it as the murder of a woman or gender-diverse person. It really depends on what the purpose of this new legislation is, because if a lot of the situations that are covered in this bill are actually already covered as either first-degree murder or an aggravating factor.... Those are the different options that could be used.

It's also possible that what the government is trying to target is not femicide, but something else. If it's femicide, then femicide would be the murder of a woman or girl because of her gender, whether she's a cisgender woman or a transgender woman.

Wade Chang: Thank you very much.

The Chair: Thank you, Mr. Chang.

Thank you to our witnesses. Unfortunately, that's all the time we have for this panel, but we're very grateful to you for taking the time and making such excellent contributions to this important piece of legislation. Thank you.

We'll suspend for a couple of minutes until the next panel is ready.

● (1200)

_____(Pause)_____

● (1210)

The Chair: I'd like to call the meeting back to order.

For our second hour, we are joined by Sylvie Champagne and Michel Marchand from the Barreau du Québec. From the Macdonald-Laurier Institute, we have Peter Copeland. From the Provincial Association of Transition Houses and Services of Saskatchewan, we have Dr. Crystal Giesbrecht, who I understand may be having some audio challenges, so I'm going to ask her to go last in the opening remarks.

Each group has up to five minutes for opening remarks, and then we'll open the floor to questions.

Why don't we start with the Barreau du Québec?

[*Translation*]

Sylvie Champagne (Secretary of the Order and Director of the Legal Department, Barreau du Québec): Mr. Chair and committee members, thank you for this opportunity to outline the Barreau du Québec's position on Bill C-16.

The Barreau du Québec is the professional order that regulates the practice of over 31,000 lawyers. Its mission is to ensure the protection of the public, to contribute to quality and accessible justice and to uphold the rule of law.

In this capacity, the Barreau du Québec acts independently to provide legislators with a rigorous legal analysis that reflects the reality of the justice system. We can count on the valuable contribution of our expert groups of lawyers who exemplify the diversity of our profession.

First, I would like to emphasize that the Barreau du Québec supports the fundamental objectives of Bill C-16. The desire to better prevent and penalize domestic violence, to recognize the dynamics of domination that can lead to homicide, to strengthen the protection of children and to adapt the criminal justice system to certain contemporary realities is legitimate and necessary. The purpose of our comments isn't to call these objectives into question, but rather to support their achievement.

I'll briefly outline the main points of our analysis.

The first point concerns the consistency of criminal law.

The bill modifies the offence of criminal harassment, creates a new coercive control offence and introduces a definition of femicide. Yet these three mechanisms depend largely on the same basic behaviours, which include surveillance, intimidation, control and isolation.

The Barreau is concerned that this increase in the number of offences for similar behaviours unnecessarily fragments the understanding of domestic violence and complicates the application of the law, without providing truly enhanced protection. We believe that a better integrated approach would have achieved the same objectives more clearly and effectively.

I would now like to focus on the specific issue of femicide.

The Barreau fully recognizes the need to identify and combat homicides that occur in an environment of domination, control and gender-based violence. This constitutes a serious and widely observed reality. It's only right that legislators want to treat the matter seriously.

Two key aspects require clarification to ensure that this reform fully achieves its objectives.

The first aspect concerns the temporal connection between the violence and the homicide. The bill would define a murder as a femicide not only when it takes place during a period of control or domination, but also after a pattern of this nature has emerged, without any clear guidelines. The broader and more imprecise this temporal connection, the more difficult it becomes to establish a direct link between domination behaviours and the act of killing. This can create uncertainty in the application of the law.

The second aspect concerns the balance within the justice system. The definition of femicide automatically carries the most severe penalty available under Canadian law, meaning life imprisonment without the possibility of parole for 25 years. This exceptional penalty is normally based on the idea that the act committed shows a particularly high level of culpability. If the definition remains too broad or inadequately delineated, this maximum penalty may be applied in situations where the link between the domination and the homicide isn't sufficiently clear or direct.

The Barreau calls on the legislator to tighten certain guidelines, in particular by specifying the required link between the dynamics of control and the homicide. That way, the definition of femicide can specifically target the situations that it seeks to address.

The third point in the brief concerns the reinstatement of mandatory minimum sentences already declared unconstitutional, along with the new mechanism in section 718.4 that the bill proposes to add to the Criminal Code.

● (1215)

Although it's touted as a tool designed to provide flexibility, the mechanism would place the onus on individuals facing prosecution to show that the minimum sentence is unjust in their case. This raises concerns about fairness, legal predictability and the risks of two-tier justice, depending on the resources available to the person facing prosecution.

Lastly, the Barreau—

[*English*]

The Chair: I'll have to ask you to wrap up, Ms. Champagne.

[*Translation*]

Sylvie Champagne: So, we will come back to this during the questions. I would just like to say, regarding the aspect related to the Jordan ruling, that we have concerns.

Thank you for your attention.

Mr. Marchand and I will be happy to answer your questions.

[*English*]

The Chair: Thank you very much.

Mr. Copeland, we'll go to you next.

Peter Copeland (Deputy Director, Domestic Policy, Macdonald-Laurier Institute): Thank you, Chair.

Thank you to everyone for having me. It's a privilege to be here.

The protection of victims is at the core of public safety. The federal government deserves credit for taking up several politically fraught issues at once, both long-standing and novel, but it's one thing to be able to tackle these problems and another to ensure that the policies are crafted in such a way that they meet the objective in substance and not just in style.

The fact that 10,000 cases are stayed or withdrawn annually is an affront to justice for the accused, victims and our general public safety. At MLI we've argued that legislative refinement of the Jordan framework is warranted, as the court's ceilings were not the product of data-driven analysis and institutional knowledge but were legislated from the bench. Parliament is on firmer ground when it deploys the additional resources and time it has at its disposal to find an appropriate solution to the issue, as it has here.

The bill's amendments are welcome in this regard, but they should go further by expressly recognizing organized crime and national security matters as categories that warrant special treatment. They involve issues that are unusually document-heavy and operationally complex, with cross-border evidence, multiple accused and intelligence sensitivity.

The image-based abuse reforms are among the strongest parts of the bill, but they too do not go far enough. For many victims, the core harm is that images stay up for far too long. Canada should learn from the recent American legislation, as we argued at MLI with Bridge2Future. This means a 48-hour takedown capacity with expectation and consequences for platforms that fail to act.

The concept of coercive control is well known and can be operationalized in a way that is precise. The bill is directionally right to include it, but the definition is dangerously loose as drafted. What counts as a “pattern” is undefined. Is it two acts or is it 10, and over what period? When does basic financial management become coercive control of economic resources? When do basic domestic disagreements—about parenting, let's say—become control over the manner in which a child is cared for? The definition, we argue, should be amended in line with what the concept in fact is: a sustained pattern of domination, intimidation, isolation and threatened consequences that deprive a person of ordinary agency within an intimate relationship.

To achieve that, a predicate offence—rather than a stand-alone model—where multiple acts are defined over a period of time, perhaps with Crown approval, would be superior. It would avoid excessive overcharges and the capture of basic disagreements and absurd scenarios, as I've illustrated, that could gum up the justice system. Scotland adopted this predicate approach and had 95% prosecution rates, whereas England, in its loosely defined model akin to what's in this legislation, had success rates of 13%.

Moving on to femicide, I argue that the language should be removed and that it can be without sacrificing any of the additional offence types or the severity that it is to be rightly associated with. Unlike organized crime, for example, which recognizes patterns of behaviour and clusters of offences under a concept with additional powers for police and prosecutors, along with penalties associated with it, “femicide” is a misleading term. It implies that someone has the intent of killing based on generalized misogyny. In reality, people generally have specific motives related to concrete facts and realities, not a generalized hatred of women.

Parliament is already ensuring harsher treatment for killings committed in the context of coercive control, sexual violence, trafficking or hate through this bill. The law can specify those aggravating features, require courts to consider more serious sentences where they're present and improve statistical tracking of violence against women without adopting activist terminology that is effectively a distinction without a difference.

With regard to minimum sentencing, the government is right to reassert Parliament's authority in this regard, but the safety-valve approach remains too deferential to the same jurisprudence that created the problem. Courts have stretched section 12 to second-guess sentencing policy that properly belongs to legislatures, and could do so again here. They could find, for example, that an offender's race or migration status warrants this special treatment, as they have been prone to. It's important to remember that there is, in fact, already a great deal of discretion in the law. Police decide what facts justify charges, prosecutors decide how to proceed, and in many cases the Crown can elect by indictment, summarily or under a different offence altogether, depending on the facts before them.

A better model would be mandatory minimums with a set of narrow and objective grounds that, when coupled with gross disproportionality, could qualify the offender for a lower sentence—things like the age of the victim, prior convictions or the use of violence or threats. That would preserve Parliament's sentencing signal and reduce opportunities for imaginative judicial revision.

● (1220)

To conclude, Bill C-16 is genuinely impressive in its scope and intent, but it must go beyond that to ensure that the laws are properly tailored to address the problem they're meant to. It must include less symbolism, beyond what may be attractive politically or most expedient to carry out.

The Chair: Thank you, Mr. Copeland.

Our last presenter is Dr. Giesbrecht for five minutes.

Dr. Crystal J. Giesbrecht (Director of Research, Provincial Association of Transition Houses and Service of Saskatchewan): Good day. I'm Crystal Giesbrecht. I'm pleased to add the perspective of PATHS, the Provincial Association of Transition Houses and Services of Saskatchewan.

I will focus on the provisions in Bill C-16 regarding the coercion or control of an intimate partner—specifically, PATHS' support for legislating a Criminal Code offence—and four potential amendments to this section. I have submitted a brief regarding these recommendations.

I conduct research with survivors of intimate partner violence and coercive control and service providers in Saskatchewan. Without exception, PATHS' member agencies, as well as survivors and professionals who have participated in PATHS research, have expressed support for criminalizing coercive and controlling conduct in the context of intimate relationships.

We appreciate the inclusion in Bill C-16 of a comprehensive description of coercive or controlling conduct that acknowledges the nature of coercive control, where incidents on their own may appear inconsequential but the cumulative pattern causes harm. Importantly, this bill will criminalize this pattern of conduct when it is perpetrated against an intimate partner or others, including children or the survivor's animal. Canadian research demonstrates that children are often co-victims of coercive control. My own research in Saskatchewan, as well as that of other researchers across Canada, has demonstrated the connection between coercive control and threats, maltreatment and the abuse of animals.

We suggest expanding the definition to include engaging in a combination or repeated instances of any of the forms of other conduct listed if the victim states they believe, or if the behaviour could reasonably be expected to cause the victim to believe, their safety or the safety of someone else, including their animal, is threatened or if they have experienced distress, disruption to their life or an adverse effect on their day-to-day activities. This will allow accountability for coercive or controlling conduct that disrupts victims' daily lives, regardless of whether the behaviour could be expected to cause victims to believe there is a threat to safety.

Second, we recommend including manipulation of the victim's vulnerabilities as another possible form of coercive or controlling conduct, as opposed to its being considered separately under “Circumstances”. Although this provides guidance on an area that may be considered, rather than a mandatory element that must be present, we feel this change would keep the focus on the behaviour of the perpetrator and limit the evaluation of the victim's circumstances of vulnerability in the court's determination of whether the perpetrator engaged in coercive control.

Third, we recommend an amendment to state that when a person is convicted of an offence under section 264.1, the court will make an order prohibiting the offender from contacting the intimate partner or any child or other person affected by the conduct unless it is satisfied that the order is not necessary for the safety or protection of the victim, any child, other person or animal affected by the conduct.

Fourth, we recommend an amendment to establish training guidelines and programs for legal system professionals in consultation with provinces and territories, police, intimate partner violence and coercive control experts and organizations that work with victims and survivors, and to require monitoring and reporting on training implementation. The section pertaining to coercive or controlling conduct is set to come into force two years after royal assent. Therefore, training for professionals must take place during this period to ensure effective and informed responses when the legislation comes into force. Professionals who will require training on the coercion or control of an intimate partner and the new offence will include police and lawyers, and the training should also be made available to judges. In the brief, we've listed topics for inclusion in the training, including moving from an incident-based view of intimate partner violence to recognize patterns of coercive and controlling conduct, and practical skills such as risk assessment and evidence gathering.

In conclusion, I want to reiterate PATHS' support for a Criminal Code offence of coercive or controlling conduct toward an intimate partner. We hope to see the protecting victims act become law in Canada.

I give my sincere thanks to the committee for your consideration.

● (1225)

The Chair: Thank you very much.

Mr. Baber, I'm turning it over to you. You have six minutes, starting now.

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

Welcome, Mr. Copeland, and thank you for your testimony.

I'd like to address your article in the National Post concerning the mandatory minimum sentences. I've long maintained, and my friends have long maintained, that this Liberal government has abdicated its responsibility for keeping Canadians safe vis-à-vis an explosion of crime since its election in 2015. You write, “Although correlation is not causation, it's noteworthy that a decade-long rise in crime rates coincided with the return of the Liberals to power in 2015”.

Can you please expand on that?

Peter Copeland: During this time, there were hundreds of instances at the federal level and in other superior courts across the country where minimum penalties were struck down. That's often done on the basis of a reasonable hypothetical scenario, a judicial innovation that allows the judges to assess hypothetical scenarios and not the facts before them. We saw numerous minimum penalties struck down during this time.

I think one of the benefits of minimum sentences is that they are very clear and straightforward. They create predictability and certainty of enforcement, which is in fact a deterrent. It's not about the severity and length, necessarily, of time spent—and we want to ensure our penalties are commensurate with that—but they are a very efficient and effective tool.

Roman Baber: Thank you, Mr. Copeland.

If I may, you're saying that the various courts, in support of striking mandatory minimum sentences under section 7, often cite what is referred to as the fundamental Canadian values test, a vague and non-legally justified concept.

Can you please explain what you mean by the courts resorting to the fundamental Canadian values concept to strike down a mandatory minimum sentence?

Peter Copeland: That's in reference to charter values. This is an example of something that courts take upon themselves, unfortunately, too often. It's to refer to things not in the text of the law as a basis to inform their judgment. I think that is too often what occurs in the area of criminal law.

Returning to these specific proposals, we commend the government for taking it upon itself to reinstitute the mandatory minimums, but I do have a concern with the nature of the safety valve, in that it still invests a lot of discretion with the judge to—on their own interpretation of what constitutes cruel and unusual punishment—basically come up with scenarios that, in their view, constitute cruel and unusual punishment, when in fact many Canadians would disagree—

● (1230)

Roman Baber: I apologize. My time is short.

Just for the benefit of the viewers at home, I'd like to try to explain what is happening vis-à-vis this argument on mandatory minimum sentences and what the government proposes to do.

We saw recently the Senneville decision, in which the Supreme Court struck down the mandatory minimum sentence for access and possession of child pornography. The court relied on a reasonable hypothetical scenario in which two teenagers supposedly would send each other an explicit picture, and that may be tantamount to possession. Of course, the court said that this would be absurd, and because of that, they can't maintain the minimum sentence.

That was not the case before them, but they decided to strike down the mandatory minimum sentence on the basis of a hypothetical that, in my view, no respectable Crown attorney or police officer would touch. What they did is that they reduced the sentence for Senneville, and in fact, in Naud's case, it was reduced to nine months instead of the mandatory 12 months. This is despite the fact that Naud never argued that a mandatory minimum sentence of one year would be cruel and unusual. The court strikes it down in a hypothetical, but awards the defendant Naud with a lower sentence than is prescribed. Now the government comes along and says it's going to use the safety valve, that it's going to allow for these extreme scenarios that would allow a court to escape from the mandatory minimum sentences.

I submit that what it in fact does is weaken mandatory minimum sentences. It still allows judges in cases like Naud to disregard the mandatory minimum sentence, even though absurdity was not pleaded.

Peter Copeland: Yes, I do think it's conceivable that in relying upon a creative interpretation of what constitutes—I can't remember the exact language—grossly disproportionate, cruel and unusual punishment, even restricted to the facts of the case, you could find judges striking down laws and not rendering justice.

As I suggest, a way of narrowing this further could be by tying certain objective factors to making someone eligible for a lower sentence—things such as age, prior convictions, whether there is a commercial purpose involved, or threats, intimidation and the presence of weapons. This is used in other jurisdictions. They have the effect, I think, of constraining the judiciary appropriately and ensuring the intent of the legislature to ensure that severe punishment of an offence is upheld.

Roman Baber: Thank you.

The Chair: Thank you, Mr. Baber.

Mr. Chang, we'll go to you for six minutes.

Wade Chang: Thank you, Mr. Chair.

My first question is for Dr. Giesbrecht.

How transformative is the recognition of coercive control for frontline service providers?

Dr. Crystal J. Giesbrecht: Thank you so much for the question.

I think this will be hugely transformative. A Criminal Code offence of coercive and controlling conduct is something that frontline service providers have for many years been calling for. We at PATHS, on behalf of our member agencies—domestic violence shelters and counselling centres across Saskatchewan—have been advocating for this to the federal government for nearly seven years.

So often, frontline service providers—and that includes family law professionals, police and also the domestic violence, shelter and service workers—have had instances where they're supporting clients who are at a very high risk of lethality. They're experiencing some very dangerous and harmful behaviour, but currently there's nothing within the criminal legal system that can be done to support them.

By legislating this criminal offence, I think it opens a lot of doors for training, education and awareness of what coercive control is, and it offers frontline professionals a way to support survivors and direct them to mechanisms within the criminal legal system that can help them and keep them safe.

Wade Chang: Thank you.

Why is the two-year implementation period important for training and system readiness?

● (1235)

Dr. Crystal J. Giesbrecht: I would echo what our colleagues at the Regroupement said earlier.

We've wanted this criminal offence for a very long time, of course, and I would love to see coercive control criminalized immediately. However, I do recognize why this has been put into the bill, and I think that having that two years before it comes into force will be helpful for ensuring that training is provided to legal system professionals, to police, lawyers and prosecutors.

However, that two years will need to be used very efficiently. Training will need to be ready and it will need to be rolled out and monitored to ensure it is implemented effectively, so that those two years are used to ensure everyone has the training and there are going to be effective responses in implementation as soon as that bill comes into force. If those two years are not used to efficiently and effectively deliver training for professionals across the country, then the two years won't have met the objective.

Wade Chang: Thank you.

What specific training should police and prosecutors receive to apply this law effectively?

Dr. Crystal J. Giesbrecht: I think the training should include a number of topics, and it's not an extensive list.

Some of the things that could be included in that training are the ranges of behaviour and tactics employed by perpetrators; the connection between coercive control and other forms of intimate partner violence; the connection between coercive control and intimate partner homicide or femicide; moving from an incident-based view of intimate partner violence to recognizing patterns of coercive and controlling conduct; recognizing the cumulative harm of coercive and controlling behaviour and the impact on victims; and cultural and intersectional factors that impact the perpetration and experience of coercive control.

As well, there are practical skills for professionals, such as assessing risk, including risk of lethality; identifying the primary aggressor; interviewing survivors and perpetrators or accused perpetrators; gathering evidence; documenting patterns across multiple interactions and calls for services; trauma- and violence-informed support for survivors; and, very importantly, cross-sectoral collaboration.

Wade Chang: Thank you.

Do you believe that making femicide first-degree murder sends a strong enough deterrent message?

Dr. Crystal J. Giesbrecht: I do. I think that valid points were raised by the presenters in the first hour of the committee's meeting about some of the gendered issues of the recognition of femicide, but I do think that this is very important. I'm in support and I'm heartened to see the issue of femicide addressed in Bill C-16.

Wade Chang: How will this bill change the way victims are identified and supported?

Dr. Crystal J. Giesbrecht: Having a Criminal Code offence of coercive control offers opportunities for victims, first of all, to report. Currently, I see through my work with frontline professionals and victims and survivors of coercive control that many of them do not report to police because there's currently no chargeable offence occurring.

Being able to report means repercussions for the perpetrator, but importantly, it means the potential to offer protective mechanisms, such as protective orders, to survivors. It also means being able to validate and recognize that behaviour and show that this does matter and is concerning and potentially dangerous, and being able to do something about it. The current status quo is that victims and survivors are told, “There's nothing we can do here. There's nothing we can do about this. Come back when something criminal”—i.e. a physical or a sexual assault—“occurs.”

Wade Chang: My final question to you is this: What gaps still exist in protecting women in rural and underserved communities?

Dr. Crystal J. Giesbrecht: Some of the gaps include housing. This is an issue all across urban and rural Canada.

What we see here in Saskatchewan is that sometimes survivors stay in situations longer than they would choose to because accessing housing is a significant barrier whether they live on a first nation, in a small town or in an urban centre. As well as that, I think there are barriers to reaching out for support. Sometimes it's geographic distance and transportation, or it's support for survivors and frontline professionals with expertise in intimate partner violence and coercive control.

● (1240)

The Chair: Thank you, Dr. Giesbrecht.

Thank you, Mr. Chang.

Mr. Fortin, it's over to you for six minutes.

[*Translation*]

Rhéal Éloi Fortin: Thank you, Mr. Chair.

I would like to thank all the witnesses here with us. My questions will be directed to Ms. Champagne. I am always pleased to benefit from the insights of my professional body when it comes to working on such important bills.

Ms. Champagne, I have heard you clearly. I think I could discuss this with you for at least half a day, if not longer. There are several issues, but I would like to address the issue of criminal harassment.

Bill C-16 proposes adopting an objective rather than a subjective standard regarding the concept of fear, namely whether we should consider the fear a reasonable person would have felt or the fear actually felt. We have heard from witnesses who have spoken to us about various aspects of this. For example, some have raised the point that, if the victim of the harassment or threat has a genuine fear, regardless of whether a reasonable person would not have felt such fear, it must constitute harassment. Some disagreed and questioned whether we should really legislate based on individual sensitivity.

I would like to hear your comments on this issue.

Sylvie Champagne: I will ask Mr. Marchand to answer your question.

Michel Marchand (Member, Criminal Law Expert Group, Barreau du Québec): Thank you.

You raise a very good point.

It should be noted that, in the proposed new definition of harassment, there is clear reference to the intention to harass the person or to the fact of not caring that one might be harassing them. This means that there still needs to be some form of mens rea on the part of the perpetrator.

So, we are very comfortable with the current wording, which states that the complainant or victim must feel that they are in danger because of the actions of the person in question. Even if the victim does not feel that way, if the person intends to harass them, I think we’ve covered it. So, I think that is why the mens rea of criminal harassment is important.

The slight reservation we might have relates to recklessness. Even in the current wording, recklessness is mentioned. In both cases—that is, in the new wording as well as the old wording—a mens rea of recklessness is sufficient. The Supreme Court has recognized that this is a mens rea of a subjective nature. However, we consider that the new wording, which, as you have just mentioned, extends the definition to reasonable cases without the person themselves feeling this violence, is very broad.

I am not sure if I have answered your question.

Rhéal Éloi Fortin: Yes. Thank you, Mr. Marchand.

I’d like to come back to one point. Ms. Champagne did not have time to discuss this in her opening statement, but she told us that the Barreau du Québec had certain reservations regarding the way in which Bill C-16 proposes to address the issue of reasonable time limits, which were introduced following the Supreme Court’s Jordan ruling. There are different ways of looking at this. Bill C-16 proposes a mechanism.

I would like to hear your comments on this mechanism. Does it go far enough? Will we be able to tackle the problem and ensure, ultimately, that individuals who could be found guilty of serious crimes against the person, for example, are not released simply because there has not been time to hold their trial? This poses a real problem for victims and for society in general.

I would like to hear your comments on this aspect, Mr. Marchand or Ms. Champagne.

Sylvie Champagne: I will begin, and then Mr. Marchand can add to my answer.

Of course, at the Barreau, we are concerned when proceedings are stayed, and we are aware of these difficulties. However, the Jordan ruling, which was subsequently clarified by the Supreme Court in the Cody ruling, also recognized a fundamental right in our democracy: the right to be tried within a reasonable time. So, it is a balance that we must strike.

What we are saying is that we must be careful with automatic deductions, because they will not necessarily reflect the situation that actually occurred. There are already many details in the Jordan ruling that were clarified by the Cody ruling. Where we are raising concerns is that there should not be too many automatic processes, because sometimes that time frame would be truly unreasonable.

Mr. Marchand, I do not know if you wish to add to my answer.

● (1245)

Michel Marchand: Thank you.

I also see two problems.

The government, or rather the state, has appealed to the Supreme Court on several occasions to try to overturn the Jordan ruling, but the judges have refused to do so. I think we need to take note of that and put more resources into the system.

We also need to try to establish perhaps stricter guidelines for prosecutors so that cases that do not warrant prosecution are not brought to court. I do indeed think this is a real problem. When there are a lot of cases that shouldn't be in court, it clogs up the courts and, ultimately, cases that are even slightly important or more important end up facing longer delays. That is a real problem.

Rhéal Éloi Fortin: Thank you, Ms. Champagne and Mr. Marchand.

[*English*]

The Chair: Thank you, Mr. Fortin.

We're going to go into the second round, which is five minutes each. Given the time on the clock, I'm going to propose that we shorten that to four minutes each, except for Mr. Fortin, of course, who will get his two and a half minutes. That way, we'll get the full round in.

I'm seeing no objections to that.

Mr. Lawton, I'll give you four minutes, starting now.

Andrew Lawton: Thank you very much, witnesses.

Mr. Copeland, you alluded, in your earlier comments to Mr. Baber, to some proposals for ways to beef up the mandatory minimums in Bill C-16. You also cited other jurisdictions. If you could send that to the committee for us to review while we're amending this, I would greatly appreciate it.

I want to talk to you about mandatory minimums and this one tool that parliamentarians have, and that my Conservative colleagues and I have been very clear we think is needed on justice legislation, and that is the notwithstanding clause.

You have spoken and written about ways that this government is trying to basically neuter this power that all legislatures in this country have and, in doing so, to defer a lot of discretion to the judges who have actually been the ones trying to weaken, in some cases, some of these protections. I'm just hoping you could speak about whether, in your view, the notwithstanding clause is a legitimate tool to ensure that mandatory minimum sentences, which reflect the will of large swaths of Canadians, can continue to have a place in the criminal justice system.

Peter Copeland: Thank you for the question. I'd be happy to send some of those specific proposals. The United States is one jurisdiction. One can establish numerous objective criteria to create a kind of gating situation wherein if these factors are met, plus the judge considers the punishment to be grossly disproportionate or cruel and unusual punishment, then it could be levied.

With respect to the notwithstanding clause, it's very clear that this is part of the charter and not something that is some sort of exception to it. In fact, constitutions are not straightforward. The text does not exhaustively define and prescribe all features of a right or how it's to be balanced with other rights or laws or policy objectives. It's very much a back-and-forth between the legislature and the courts in terms of how to interpret, define and operationalize laws to ensure their protection of the right in question, and even to operationalize the right itself. It's very much a legitimate part of the law. I think it reflects our Westminster parliamentary system that gives great deference to Parliament for enacting laws, and—

Andrew Lawton: Thank you. If I may, Mr. Copeland, as time is limited here, I'd like to move to this. Even before the mandatory minimums were struck down on child sexual exploitation and abuse material in the Senneville decision, the investigative journalism bureau did an analysis where they looked at 100 cases between 2020 and 2025. They found that one in three had not adhered to the sentencing minimum. That was before it was struck down. These are judges already finding ways to minimize and weaken these protections.

What could be done to stop that and to ensure that a minimum is actually being adhered to by judges in the sentencing of these egregious sexual predators?

● (1250)

Peter Copeland: Yes, it's a good point. There are many ways in which, at the level of prosecution or even police, someone could bring forward a lesser charge, for example. Sometimes that's warranted. Sometimes it's, yes, to avoid, so to speak, the full effect of the law. Things like Crown Prosecution Manual amendments to make certain practices the default would be an interesting way of addressing that.

Realistically, just returning to the use of the notwithstanding clause, it's no surprise that we've seen its use increase across the country in recent years. It's because the courts have been departing in really serious ways from the clear intent of the legislatures in their creative rulings. I think it is entirely legitimate to be used in these settings. I do think that the bill makes some improvements here upon the status quo, but it could be strengthened further. We'll have to see how the courts use and interpret the law.

The Chair: Thank you, Mr. Copeland.

Thank you, Mr. Lawton.

Ms. Lattanzio, you have four minutes.

Patricia Lattanzio: Thank you, Mr. Chair.

My first question will be addressed to Mr. Copeland.

Mr. Copeland, you are absolutely right to raise concerns about the mandatory minimum penalties being struck down by the courts. That's precisely why Bill C-16 takes a smarter, durable approach. It reinstates those mandatory minimums with a judicial safety valve that reflects clear guidance from the courts to ensure charter compliance. This isn't a partisan experiment. It is pragmatic. It is a solution that has earned support across party lines. I will remind the member opposite, Member of Parliament Baber, that Frank Caputo, his own Conservative colleague, has long advocated for the inclusion of the safety valve to ensure that severe punishment of an offence is upheld.

The question to you, Mr. Copeland, is simple: If this model directly responds to judicial concerns, strengthens the law and has cross-party support, what exactly is your objection to it?

Peter Copeland: Thank you. That's a great question.

As I said, I think it's a considerable improvement. I think we have to wait and see how the courts end up interpreting and using it. If they do rely, as they have been wont to do in many aspects of law, upon other factors to exempt—to basically operationalize the concept of cruel and unusual punishment, such as referring to the race or the migrant status of the offender—then this would...because what the safety valve does is it narrows the application to just the facts at hand. However, it still leaves all the discretion with the judge, and many judges are activists.

Patricia Lattanzio: Thank you. I need to move on to the next panel.

[*Translation*]

Thank you, Ms. Champagne and Mr. Marchand, for joining us this morning.

I wanted to quickly ask you a question regarding the balance between, on the one hand, strengthening victim protection through Bill C-16, particularly in the context of intimate partner violence, and, on the other hand, respect for the fundamental principles of criminal law and constitutional guarantees.

What are your thoughts on this?

Sylvie Champagne: As I said at the outset, at the Barreau du Québec, we welcome the objectives pursued by Bill C-16.

However, we see that there are some areas of concern that could be improved, such as the three distinct offences of harassment, coercion and femicide.

So, we really welcome the objectives, but now we need to look at the details. As lawyers often say, the devil is in the details. That is why we have comments to make. We believe that Bill C-16 could be improved if our comments were taken into account.

Patricia Lattanzio: Mr. Chair, if I have a little more time, I would like to focus specifically on the concept of minimum sentences with Ms. Champagne or Mr. Marchand.

What do you think of this approach? Do you think it reconciles the objectives of punishment and deterrence with constitutional requirements?

● (1255)

Sylvie Champagne: I will yield the floor to Mr. Marchand.

[*English*]

The Chair: Very quickly, we'll have Mr. Marchand.

[*Translation*]

Michel Marchand: In our view, essentially, the new clause on minimum sentences amounts to a complete reversal of everything the Supreme Court has said from the outset. It is almost the adoption of a derogation provision under section 33 of the Canadian Charter of Rights and Freedoms.

So, if the clause is adopted as it stands, it is certain that the first legal challenge will go before the Supreme Court. Can Parliament rewrite section 12 of the charter? Essentially, that is the question.

I think Parliament could have responded differently, simply by redefining aggravating circumstances and setting clearer criteria for determining in which cases the minimum sentence could be imposed, rather than starting from scratch and having a short clause stating that, from now on, we simply look at whether, in the specific case of the individual, the punishment is cruel and unusual.

It’s a bit like class action lawsuits. That allowed the Supreme Court to issue a binding ruling for everyone. Now, issues will have to be dealt with on a case-by-case basis. We talk about relieving the burden on the judicial system. However, we won’t relieve the burden on the judicial system if every case has to be argued. That really seems counterproductive.

We are very firmly opposed to this clause as it stands.

Furthermore, the minimum sentence will have to be a minimum term of imprisonment. That means that, in all these cases, there will no longer be suspended sentences or the possibility of an acquittal. So, I feel that this does rather undermine section 12 of the charter.

[*English*]

The Chair: Thank you, Ms. Lattanzio.

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

[*Translation*]

Martin Champoux (Drummond, BQ): Thank you, Mr. Chair.

Ms. Champagne, I’ll turn to you briefly. When you replied to Ms. Lattanzio, you spoke of the details and the fact that the devil is in the details. God knows that, in the field of law, no detail should be left to chance. As Bill C-16refers to femicide, I think it is very important to have this conversation.

Do you feel that, as things stand, the concept or term “femicide” in criminal law is sufficiently well defined and framed, and that we would be able, thanks to the proposed definition or framework, to navigate it effectively?

Sylvie Champagne: No. In fact, there is no definition of femicide. So, in our view, the objective has not been met.

What we are proposing is that, if this is the legislator's intention, there should be a definition that provides very clear guidelines defining what femicide is. We believe that, at present, it is far too broad and could include the killing of a man.

Martin Champoux: I'd like to speak to the concept of coercive control, picking up on your response. I wonder if you share the same view regarding the concept of coercive control, which is also proposed in Bill C-16. Do you think the discussion has been sufficiently thorough?

Sylvie Champagne: As you will see in our brief, what we see is that the three offences overlap significantly. They involve the same behaviours, but to varying degrees. Our suggestion to parliamentarians is really to strengthen the offence of harassment to include patterns of coercion, as well as, perhaps, aggravating factors, and to treat femicide as a distinct offence, to distinguish between the behaviours and their severity.

In our view, this would be much clearer for the public. They would be better able to understand what constitutes a criminal act. At present, the three offences overlap, and it is difficult to define precisely what is covered by each of these new offences.

● (1300)

Martin Champoux: Thank you very much, Ms. Champagne.

[*English*]

The Chair: Thank you, Mr. Champoux.

We have Mr. Gill and Mr. Housefather. I might cut it down to three minutes each, if that's all right, because we're up against the clock.

Go ahead, Mr. Gill.

Amarjeet Gill: My question is for Mr. Copeland. Peel Region Council declared intimate partner violence an "epidemic". Peel police responds to 46 intimate partner violence calls per day. That's one every 30 minutes. What got us here?

Peter Copeland: I think it's a long-standing issue, and the government is right to address it with stronger offences for coercive control and various types of sexual violence.

My comments and concerns pertain to how the offences are structured. There is precedent here, as other jurisdictions have moved to implement coercive control regimes. The one that has not resulted in a lot of success in England is very close to how this offence is worded. All of the different components are stand-alone, and they're very imprecisely defined.

You can have a situation wherein people are bringing forward cases that are not legitimate and that, in fact, won't withstand charter tests. We've seen this in England. In the predicate model, wherein multiple offences have to be strung together and over a defined period of time, it's a much more concrete and easily prosecutable offence, and it has resulted in much more success. I think the definition needs to be tightened in line with that.

Amarjeet Gill: If the Liberals' bail and sentencing law got us here, should we trust them to get us out of this crisis?

Peter Copeland: Yes, it's certainly the case that the lenient bail and sentencing policy has been behind some of the decades-long rise in violent crime, and intimate partner violence is certainly a component of that. As I said, I appreciate the intent here, but to have the desired effect, the offences need to be seriously amended.

Amarjeet Gill: A couple of months ago, you told this committee that some of our biggest issues are repeat violent offenders and the expanding reach of organized crime, and that we need to reduce excessive judicial discretion. Can you elaborate on that in the context of Bill C-16?

The Chair: You have about 10 seconds, Mr. Copeland.

Peter Copeland: As I said in my last response, I think the minimum penalty amendments go some degree in that direction, but there are additional amendments that could be made to properly constrain it further.

The Chair: Thank you, Mr. Copeland.

Mr. Housefather, I'll give you three minutes, but I don't think anybody will be upset if you don't use them all. It's over to you.

[*Translation*]

Anthony Housefather: Thank you, Mr. Chair.

I would like to thank all the witnesses for joining us. I am extremely grateful to them.

[*English*]

Mr. Copeland, you've been the star of this round of the show. I also have a couple of questions for you.

I think we're all very concerned about Jordan and the effects of Jordan, which is why Ms. Lattanzio talked about the safety valve that you opined on a bit earlier. I wanted to ask you about the fact that I believe this bill also offers other remedies, other than a stay of proceedings, which will, I think, prevent the 10,000-case number you talked about.

Do you want to talk about the other remedies that are also afforded under the bill, besides the safety valve?

The Chair: I'm sorry. Who is the question directed to?

Anthony Housefather: It was directed to Mr. Copeland. I thought I had made that clear.

Peter Copeland: Could you repeat the last part on the change to Jordan? I'm sorry.

Anthony Housefather: What I said is that we're all concerned about Jordan. Ms. Lattanzio raised the safety valve issue, but what I also pointed out is that there are now options other than stays of proceedings that are being afforded under the bill.

Could you talk about how that will impact the number that you raised of 10,000? This will mean that fewer cases will be thrown out.

Peter Copeland: Yes, exactly. I commend the government for these measures. I'm largely supportive of what's in here. As others have raised, there are many factors. I support additional resourcing for prosecution and for police as well, because that's certainly part of the equation.

I think a special note could be made of national security and organized crime as circumstances that warrant that extra discretion. I would just underline that point, as these are the cases that are driving our everyday violent crime issues. A lot of it is driven by organized crime, and there is frequently a foreign state involvement component, which affects national security. I think that would just ensure that those cases are not tossed.

● (1305)

Anthony Housefather: Understood.

Quickly, I think my Conservative colleagues may have tried to trap you into an answer on the notwithstanding clause before, so let me give you the opportunity to opine on this.

The federal Parliament has never used the notwithstanding clause. You're not calling on the federal Parliament to use the notwithstanding clause here. Is that correct? You had talked about the dialogue between the courts, Parliament and legislatures. The issue with the notwithstanding clause has not been its inclusion in the charter. It's its pre-emptive use that prevents the dialogue between the courts and the legislature.

Are you actually asking the legislature here, for the very first time in Canadian history, to use the notwithstanding clause in this bill?

Peter Copeland: I think the pre-emptive use is very much a part of the dialogue, in fact, because it states clearly that this is the legislature's interpretation—

Anthony Housefather: Then there's no dialogue. Don't say it's a dialogue between the courts and the legislature if you're saying that there shouldn't be a dialogue.

I asked if you are asking for the notwithstanding clause to be used on this bill.

The Chair: Thank you, Mr. Housefather.

Mr. Copeland, do you want to answer that?

Peter Copeland: Sure.

It is part of the dialogue, because there's a five-year limit to it. What I'm saying is that I think this is a good measure. I think there are ways that it could be improved further. I would not rule out its use if courts do not respond appropriately to the law being put forward here.

The Chair: Thank you, Mr. Housefather.

Mr. Copeland, I have one quick question. Are you a lawyer?

Peter Copeland: No, I am not.

The Chair: Thank you.

Just to wrap up quickly, because I know Mr. Brock wants to add something, we're going to complete the witness portion of this bill on the 22nd, and we're going to start clause-by-clause on the 27th. Proposed amendments should be submitted by noon on Thursday, April 23. I'd ask everybody to keep that in mind.

Mr. Brock, you had a question for me.

Larry Brock: You answered all of my questions. I wanted clarification on those two issues.

The Chair: We'll end on the note that great minds think alike, Mr. Brock.

The meeting is adjourned.