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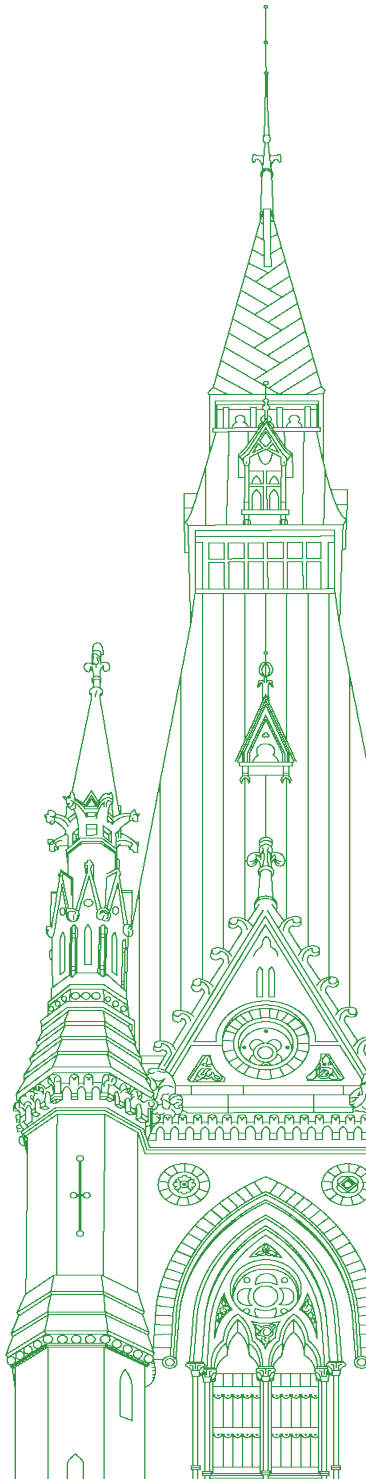
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● (1105)

[*Translation*]

The Chair (Hon. Jean-Yves Duclos (Québec Centre, Lib.)): Good morning, everyone. Thank you for joining us on this beautiful Monday morning for meeting number 52 of the House of Commons Standing Committee on Public Safety and National Security.

Pursuant to the order adopted on March 26, 2026, the committee is meeting on its study of Bill C-236, an act to amend the Criminal Code, the Corrections and Conditional Release Act and the Prisons and Reformatories Act.

I would like to welcome the witnesses, starting with our distinguished colleague Dane Lloyd, member of Parliament for Parkland, who is sitting in a different spot today.

We're also fortunate to have our distinguished colleague Michael Cooper, member of Parliament for St. Albert—Sturgeon River.

Next, we have Bret McCann, who is joining us by video conference.

[*English*]

Good morning, Mr. McCann. Thank you for joining us at a slightly different hour, we believe. We didn't know exactly what time it would be at home for you.

[*Translation*]

Finally, we have Benjamin Roebuck, federal ombudsperson for victims of crime.

Each witness will have five minutes for opening remarks.

I note this first panel will actually be with us for 75 minutes, because we have the generous presence of the federal ombudsperson for victims of crime. It will be a little longer than usual.

With that, we will begin with opening remarks from Dane Lloyd.

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

[*English*]

Dane Lloyd (Parkland, CPC): Thank you, Mr. Chair.

Thank you for having me here to speak to Bill C-236, the addressing the continuing victimization of homicide victims' families act, also known as McCann's law.

I must admit, this is the first time I've attended committee as a witness, so I hope you'll all go easy on me, particularly Frank.

Some hon. members: Oh, oh!

Dane Lloyd: I'm also honoured to be here today, joined by my friend MP Michael Cooper and, of course, Bret McCann, son of Lyle and Marie McCann, in whose name I brought forward this legislation.

On the evening of July 5, 2010, the motorhome of 78-year-old Lyle and 77-year-old Marie McCann was found ablaze at a campground near Edson, only two days into the couple's planned road trip to British Columbia. Their remains have never been located. However, the investigation led to the arrest and eventual conviction of their killer, Travis Vader. While it is rare for someone to be convicted without remains having been found, a judge found that the overwhelming amount of evidence meant that he could conclude beyond a reasonable doubt that Vader had committed the crime.

Vader is currently behind bars, but he was eligible for parole as recently as December 2024. The idea that this criminal would be free to walk the streets of our communities while withholding the location of his victims' remains is abhorrent. Victims and their families have every right to the closure and dignity of a funeral, and the McCanns continue to be victimized in this inability to lay their loved ones to rest.

Similar legislation has already been adopted in other Commonwealth countries. In 2015, legislation was brought into effect in Australia that ensured offenders convicted of homicide cannot be released on parole if they are withholding information on the location of the victims' remains. Australian courts have declared that “withholding the location of a body extends the suffering of victim's families and all efforts should be made to attempt to minimise this sorrow”.

In 2021, the United Kingdom passed Helen's law, named in memory of 22-year-old Helen McCourt, who was murdered in 1988 but whose killer has never revealed her body's location. The United Kingdom law places a legal duty on the parole board to consider the non-disclosure of the victim's remains when deciding upon release.

In 2017, I was elected on a mandate to bring McCann's law to Parliament. It has been nearly 10 years, and my opportunity to advance this legislation is today. What this legislation intends to do is simple: Bill C-236 seeks to address the continued injustices faced by the McCann family and others by requiring that judges and parole boards consider an offender's refusal to co-operate in disclosing the location of the victims' remains as a factor in parole and sentencing decisions. Currently, there is no requirement for an offender's co-operation to be considered by judges or parole boards, nor does an offender who has been charged in court have any obligation to admit to their offences.

I would like to quote a transcript from Mr. Vader's most recent parole hearing to illustrate this point. This is from the Parole Board: “You are entitled to hold your position of denial of accountability and responsibility, and it is not required to be granted parole that you admit to your offences.”

Bill C-236 allows for a judge, based on the facts of the case, to determine that non-disclosure of victims' remains is an aggravating factor. This bill will also give judges the discretionary authority to extend the period of parole ineligibility. Similarly, parole boards will be given the ability to include non-disclosure as a factor in their decisions to grant parole. Correctional Service Canada will also be given discretion to use this as a factor in other forms of release.

The common thread in this legislation is the principle of judicial discretion. This legislation is a tool for judges to use when they deem it fit. At no point does this legislation force any official in the justice system to make a predetermined decision. If they choose not to implement these tools, their only requirement is to explain why.

I think we can all agree that victims' families deserve to know why decisions are being made.

I've also brought forward a number of common-sense amendments. There is an amendment to change the line item, because there are changes that require new lines in the Criminal Code. The other two are more substantive.

It has been brought to my attention that if an order of parole ineligibility is put in place before an appeal, there could be some question as to whether it would compromise a retrial. The second amendment allows a judge to stay the order until such time as an appeal can be concluded. This means that the legislation would not be enforced until an appeal is concluded. The third amendment seeks to empower judges to extend the period of parole ineligibility for offences carrying a minimum life sentence to up to 25 years. It is crucial to highlight that the threshold for applying these penalties at sentencing is incredibly high. A court must prove beyond a reasonable doubt that the offender knows the whereabouts of their victims' remains and that they refuse to provide that information to persons in authority.

Finally, I want to say that it has been a pleasure serving with all of you on committee. I said earlier this year that if the 45th Parliament can be remembered for anything, it can be remembered for the actions this committee took to stand up for the rights of victims and their families.

● (1110)

This bill is meant to prioritize the rights of victims' families and is in keeping with the objectives of the Canadian Victims Bill of Rights. I hope all members can support this legislation.

Thank you.

The Chair: Thank you, MP Lloyd.

Mr. McCann, you have the floor for five minutes, please.

Bret McCann (As an Individual): Mr. Chair and members of the committee, thank you for the opportunity to appear before you today.

My name is Bret McCann. I am the son of Lyle and Marie McCann of St. Albert, Alberta.

In July 2010 my parents left home in their motorhome on a trip to B.C. to visit my sister and her daughter. My dad was 78 and my mom was 77. They had been married for 58 years. They were kindred spirits and loved being together.

They never came home. Their burned-out motorhome was discovered near Edson, Alberta. Their SUV was later found abandoned. Despite extensive searches, their remains have never been found. Travis Vader was convicted of manslaughter in relation to their deaths. More than 16 years later, our family still does not know where our parents are.

That is why I am here to speak today about Bill C-236, the addressing the continuing victimization of homicide victims’ families act, which our family has come to know as McCann's law. The words “continuing victimization” are important. The crime happened more than 16 years ago, but some of its consequences continue today. I still think about what happened to my parents and what their final moments may have been like, after spending almost six decades together. Their disappearance has affected the way I react when members of my family travel. I want to know when they leave and when they stop: “Please message me when you arrive safely.”

Our children lost their grandparents. Our grandchildren lost the opportunity to meet or really know their great-grandparents. We have never been able to recover my parents' remains, bury them properly and give them the dignity of a final resting place. To me, that is continuing victimization.

There is another aspect of this legislation that I believe is very important. One of the fundamental objectives of our correctional system is rehabilitation, preparing an offender to eventually return safely to society. In my view, genuine rehabilitation requires taking responsibility for what you have done and acknowledging the harm you have caused. Travis Vader has never done that. He has never acknowledged responsibility for my parents' deaths. I find it difficult to understand how he can truly take responsibility for what happened while continuing to withhold the information that would allow us to find their remains. To me, these things are inseparable. Acknowledging what happened to my parents must include telling authorities what happened to their bodies and where their remains can be found.

In our victim impact statement at Vader's full parole hearing in April 2025, we described our overwhelming grief and loss and the enduring harm our family continues to suffer, particularly from not knowing the final resting place of our parents. The Parole Board acknowledged the suffering in its decision to deny parole.

Bill C-236 recognizes that deliberately withholding information about the location of a victim's remains causes continuing harm and that this conduct should be relevant to decisions about sentencing and parole. Canada would not be alone in recognizing this principle. As Dane said, the U.K. has enacted legislation commonly known as Helen's law, and several Australian states have established “no body, no parole” laws. The details differ, but the principle is similar: Refusing to assist in locating a victim's remains must have consequences.

Bill C-236 provides a Canadian approach. It cannot force an offender to speak or guarantee that a family will recover their loved one's remains, but it can ensure that deliberately withholding that information has consequences within our justice system.

This legislation is not about revenge. Nothing Parliament does can bring my parents back, but Parliament can recognize that when someone continues to withhold information that could allow a family to recover their loved one's remains, the harm caused by that decision continues on and on.

There are other Canadian families living with this same terrible uncertainty. There are different crimes, different circumstances and different offenders, but there's the same question: Where are our loved ones? Our family has been asking that question for more than 16 years. We still hope that one day we will be able to bring my parents, Lyle and Marie, home, and give them the dignity they deserve. Until that day comes, we believe our justice system should recognize the continuing consequences of withholding the information that could make this possible.

● (1115)

Thank you. I welcome your questions.

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

MP Cooper, go ahead for five minutes, please.

Michael Cooper (St. Albert—Sturgeon River, CPC): Mr. Chair, it's an honour to be here before this committee as the seconder of Bill C-236, known as McCann's law, which was introduced by a friend of mine, the member for Parkland. I want to commend the member, Mr. Lloyd, for his tireless, years-long advocacy for this proposed common-sense change to the law.

On July 3, 2010, Lyle and Marie McCann, an elderly couple from my home community of St. Albert, Alberta, set out on a road trip to British Columbia. Two days later, their motorhome was found on fire near Edson, Alberta. Lyle and Marie McCann had been murdered. Their murderer was convicted and is serving a life sentence.

Sixteen years later, the bodies of Lyle and Marie McCann have never been found. The murderer has callously refused to disclose the whereabouts of their remains, and disgustingly, he has taunted the McCann family. For 16 long years, Lyle and Marie McCann have been denied the dignity of a proper burial, and their family and friends have been left to wonder about their final resting place. They have been denied any sense of closure that comes with knowing.

I want to recognize the McCann family, including Lyle and Marie McCann's son, Bret McCann, whom I have gotten to know since I became the member of Parliament for St. Albert. He has shown courage, strength and determination to see justice done for his parents and for other victims. McCann's law seeks to remedy a gap in our justice system. As it stands, offenders can actively withhold the whereabouts of their victims' remains, weaponizing that silence to inflict ongoing psychological trauma on grieving families and denying them closure without consequence at sentencing or parole. The member of Parliament for Parkland has said in the past that withholding this information is tantamount to “an ongoing crime” without consequence.

In the case of the McCanns' murderer, despite being handed a life sentence, he is eligible to apply for parole and did apply for parole just last year. He can apply for parole without the Parole Board's being required to give any consideration to the fact that he refuses to disclose the whereabouts of Lyle and Marie McCann. That is wrong. That is unjust. That is where McCann's law comes in: It establishes a targeted, measured and common-sense framework for accountability.

First, at the sentencing phase, McCann's law would ensure that when an offender refuses to disclose the location of a victim's remains, it would be treated as a relevant factor. Judges would have the discretion to treat such a refusal as an aggravating factor. Additionally, it introduces a statutory mechanism whereby judges would have the discretion to order a longer parole ineligibility period.

At the parole phase, McCann's law amends the Corrections and Conditional Release Act to ensure that the ongoing refusal to disclose would be treated as a relevant factor in assessing an offender's suitability for parole and gives the parole board the discretion to deny parole on account of such a refusal.

I want to emphasize that McCann's law is carefully tailored. It would only apply post conviction, after a judge has decided an offender's guilt beyond reasonable doubt, and it would be entirely discretionary. It would be entirely left to the discretion of judges and parole authorities. McCann's law is consistent with established sentencing principles, including denunciation, deterrence and promoting a sense of responsibility in offenders.

I would add that consideration of an offender's refusal to disclose the location of the victim's remains is highly relevant and material to assessing an offender's suitability for parole, including having regard for their lack of rehabilitation and lack of remorse.

In short, McCann's law is targeted and measured. It promotes basic dignity. It promotes accountability on the part of offenders and, above all, it seeks to see that justice is done for the victims and their loved ones.

Simply put, McCann's law is common sense. I urge this committee to support it, and I welcome questions from members.

Thank you, Mr. Chair.

● (1120)

The Chair: Thank you, MP Cooper.

We'll go to Mr. Roebuck for five minutes, please.

Dr. Benjamin Roebuck (Federal Ombudsperson for Victims of Crime, Office of the Federal Ombudsperson for Victims of Crime): Honourable Chair and members of the committee, I want to start by thanking Bret McCann for honouring his parents, Lyle and Marie, and for bringing this forward to Parliament. I want to thank MP Dane Lloyd for listening and taking action.

We're on the traditional, unceded, unsurrendered territory of the Algonquin Anishinabe nation. The ongoing crisis of missing and murdered indigenous women, girls and 2SLGBTQQIA+ people reminds us of the devastating collective impact of unresolved loss on families and communities and the disproportionate impact of violence on indigenous peoples.

The Office of the Federal Ombudsperson for Victims of Crime is an independent federal resource for victims and survivors operating at arm's length from the Department of Justice. Our work is grounded in the Canadian Victims Bill of Rights, a quasi-constitutional law establishing rights to respect, timely justice, information, protection and participation and the right to seek restitution and to file a complaint when those rights are denied.

For families whose loved ones' remains have never been recovered, the harm does not end with a conviction or sentence. They are denied the opportunity to bring their loved one home, lay them to rest, hold ceremony and say goodbye.

When an offender has information that could help locate a victim's remains but deliberately refuses to disclose it, that refusal causes ongoing harm distinct from the homicide itself. It allows the offender to retain control of information of profound importance to the family, prolonging uncertainty and suffering.

Research on intimate partner femicide illustrates how concealment can extend coercive control beyond a woman's death, including over surviving family members.

International human rights law also recognizes that a state's failure to inform families of the location of a deceased person's body may constitute a separate violation of their human rights.

Bill C-236 offers a legislative response to continuing harm. Importantly, its provisions require a finding that an offender possesses information but refuses to provide it. Judicial discretion and independent parole decision-making remain important safeguards.

The legislation cannot guarantee disclosure or recovery of the victim's remains, but it increases the possibility.

I offer three recommendations to strengthen the implementation and protect victims' rights.

First, ensure transparency in parole decisions. I recommend amending the Corrections and Conditional Release Act to require the parole board to explain in its written reasons whether an offender's refusal to disclose the location of remains influenced its decision and how. This information should be accessible to registered victims through the existing decision registry.

Second, ensure victims can participate in revocation proceedings. I recommend amending proposed Criminal Code subsection 743.6(1.4) to require advance notice when a court is asked to revoke an order delaying parole eligibility and to provide affected victims with an opportunity to submit a victim statement before the court decides. Victims should have a voice in these proceedings without bearing responsibility for the outcome.

Third, ensure families are informed of developments in the search for remains. I recommend establishing a notification protocol between Correctional Service Canada and investigating police. When an offender provides information that leads to investigative action or recovery of remains, whenever possible, families should be informed by investigating authorities before those developments become public.

Implementation must be trauma-informed and culturally responsive. New information can bring hope, grief and renewed uncertainty, and families deserve compassionate and accurate communication.

For indigenous families, recovery and return of remains can hold profound cultural and spiritual significance, and I encourage the committee to hear directly from indigenous families, organizations and MMIWG2S+ advocates.

I also acknowledge families whose loved ones remain missing or whose cases are unresolved. Although Bill C-236 addresses circumstances following conviction, these families also deserve information, participation and culturally appropriate support in their pursuit of truth and justice.

To close, Bill C-236 advances objectives consistent with the Canadian Victims Bill of Rights, including the right to respect, courtesy, compassion and fairness. We need tools to protect families from further victimization when information is deliberately withheld.

● (1125)

For many families, justice is also about bringing a loved one home.

Thank you.

[*Translation*]

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

We will now move to members' questions.

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

Frank Caputo (Kamloops—Thompson—Nicola, CPC): Thank you, Mr. Chair.

[*English*]

I want to start with Mr. McCann.

I'm looking at you directly. I'm trying to look right at the camera. I want to speak to you directly on behalf of all parliamentarians and on my personal behalf, as someone who's fortunate enough to have both their parents still with them, parents who are around the age your parents were when they were taken. I want to give you my deepest condolences. I'm really sad that we have to be here, but I'm really happy that you are able to share your story in such a way. It's not easy to be revictimized and to relive trauma. You do that, I'm sure, every single day, but you generally do that privately. Today you're having to do it publicly. I thank you for that. I commend your courage and your composure in doing so.

I want to thank my colleagues MP Lloyd and MP Cooper for championing this bill. As somebody who's championed two private members' bills through the process, I know this isn't easy. They could have studied other things. When I say “studied”, I mean that they could have put forward other ideas, but they chose to put this forward to represent those who are generally voiceless. I thank them for that.

Dr. Roebuck, thank you for being here as well.

Mr. McCann, I can say this: As Conservatives, we will support this bill. I personally support this bill. I believe this bill is an absolute no-brainer. Have you had a chance to meet with any members of this committee apart from the Conservative MPs?

Bret McCann: No, I haven't. I am familiar with Dane and Michael from years back. I sent my description of McCann's law and how this whole thing has impacted our family. I sent a document to all the committee members and invited them to meet with me. I got some emails back, acknowledging that I had asked them, but to answer your question directly, no, I haven't met with any of them.

Frank Caputo: You've requested meetings with the MPs. I can't speak for anybody else. On behalf of the Bloc, we have Madame DeBellefeuille. On behalf of the Liberals, we have Ms. Sodhi, Madame Dandurand, Dr. Powlowski, Ms. Acan, Mr. Housefather on video and Dr. Ramsay. It may be prudent—frankly, I think it would behoove us on this committee—that before anybody makes a decision and before clause-by-clause, they meet with you, look you in the eye and hear what you have to say.

Would you be open to meeting with the members of the committee so that they can hear you out and they can tell you where they're coming at things from?

Bret McCann: Absolutely. I would really like to do that. I'm in Australia, so there's a time zone issue, but I would really like to meet with all the committee members, if possible.

Frank Caputo: Thank you, Mr. McCann. I can't compel other members of the committee to meet with you, but what I can do is say this through the chair.

Through you, Mr. Chair, I exhort all members of this committee, before we get to clause-by-clause, to meet with Mr. McCann. Let's not forget that his parents were taken and that this law is in their name.

When it came to the private member's bill that came from my office, Bailey's law, I thought it was really important that people heard from the victims. We have 48 hours. Perhaps that time can be extended—who knows? It would behoove the members of this committee to meet with Mr. McCann.

I'll go one step further. Everybody here is going to have a chance to intervene, and by intervene I mean speak. I would invite the colleagues I just mentioned to take 10 seconds of their time and say whether they're prepared to meet with Mr. McCann. If they are, let's put it on the record. A what without a when is a never: That's something I like to say. Let's not make this a “never”. Let's get scheduling this here and now.

Mr. Lloyd and Mr. Cooper, we have only a minute here. One thing you mentioned was that other Commonwealth countries have put this type of law forward. Are we, frankly, behind the times on this?

● (1130)

Dane Lloyd: As I said, a number of Commonwealth countries that have very similar jurisprudence and protections—not only for the rights of victims, but also for the rights of those who have been convicted—have these laws on the books. This isn't something that we're setting a precedent for as a country. We are following in the footsteps of other Commonwealth countries with strong human rights legislation.

Thank you.

Frank Caputo: Mr. Cooper, do you have anything to add?

Michael Cooper: I would echo the comments made by Mr. Lloyd.

This is a very narrow, targeted bill that would require judges and parole authorities to take into consideration a very material fact, which is that someone who is convicted is withholding information on the remains of a victim. This is relevant and material, and it should be considered, albeit on an entirely discretionary basis.

Frank Caputo: This would be after conviction—

The Chair: I'm sorry, Mr. Caputo—

Michael Cooper: It's post conviction.

The Chair: I'm sorry. I have to cut you off.

We'll have Madame Dandurand for six minutes, please.

[*Translation*]

Marianne Dandurand (Compton—Stanstead, Lib.): Thank you, Mr. Chair.

Thank you, Mr. McCann, for your courage in joining us. You are going through an incredibly difficult situation, and you have my support, as well as that of all the members here. I think that's all I have to say on that. Frankly, you're very brave.

Thank you, Mr. Lloyd, for introducing this important bill. We must study it with the seriousness it deserves. To that end, I would like to ask a few questions about your approach, because you certainly put a lot of effort into it. We can see there was a lot of work done there. You've also held a lot of consultations.

One of the questions that came to mind when I saw your bill is why did you choose to propose a new aggravating circumstance rather than a new offence, for example? What motivated your choice?

[*English*]

Dane Lloyd: I believe in incrementalism. I felt that this bill had a number of factors that come into account, and using “an aggravating factor” would be an important step that could get broad support from across the political spectrum.

When I put this bill together, certainly, it could have been a separate offence. However, I wanted to ensure that I could build political support as broadly as possible, so I used “an aggravating factor”.

Thank you.

[*Translation*]

Marianne Dandurand: Thank you.

I have another question.

If your bill were to pass, who would be responsible for determining whether someone, a criminal, is hiding information? It is possible they don't know they're doing so. How do we distinguish bad faith from a lie?

Under this bill, who is responsible for determining whether it's really someone hiding information or someone who doesn't know they're doing so? How do we know whether it is an aggravating factor or not?

● (1135)

[*English*]

Dane Lloyd: To be clear, the Crown will have to prove beyond a reasonable doubt that the offender has the information and is withholding it. It would then be up to a judge's discretion, based on those facts, to determine whether the tools in this legislation were to be used.

[*Translation*]

Marianne Dandurand: Are there any sections in the Criminal Code that allow a judge to take this type of factor into account, or would this nuance in the Criminal Code be something completely new?

[*English*]

Dane Lloyd: This is a novel approach in the Criminal Code.

[*Translation*]

Marianne Dandurand: You made a comparison with Australia. In Canada, we regularly see issues related to the Canadian Charter of Rights and Freedoms. As far as I know, Australia doesn't have anything equivalent to our charter. What challenges do you anticipate from the provisions in this bill?

[*English*]

Dane Lloyd: Thank you for that great question.

A number of charter implications could come out of this legislation. For example, this question has been brought up to me: Does this impact the right to remain silent or the right not to incriminate yourself? It is a critical protection we have in society for those who have been accused of a crime that they are not compelled to incriminate themselves. That is why this legislation does not have any force and effect until after somebody has been convicted of a crime and has been proven beyond a reasonable doubt to be withholding information that is relevant to the location of the victims' remains.

Now, there is an amendment that I put forward to further clarify this, in that if an appeal is launched on a case, the judge will have the ability to issue a stay so as not to compromise any sort of appeal. The force of this legislation would not take effect until after an appeal is concluded.

[*Translation*]

The Chair: Thank you, Ms. Dandurand.

We now go to Mrs. DeBellefeuille for six minutes.

Claude DeBellefeuille (Vallée-du-Haut-Saint-Laurent, BQ): Thank you, Mr. Chair.

I want to sincerely thank our colleague Mr. Lloyd. It is always quite moving to see someone defend a bill whose passage they have long hoped for, so his perseverance is to be commended.

Mr. McCann, as my colleague Ms. Dandurand pointed out, it's very moving to have you with us and to hear what you've been through. It must be extremely painful whenever you talk about the loss of your parents, especially in these circumstances. You can't properly grieve, because you don't know where their bodies are.

In your opening remarks, you talked about the continuing victimization. It's something we don't talk enough about. I'd like you to tell us more. How do you explain it? What does it look like in your day-to-day life?

[*English*]

Bret McCann: There are really two aspects to this in terms of the impact on us of not knowing where my parents' remains are. The first aspect is that we don't know exactly what happened to my parents in their final moments. After spending almost six decades together we can only imagine what they went through. For me there is sort of a nightmarish aspect to it: Who died first, and what did the other one see? That's part of not knowing what happened, and part of not knowing what happened is what happened to their remains. It's very tied together to me as I don't know what happened.

We don't know what happened at that final moment, and we don't know what happened to their remains. Another aspect to this is that, and I know that the term “closure” is overused, but it is real that one needs to—I don't quite know how to explain this—not close the book, but put it on the shelf and move on. You never really do if you don't.... A funeral is important, a burial is important, so it's difficult to describe what it means to have no final resting place for my parents.

I hope I've answered your question.

● (1140)

[*Translation*]

Claude DeBellefeuille: Thank you, Mr. McCann.

I feel it's important to give you the floor, so you can convey everything you've been through and continue to go through. It will help the members of the committee understand how important this bill is.

In your opening statement, Mr. McCann, you said you felt that your victim impact statement at the first parole board hearing influenced the board's decision to deny your parents' killer parole.

Do you feel that Bill C-236 will add something, or do you feel that the board did its job and that the system worked in your case?

[*English*]

Bret McCann: We've been to two hearings. One was for day parole application in December 2024, which was rejected. The other was a full parole hearing in April of last year. We got the decision from the Parole Board. In there, it specifically stated—I'm paraphrasing here—that Vader's refusal to identify or say where the remains are was an indicator that he was not accepting responsibility and that acceptance of responsibility was a critical factor in the decision to deny his application for parole.

I'm trying to say that it was more than my impression. This was stated in the judgment.

I also have the impression, and this is just my opinion, that this was their decision or their analysis, but it would be important to codify this and have it specifically stated that this is a requirement for parole. That needs to be examined by the parole board, and it needs to make a decision on those criteria. It also needs to explain why it rejected an application or why not, based on the criteria. It's important that we codify this.

[*Translation*]

The Chair: Thank you, Mrs. DeBellefeuille.

It's now Ms. Kirkland's turn for five minutes.

[*English*]

Rhonda Kirkland (Oshawa, CPC): Thank you, Mr. Chair.

Thank you to everyone for being here.

It's always an emotional time, when these bills come forward and we talk about victims' families, revictimization and how difficult that is for families as we move on.

I really appreciate your testimony, Mr. McCann, and would welcome an opportunity to connect with you after this meeting so that we can speak one-on-one. There are things we hear in this committee that are very polished and put together, and we're trying to hold ourselves together, but meeting with you one-on-one is vital. I appreciate Mr. Caputo's mentioning that. I hope that the members of the committee will consider that before we move forward, because there are things that can come out when you're speaking one-on-one that would not necessarily come out in a hearing or committee-type setting like this, which can be very difficult. I'm happy to do that.

I want to clarify something, Mr. Lloyd and Mr. Cooper—whoever would like to answer—with regard to this bill. Just to clarify for every member on the committee, nothing in this bill forces the parole board to say no to parole if they haven't disclosed information on remains. However, it does codify that they must consider this as an aggravating factor. They also must give us a reason for why they didn't.

Could you just clarify that, so everyone understands that we are doing this while keeping the charter in mind?

● (1145)

Michael Cooper: Precisely. This would be post conviction, at the sentencing phase, when a judge would have discretion to apply a longer parole ineligibility period, for example, and if an offender applied for parole. Yes, it would be strictly post conviction, after a judge had made a determination beyond a reasonable doubt. This includes a finding of fact beyond a reasonable doubt that the offender had material information and was withholding it with respect to the whereabouts of the victim.

Rhonda Kirkland: I appreciated your terminology, Mr. Cooper, when you said the bill was “carefully tailored”. In that vein, I think about the missing and murdered indigenous women Mr. Roebuck mentioned. We know that indigenous women and girls are disproportionately affected by violence and disappearances.

Mr. Lloyd, I know you spoke previously in the House about the murders of four indigenous women in Winnipeg, including Ashlee Christine Shingoose, whose remains have not been recovered. How could Bill C-236 help address the continuing suffering experienced by the indigenous community?

Dane Lloyd: Thank you for that question.

I'd be remiss if I didn't bring up a recent tragic case in my area. Young Samuel Bird was murdered, and his remains were hidden outside of Stony Plain, where I live. Fortunately for his family, the remains were recovered. However, the police did not arrest anyone until those remains were recovered.

That being said, this legislation, as in cases that you mentioned and in that case, provides an incentive for offenders to take an important step in their rehabilitation, as well as to take an important step in providing closure for grieving families. By providing this sort of incentive, the hope is that convicted killers, whom this bill would apply to, see that their ongoing victimization of the family is a separate crime, and that they seek restitution in some small way by giving those families the dignity of a funeral.

I think it's very important across all cultures, indigenous cultures and other cultures. Funerals have existed for tens of thousands of years in human societies. It is precisely because it is so important, as a grieving mechanism for families, that they have that opportunity.

Rhonda Kirkland: Mr. Lloyd, you proposed a couple of amendments to the bill, and they're worth looking at. The first one is to include a stay of provision for cases going through the appeal process. Can you speak to how this improves the legislation?

Dane Lloyd: Thank you.

There have been Supreme Court precedents that, of course, state that the right not to incriminate yourself wanes after a conviction has been secured. However, there was a concern that, if an appeal were to be mounted and the provisions of this legislation came into force before an appeal could be concluded, in some way it could, in itself, be seen as a violation of that right. Therefore, we've put forward an amendment to give judges the ability to stay the provisions until after an appeal has been concluded, in order to ensure that there are no violations of charter rights.

● (1150)

Rhonda Kirkland: Thank you.

The Chair: Thank you, MP Kirkland.

We'll go to MP Housefather for five minutes, please.

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

Bret, thank you so much for joining us today. I think that all of us are very moved, not only by your testimony today but also by what your family has been through.

You and I first met in 2018, when Michael brought you before the House of Commons justice committee to testify on the “zombie provisions” that were being removed by Bill C-75. You told us the story of how Travis Vader had been convicted under provisions that had already been deemed unconstitutional, causing your family no end of grief.

I want to open up the conversation that you had already started with my colleague. I would note to Mr. Caputo that, when you had written to us, I had written you back and said that I was going to ask the clerk to make sure you were included. I was sure that Dane had already included you, but I wanted you to be able to talk to the committee to tell us your story.

I think one thing we all know is that, no matter how hard a death is.... My best friend's mother, Gitta Frazer, died a couple of days ago. We had the funeral yesterday. Having a funeral and being able to go visit your loved ones at a cemetery or have their ashes gives some type of closure and comfort, I think, to a family. Can you talk to what your family was deprived of by not knowing where your parents' remains are?

Bret McCann: Thanks, Anthony.

I'm not sure this is relevant to your question, but I recall when my sister first called us. She was waiting at the airport for my parents to come, and they never showed up. There was a period of several weeks when we had no idea. We, and especially Mary-Ann, my wife, organized searches in the Edson area. People I worked with came and helped, and we did searches in our area.

That's where all the angst began. We didn't know what happened to them. Then when the RCMP found out that someone had done something and started the whole investigation process and so on, we knew that my parents were gone, but we did not know what happened to them. We had no idea what happened. We still don't, and that bothers me so much.

I mentioned briefly in my opening statement that I'm almost obsessive if my children are travelling somewhere with their family. I need to know when they're going somewhere. I tell them to keep me updated and to let me know when they get there, and if they don't, I become very stressed about it. If I don't know if they're there or not, I worry about it. It all brings back not knowing what happened to my parents.

I'm trying to answer your question, Anthony. I'm not sure I am, but—

Anthony Housefather: You're doing it pretty eloquently. It's okay.

If you had the ability to visit your parents in a cemetery or to have their ashes with you, you would feel some type of closeness that I think you're missing right now.

Bret McCann: Exactly. If I knew where they were and I knew what had happened to them, it wouldn't bring them back, but it would answer so many questions and take off so much.... Uncertainty causes so much stress.

Anthony Housefather: I understand.

Dane, could you talk about what other foreign countries do that is similar to this legislation?

Dane Lloyd: Thank you, Mr. Housefather.

Australia has very straightforward legislation. It's literally “no body, no parole”. Those who are found guilty of murder and who are hiding the remains of their victims do not qualify for parole until they provide that information.

In Canada, we have the Charter of Rights and Freedoms, so our legislation has to be informed by that reality.

I also had the pleasure of working with Helen McCourt's family when legislation was passed in 2021. They had reached out to me, inspired to get that legislation passed in the United Kingdom by the work we had put forward on McCann's law, starting in 2017. It's been on the books for several years now, and I know it's of great comfort to the families of the victims to know that there are statutory remedies when their loved ones have been murdered and their remains have not been recovered.

As Bret said very eloquently, it's not going to bring anyone back, but as an ongoing recognition of the trauma that families face, it's an important way that Parliament can create accountability for those people who have hidden these remains and have committed these terrible crimes. It's an incentive to provide closure for those grieving families.

● (1155)

The Chair: Thank you, MP Housefather.

[*Translation*]

We now go to Mrs. DeBellefeuille for two and a half minutes.

Claude DeBellefeuille: Thank you, Mr. Chair.

Mr. Lloyd, you talked about Australia and England. Some states in the U.S. also have similar legislation.

When you were researching those jurisdictions, did you note an increase in the number of homicide cases where the victim's remains had been recovered? In other words, did the laws work?

[*English*]

Dane Lloyd: Thank you.

Unfortunately, there are a number of cases in which somebody's been convicted and the remains are missing. It's incredibly difficult to get a conviction when the remains are not recovered.

That's part of the deterrence benefit of this legislation. It's that those who are committing these crimes will know that hiding the remains of their victims will carry distinct penalties. The hope is that it will prevent or lessen these cases.

However, these cases, as I said, are very novel, and I would want to have a longer-term study before I could make any conclusions about whether the legislation had an impact on reducing the number of crimes that relate to missing remains.

[*Translation*]

Claude DeBellefeuille: Mr. Lloyd, you said you'd been trying to advance the different approach proposed in this bill for a few years. You tried with Bill C-424. That means you've consulted extensively.

Did the feedback you received point to any legal or constitutional pitfalls with Bill C-236, or issues of concern for those in the legal community?

[*English*]

Dane Lloyd: I have consulted extensively with law professors, academics and legal professionals in the criminal law sphere. They have assured me that there is a possibility that this could engage the right not to self-incriminate. However, the jurisprudence by the Supreme Court of Canada makes it clear that these are preconviction protections and that, post conviction, the relevance of those protections wanes and the relevance to societal deterrence increases.

I might turn it over to my colleague, MP Cooper. I think that, as a lawyer, he could answer that more....

Michael Cooper: I would just cite on that point the Jones decision of the Supreme Court wherein, on the issue of self-incrimination, of the right to silence, the court said that once guilt has been established, our fundamental principles of justice dictate a focus on the most appropriate sentence for the guilty party. To assume that section 7 posttrial protection should be incidental to pretrial and trial protection ignores a rather critical intervening fact: The accused has been found guilty of a crime, and "Having so found, the court places greater emphasis on the interests of society in developing a sentence that is appropriate to the guilty party."

That's very pertinent to the legislation before us.

[*Translation*]

The Chair: Thank you, Mrs. DeBellefeuille.

[*English*]

MP Kibble, welcome to our committee. You have five minutes, please.

Jeff Kibble (Cowichan—Malahat—Langford, CPC): Thank you to all the witnesses and thank you, Dr. Roebuck, for your thoughts today and your suggestions. It's good to see you again after you testified for my private member's bill. I liked your focus on not just victims but on families. I would like to use that lens for my questions today.

To Mr. McCann, thank you for your courage in being here, and I'm so sorry for your tragedy. I know your heart is heavy. Murder has touched our family, but we were able to have closure, so I can't begin to imagine how this must feel for you—looking at that lens of victims' families.

I will say that I support this bill, and although I'm normally with the defence committee, Mr. McCann, I will meet with you if the opportunity presents itself. I think anyone with any compassion and sense of justice would agree to meet with you on such an important bill.

Thank you to my colleague, Mr. Lloyd, for his hard work on this bill. I followed it closely, and I will note that it does parallel my private member's bill, which is the respecting families of murdered and brutalized persons act. Although the bill is slightly different, the philosophy is the same. It is protecting victims' families in this case. It's a very fine line, and there must be a balance, but it's great to see that our Conservative bills are supporting victims' families, victims' rights and so forth.

It's an important balance to have that philosophy between families' rights and the criminals' rights. Could you speak to whether you feel your bill achieves that balance properly and ultimately puts victims' rights ahead of criminals' rights?

● (1200)

Dane Lloyd: Thank you for that, and thank you for your advocacy on the rights of victims.

This legislation really balances the rights of victims and the rights of offenders. In many ways, the key aspect is to codify this at parole hearings, because in the 2024 day parole hearing that Mr. Vader had, the Parole Board said quite clearly that you are not required to take accountability for your actions in order to be eligible for parole. It's not a requirement for consideration by a parole board.

I would say that for any Canadian who's watching this, the idea that somebody was found guilty of the death of another person, knows where the remains are, was found by a court of law beyond a reasonable doubt to be withholding that information and could be free to walk the streets on parole while families continue to grieve without the knowledge of where their loved ones are.... I think people would rightly say that this is not the sign of what a just society is.

Including this not as a requirement, but as a discretionary ability of the parole boards to put this into consideration and, as Dr. Roebuck said, to explain to the families why they've made that consideration or why they haven't made that consideration, is a key way to help provide closure for victims' families, as well as to give the offenders an opportunity to take accountability for their crimes and to show that they are somehow being rehabilitated by taking that accountability.

Thank you.

Jeff Kibble: Thank you very much.

My next question is for Mr. McCann.

When you were speaking about rehabilitation in your statement, I very much appreciated it when you said that criminals need to show "genuine...responsibility"—I'm quoting you—for what has happened. This bill speaks to that. It's a really important part.

Maybe I'll ask you the same question: Do you feel that this bill strikes the right balance between victims and victims' families in your case, versus...?

I'm sorry; this is a tough question for you, but as I said, I appreciate your courage.

Does it strike the right balance between victims' families' rights and criminals' rights in light of your statement about accepting responsibility?

Bret McCann: Yes. I'm not a legal expert or a constitutional expert, but I think it strikes a good balance.

My understanding is that post conviction, it is a factor in somebody's sentence and a factor in somebody's ability to get parole, and this needs to be taken into account. Whoever is making a decision in the justice system or in the parole board needs to take that factor into account and explain how and why that affected their decision.

That's a very reasonable balance. It makes it open to families and to our society as to why somebody is either denied parole or granted parole.

Jeff Kibble: Thank you, Mr. McCann.

Thank you, Mr. Chair.

[*Translation*]

The Chair: Thank you, Mr. Kibble.

It's now over to Mr. Powlowski for five minutes.

● (1205)

[*English*]

Marcus Powlowski (Thunder Bay—Rainy River, Lib.): Thank you all for being here, and thanks particularly to you, Mr. McCann.

My understanding is that it's three in the morning in Australia. I certainly understand that it might be frustrating for you that we're questioning something that means a lot to you and would seem on the face of it to be quite a reasonable request, but we have to consider a number of factors, including, perhaps most importantly, the constitutionality of it. Please bear with us as we're asking these questions, because we are trying to help you in achieving what you're trying to achieve.

First, let me ask Mr. Lloyd and Mr. Cooper if this is really necessary. Section 718.2 of the Criminal Code talks about "Other sentencing principles", and it says:

> A court that imposes a sentence shall also take into consideration the following principles:
>
> (a) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, and, without limiting the generality of the foregoing,

It would seem open to courts to take this factor into account. Do we really need it, given that there is the ability to do this already?

I welcome either of you to respond.

Michael Cooper: Mr. Chair, Mr. Powlowski is quite right in terms of the sentencing principles set out in section 718 of the Criminal Code. As I stated in my opening statement, this bill is entirely consistent with those sentencing principles, so why not codify a requirement to give consideration to a refusal to disclose?

Marcus Powlowski: Thank you.

I have a follow-up question.

My understanding is that the judge first has to determine beyond a reasonable doubt whether a person committed the crime. There would then be a second step, which is for the judge to determine beyond a reasonable doubt whether the perpetrator is not disclosing where the bodies are. I assume that's part of the same trial process.

I'm wondering about the logistics of the trial process. Is this going to create a cumbersome two-step process, such that you're not only going to have to get the conviction but you're also going to have to make a determination as to whether there's sufficient evidence that they're not disclosing where the bodies are?

Michael Cooper: Constitutionally, that would have to be made out beyond a reasonable doubt, so I don't see it as particularly cumbersome.

At the end of the day, a judge has to make a determination as to whether the accused is guilty beyond a reasonable doubt. In the course of a judge's making that determination, submissions can be made by the Crown that the accused is withholding a material fact—information surrounding the whereabouts of the remains of the victim.

Marcus Powlowski: Do you think, though, that this would add...? You could add other conditions on sentencing, so the judge has to determine whether a person is guilty, determine whether they think the person is hiding the bodies and then determine whether they think this was motivated by hate. You keep adding on things the judge has.... Could and should this not be left to the sentencing determination? Judges are given the broad mandate, as we've seen under the Criminal Code, as to what to consider in the sentencing.

Michael Cooper: I don't see it as a particularly cumbersome thing.

Dane Lloyd: I can add to that.

Already, it's going to be quite clear that the facts of the case.... By determining that somebody is guilty beyond a reasonable doubt, the circumstances by which that decision is made will also touch on the decision on the evidence of, "Does this person have that information?"

Now, there could be a case in which somebody was in a state of being addicted to drugs; they can't prove beyond a reasonable doubt that this person has the information, but they can prove the person is guilty of the crime. This would not take effect in a case like that unless the Crown can prove it beyond a reasonable doubt.

● (1210)

The Chair: Mr. McCann, you raised your hand.

Bret McCann: Yes, I want to briefly point out that in Vader's case, he appealed his conviction to the Alberta Court of Appeal, and they returned a judgment in 2019. I'm quoting a part of their statement, in paragraph 13: "That Travis Vader killed Lyle and Marie McCann during an armed robbery and then concealed their remains, has been proven beyond any reasonable doubt."

I want to point out that this was a part of the judgment.

The Chair: Thank you, Mr. McCann.

Thank you, MP Powlowski.

[*Translation*]

Thank you to all four witnesses for their invaluable contribution today. I especially want to thank Mr. McCann for making the time to meet with us and going to so much effort to prepare.

Mr. McCann, you heard how grateful the committee members are for everything you've done and continue to do for yourself, your family and many others.

I also want to thank the other witnesses, including our two fellow members.

We're going to take a short break to bring in our second panel.

● (1210)

(Pause)

● (1215)

The Chair: Thank you. We are back.

The meeting has resumed, and joining us are a number of witnesses. Welcome.

First of all, from the Correctional Service of Canada, we have Kirstan Gagnon, assistant commissioner, public affairs, culture and engagement sector; and Katherine Belhumeur, director general, offender programs and reintegration branch, operations sector.

Then, from the Department of Justice, we have Joanna Wells, team lead and senior counsel, criminal law policy section.

Lastly, from the Parole Board of Canada, we have Liane Sauer, deputy chairperson; and Shannon Dorken, acting director general, policy, planning and operations.

Welcome to all of you. Thank you for making time to meet with the committee.

We will start with Ms. Gagnon's opening statement. You have five minutes.

[*English*]

Kirstan Gagnon (Assistant Commissioner, Public Affairs, Culture and Engagement Sector, Correctional Service of Canada): Mr. Chair and members of the committee, thank you for the opportunity to appear before you today as part of the committee's study of Bill C-236.

Before I begin, I'd like to respectfully acknowledge that we're on the unceded territory of the Algonquin Anishinabe people.

My name is Kirstan Gagnon, and I'm the assistant commissioner of the public affairs, culture and engagement sector at the Correctional Service of Canada, or CSC. I'm also responsible for victim services and CSC's restorative justice program.

It's a pleasure to see all of you again.

I'm joined today by Katherine Belhumeur, director general of offender programs and reintegration.

The purpose of the federal correctional system is to contribute to a just, peaceful and safe society. CSC carries out sentences imposed by the courts through the safe and humane custody and supervision of offenders. We also support their rehabilitation and reintegration into the community as law-abiding citizens by providing programs in our institutions and in the community.

To protect communities, CSC works with its criminal justice partners to gradually release federally sentenced offenders and support their safe reintegration through structured supervision in the community.

[*Translation*]

CSC provides informed recommendations to the Parole Board of Canada regarding parole and temporary absences. These recommendations are based on a multitude of factors, including the ability to safely monitor an offender in the community and the responsibility of the offender regarding the crime. Public safety is the paramount consideration throughout the correctional process.

As regards Bill C-236, the Corrections and Conditional Release Act requires decision-makers within the correctional system to take into consideration all relevant available information pertaining to the offender. That includes the stated reasons and recommendations of the sentencing judge, the nature and gravity of the offence, the degree of responsibility of the offender, and information from the trial or sentencing process.

Furthermore, if the sentencing judge decides to delay parole eligibility because the offender refuses to disclose the location of a body, that information will appear in the sentencing decision and any related order of which CSC receives a copy.

CSC is already required to take into consideration information relevant to the decision or recommendation.

● (1220)

[*English*]

However, CSC will make any necessary adjustments in light of the outcome of the committee's deliberations on this bill. As we appear before you today, following the testimony of the federal ombudsperson for victims of crime, we must also maintain a clear focus on victims and continue working to uphold their rights.

I would like to acknowledge the lives of all those who have been affected by crime, including Mr. McCann, from whom you heard testimony in the first hour, and his family. I would like to extend my sincere sympathies to Mr. McCann and his family for their tragic loss. Conversations such as today's can be extremely difficult, especially for families who have not had a sense of closure that may come from knowing where the remains of a friend or loved one may be.

Over the coming year, CSC will be enhancing its national victim services program. These changes will lead to more victim engagement and information sharing and will strengthen a victim's right to participation, information and protection. This includes new requirements to consider victim statements, including victims' views and concerns, prior to decisions for penitentiary placements and transfers. The changes will also include consideration of victims' concerns in relation to the location of an offender's incarceration.

A revised provision in the Criminal Code will also come into force on January 7, 2027. It will require courts to provide us with the contact information of victims who confirm in court that they wish to receive information from us about the offender who harmed them. This will allow us to make an active offer to victims, and it helps to close a long-standing gap in the delivery of victim services between different levels of government.

Finally, we have a restorative opportunities program that would allow consenting victims and offenders to share information and respond to unanswered questions, which could include finding remains.

Thank you for the opportunity to be here today. I would be pleased to take any questions you have.

Thank you.

[*Translation*]

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

We will now hear Ms. Sauer's opening remarks. You have five minutes.

[*English*]

Liane Sauer (Deputy Chairperson, Parole Board of Canada): Good afternoon, Mr. Chair and members of the committee.

My name is Liane Sauer, and I am the deputy chairperson of the Parole Board of Canada. I'm joined today by my colleague Shannon Dorken, who's our acting director general for policy, planning and operations.

Thank you for the invitation to appear in relation to your study of Bill C-236, addressing the continuing victimization of homicide victims' families act.

I would like to begin by acknowledging the profound impact violent crime has on victims and families, including Mr. McCann, whom we heard from this morning. This is particularly true in cases in which a victim's remains have not been located. The uncertainty surrounding these cases can cause lasting trauma to those affected.

We are here today to explain the PBC's mandate and the legislative and decision-making framework within which board members make conditional release decisions.

As part of the criminal justice system, the PBC contributes to the protection of society by facilitating, as appropriate, the timely reintegration of offenders and the sustained rehabilitation of individuals into society as law-abiding citizens.

The board makes quality conditional release, record suspension and expungement decisions, as well as clemency recommendations, in a transparent and accountable manner, while respecting diversity and the rights of offenders and victims.

Our board members are independent decision-makers. When making parole decisions, they must determine whether the offender would present an undue risk to society by reoffending before the end of their sentence and whether release would contribute to the protection of society by facilitating the offender's reintegration.

Board members consider all relevant available information, including information from courts, police, victims, the Correctional Service of Canada and offenders themselves. Board members are responsible for assessing that information in the context of the case and the statutory criteria for release.

The board uses an evidence-based, research-informed, structured decision-making framework to assess an offender's risk. It considers relevant information in key risk areas and evaluates whether each factor increases risk, reduces risk or has no impact on the likelihood of reoffending. Public safety is always the paramount consideration in all conditional release decisions.

In achieving the purpose of conditional release, the board members must make the least restrictive determination consistent with the protection of society. Decisions are made on a case-by-case basis, considering the unique circumstances of each offender and offence.

Bill C-236 would make consideration of an offender's refusal to disclose information concerning the location of a victim's body or remains explicit in legislation. Board members already consider all relevant available information, which includes this type of information when it's available.

Bill C-236 would also create a new authority for the board to refuse parole or an unescorted temporary absence, based on the offender's refusal to disclose information concerning the location of a victim's body or remains. If Bill C-236 is enacted, the PBC would incorporate the new legislative requirements into its decision-making framework and operational processes. Board members would continue to assess each case independently, in accordance with the law, the applicable statutory criteria and all relevant available information before them.

In closing, I would reiterate that the board's focus remains the protection of society through fair, impartial and evidence-based decision-making.

Thank you very much. We would be pleased to answer your questions.

● (1225)

[*Translation*]

The Chair: Thank you, Ms. Sauer.

We will now go to Mr. Lloyd for six minutes.

[*English*]

Dane Lloyd: Thank you.

I want to thank all the witnesses for being here.

I'll start with Ms. Sauer.

To reiterate, you said that if this legislation passes, it's already a consideration.

I want to read from a CBC article related to Mr. Vader's 2024 day parole hearing and quote from Mr. Nash, who was on the parole board. He said, “You are entitled to hold your position of denial of accountability and responsibility, and it is not required to be granted parole that you admit to your offences”.

Now, I understand that this is a consideration and that it's not a requirement, but from my understanding of what you said, if this were to be made an explicit requirement, it would not adversely impact the deliberations of the Parole Board. Can you clarify this?

Liane Sauer: Thank you for the question.

Board members have to consider all relevant information. They use a structured decision-making framework to help them assess risk, and they consider all the factors. It's like a road map to help them sort through and grapple with all the information. Normally, there's not one factor that is a determinant; it's all the information that leads them to a decision.

It is true, as you commented, that one factor may not be a determinant, but they will always consider all the information before them, including the information from the courts and the information we're discussing today.

Dane Lloyd: By adding an explicit factor in relation to revealing the location of victims' remains, that would not adversely impact the decision-making of the Parole Board of Canada. Would it interrupt your processes in any way? Would it cause any harm to the process to have this included?

● (1230)

Liane Sauer: By making it a consideration, probably not. Giving the Parole Board members the authority to deny parole on the one factor would be contrary to what they do already, which is to look at and consider all information, not just one factor.

Dane Lloyd: Yes.

If somebody has been convicted of murder and they refuse to take accountability for their crime, do you think that person can truly be rehabilitated?

Liane Sauer: That's a personal opinion. Board members consider all the information, including conduct, personal responsibility and transparency around the details of the offence. They factor in all those considerations. While public safety is the paramount consideration, they are still looking to see whether offenders can be gradually and safely reintegrated into society under supervision and special conditions.

Dane Lloyd: Thank you.

If somebody is given a period of parole ineligibility—in Mr. Vader's case, I believe it was seven years, but under this legislation they could be facing a period of parole ineligibility that is significantly longer than that—do you think that provides an incentive for offenders who have been found to be withholding material information to provide that information?

Maybe this is a question for the Correctional Service.

Liane Sauer: It could be for the justice department.

Dane Lloyd: Yes.

If there is a period of parole ineligibility as there is right now, which could be as low as seven years, and this legislation seeks to expand that period of parole ineligibility, do you think that provides...? It seems like common sense to me that if somebody is facing a longer period of parole ineligibility, there is an incentive to then provide that information in order to be eligible for parole at an earlier date. Is that not the case?

Joanna Wells (Team Lead and Senior Counsel, Criminal Law Policy Section, Department of Justice): I can speak to that from a general sentencing perspective, if it would help.

In determining parole ineligibility and parole sentences, there are mechanisms that courts use to incentivize offenders to support the investigation. There's no requirement that they do so, but it can act as a mitigating factor.

The failure to do so generally is not an aggravating factor. It doesn't aggravate it, but it is something the court, as my colleagues have said, already takes into consideration.

Dane Lloyd: Okay.

I'll stay with the justice department for the rest of my time.

What is the single biggest issue with this bill, and how could it be mitigated?

Joanna Wells: That's a big question.

As has been stated, the law already provides the power for courts...and there are examples in case law in which courts have considered the concealment of a body as an aggravating factor at sentencing. Although it's not codified, the courts already have broad discretion to consider it.

One thing the committee may wish to consider is that, at least from the department's reading of the bill, the way that the power to delay parole has been drafted seems to provide an option for courts to also consider a shorter period of parole ineligibility for first- and second-degree murder, which I don't understand as the intent.

Dane Lloyd: Under the law, 25 years is mandatory for murder in the first and second degrees.

Joanna Wells: Currently, yes....

Dane Lloyd: Why would any judge give a lesser period of parole ineligibility? Also, there is an amendment to give them the ability to go further, but—

Joanna Wells: I can't speak to amendments, because I don't have them, but as the bill is drafted, it does not prevent a court from considering a lower period of parole ineligibility for first- and second-degree murder.

Dane Lloyd: Why would a judge do that?

Joanna Wells: They have the opportunity to do so. I'm not suggesting that they would, but the law provides them with that opportunity.

The Chair: Thank you, MP Lloyd.

MP Ramsay, go ahead for six minutes, please.

Jacques Ramsay (La Prairie—Atateken, Lib.): First of all, I'd like to acknowledge how difficult it must be for families of victims when they are not only deprived of their loved ones but also do not know where their remains are.

I'm very grateful to Mr. McCann for coming and for his testimony today.

I'd also like to take the opportunity to acknowledge the list of people I have whose remains haven't been found, even after the conviction of their murderers. It's a short list, but all these people should also be acknowledged, and I'm going to name their names.

They are Elizabeth Bain, Hugh Sinclair, Marnie Frey, Georgina Papin, Brenda Wolfe, Lyne Massicotte, Lyle and Marie McCann, Sandra Klaus, Nathan O'Brien, Kathryn Liknes, Alvin Liknes, Morgan Harris, Marcedes Myran and Ashlee Shingoose.

I'm not sure this list is exhaustive, but it's the best I could do.

If I had had an opportunity in the first hour, my question would have been for Mr. Lloyd, but I'll direct it to Ms. Wells.

From my research, I couldn't find one body that was recovered through the “no body, no parole” law or through Helen's law. I don't want to deny that the symbolism of these laws is important—it is very important—but in terms of efficiency, in terms of recovering bodies, do you have more information regarding any case in which these laws actually led to the recovery of the remains of the deceased?

● (1235)

Joanna Wells: I don't have more information than that. I am aware of a report out of Queensland, Australia, five years after the enactment of a similar law, which concluded that there had been no bodies recovered as a result of these laws, but I don't have further information beyond that.

[*Translation*]

Jacques Ramsay: That's also what I found, but perhaps Mr. Lloyd has more to say on that.

We know that judges, Correctional Service Canada and the Parole Board already have broad discretion to consider relevant factors in their decisions. Among those factors are the impact on the victim, the objectives of denunciation and deterrence, and the degree of responsibility shown by the offender, which includes their refusal to disclose the whereabouts of a victim's remains.

Earlier, Mr. McCann told us that the Parole Board had taken into consideration the fact that Mr. Vader refused to reveal the location of the victims' remains. The board determined that this individual had not taken responsibility for his actions, prompting the decision to deny him parole.

Is the current system working? Do you have any information indicating that the current act needs amending in order to ease the pain of victims and give them an opportunity to properly grieve, while respecting offenders' rights?

My question is mainly for Ms. Sauer, because, with all due respect, I don't think it's Correctional Service Canada's job to make determinations regarding the recovery of remains.

[*English*]

Liane Sauer: It's difficult to understand the implications of this particular legislation, because it's not in place at the moment. However, because all board members must consider all available and relevant information, including the information we're speaking of today, that's already part of their risk assessment.

I would point to the fact that Canada has one of the highest parole success rates in the world. Over the last five years, 99.8% of federal day parole and 99.3% of federal full parole supervision periods were completed without violent reoffending. While there are cases that are very tragic, overall, parole works.

[*Translation*]

The Chair: Thank you, Mr. Ramsay.

It is now Mrs. DeBellefeuille's turn for six minutes.

● (1240)

Claude DeBellefeuille: Thank you, Mr. Chair.

I assume you heard Mr. McCann's remarks to the committee. He said he felt that the inmate's refusal to disclose the location of his parents' bodies was a factor in the Parole Board's decision to deny him parole. He also said that the bill's passage would create a requirement and thus give victims' families the assurance that nothing was being missed by the system.

Basically, creating that requirement in relation to both parole and escorted temporary absence decisions wouldn't change much for you. It's something you are already required to consider, so if it makes victims' families feel better to have it codified, I see no reason to object. Would adding it to the list of considerations cause many problems for the Parole Board in terms of how it operates?

Do you speak French, Ms. Sauer?

Liane Sauer: Yes, but I'm going to answer in English.

Claude DeBellefeuille: All right.

Liane Sauer: That way, I can be sure I'm giving you an accurate and complete answer.

[*English*]

Making this a requirement as a factor to be considered in decision-making—as it already is—would likely not change anything for board members. We would integrate that into the decision-making framework. That is separate and different from making this requirement, this factor, an authority whereby they could deny parole based solely on this factor. That would be different, but as for making it just a factor for consideration, I don't see that it would be problematic.

[*Translation*]

Claude DeBellefeuille: I think everyone agrees that decisions to grant parole will not be based solely on this factor. My understanding is that this bill is good for both victims and their families. In my view, it doesn't really change how the Parole Board operates, but it ensures that the factor won't be overlooked, and that is very reassuring and comforting for the families.

I'm glad to hear you say that it wouldn't change much, unless it were the only factor being used to make parole decisions. In the case of an inmate convicted of killing someone, I believe a number of other factors would automatically be considered. I struggle to see how decisions could be based solely on this factor, so your answer is reassuring. The way I look at it, we are lawmakers, but we also have to provide comfort to victims who are going through what Mr. McCann has gone through.

I agree with my colleague Mr. Ramsay. I asked whether there were any data showing that similar legislation in other countries had made a difference and led to the recovery of more bodies. Ms. Wells answered that the findings in Australia weren't conclusive. Again, though, it's important to remember the reason behind the bill. If it doesn't disrupt how the Parole Board operates, I see no reason why we wouldn't support the bill.

Ms. Gagnon, you said in your opening statement that sentencing judges do take into consideration an accused's refusal to disclose the whereabouts of a victim's body. When someone kills a person, are they automatically asked for the whereabouts of the body? Is it possible to have an order that fails to take into account the fact that the body wasn't found?

Katherine Belhumeur (Director General, Offender Programs and Reintegration Branch, Operations Sector, Correctional Service of Canada): Actually, what Ms. Gagnon meant was that we receive all the court documents and we are required to consider and use any information received from the court.

● (1245)

Claude DeBellefeuille: However, I'm thinking of situations where the judge did not take into consideration the whereabouts of the body when making their order, for instance, because the judge believed the offender when they said they didn't know the whereabouts. Let's say that, while incarcerated, the inmate confides the location of the body to another prisoner and you become aware of that new information. Are you required to share the information with the Parole Board, which will then consider the information in its next decision?

Kirstan Gagnon: Yes. We would also give the information to police, which could reopen the investigation and use the information to determine—

Claude DeBellefeuille: Correctional institutions have security intelligence officers. In many cases, a body's whereabouts aren't known at the time of sentencing, even though there are suspicions, but the information comes out while the person is in incarceration. You are responsible for passing that information on to police in the hope that the body will be found. The information automatically gets added to the inmate's file, and if Bill C-236 is passed, you will be required to factor it into your overall assessment when deciding whether to grant the inmate parole or an escorted temporary absence.

Do I have that right, Ms. Sauer?

Liane Sauer: Yes, that's right.

Claude DeBellefeuille: Therefore—

The Chair: Sorry, but I have to stop you there, Mrs. DeBellefeuille.

Claude DeBellefeuille: We were off to a good start, Mr. Chair.

The Chair: Yes, which is why it pains me even more to have to cut you off.

We now go to Mr. Caputo for five minutes.

[*English*]

Frank Caputo: Thank you very much, Mr. Chair.

To Ms. Wells, I want to pick up on what you said to my colleague Mr. Lloyd about one of the issues, which is probably a drafting issue. Your concern is that the bill, as drafted, could imply discretion to go to a lower parole period than that which is mandatory. Is that your understanding?

Joanna Wells: That is one of the.... Yes, that is an issue with the drafting.

Frank Caputo: Simply put, this could be amended with a “for greater certainty” clause, saying that for greater certainty, the minimums of 10 years for second-degree murder and 25 years for first-degree murder would still apply. That would obviate any issue.

Joanna Wells: I wouldn't want to give any advice on drafting language on how that issue could be addressed.

Frank Caputo: If there were an amendment, though....

Your concern is that in the way it's drafted, it could have that unintended consequence. What I'm saying is that this isn't insurmountable; it just means that something has to be changed in the drafting.

Joanna Wells: It is certainly one of the elements that would need to be looked at carefully, yes.

Frank Caputo: When you say “one of”, what are the rest?

Joanna Wells: I'm mindful of my role as legal adviser to the Minister of Justice, and not to the committee, so I want to be careful.

Issues that the committee may want to look at carefully in evaluating the bill relate to the issue I raised earlier. Courts do take into consideration the fact that a body has been concealed during the commission of the offence as “aggravating”, and we have several reported judgments that I'm happy to share.

Frank Caputo: Is your point that this could be superfluous or unnecessary?

Joanna Wells: For first- and second-degree murder, for example, the automatic penalty is life in prison, so it's difficult to understand what would be “aggravated”, because the maximum penalty is already life. For second-degree murder, courts already do take it into account when determining parole ineligibility, so—

Frank Caputo: Okay. You're quite right—

Joanna Wells: I would say that there are many moving parts in the murder sentencing regime in the Criminal Code, and we'd want to be careful not to inadvertently create issues.

Frank Caputo: I apologize for cutting you off.

I don't know how we inadvertently create issues when we say, “This is the minimum, and if you don't tell us where the body is, it could impact your ability to get out of jail.”

I want to address what you just said and something Mr. Powlowski raised, which is that this is already contemplated. This is something that is used, in my view, by the government, and it really doesn't hold weight. I'll tell you why.

We have been told so many times, and we've heard it here today, that we don't need this. When it came to bail in Bill C-75, I believe in a case called Antic, the Supreme Court of Canada said that people need to be released at the first possible opportunity on the least restrictive conditions. That was the law. What did those in government do? They codified the law. They didn't need to. The law was already there, but they chose to codify it.

In sentencing, it is already an aggravating feature to hurt a police officer. That's common law, and yet we codified that in our criminal law. In law, abusing first responders is already an aggravating feature, and yet we choose to codify these things. For sex offences against children, you have to have consecutive sentences already, under common law generally, when it comes to consecutive sentences, and yet we choose to codify.

With all due respect to the things that have been said about this already being the law, this committee and this Parliament shouldn't be picking and choosing whether we codify and whether we need something or not. We have people here who will never be able to put their family to rest with a funeral. If this helps one family, I don't know why we wouldn't be addressing it.

Does anybody care to respond to my concerns?

● (1250)

Joanna Wells: I don't know if there was a question there.

I can certainly confirm that there are several codifications of common law aggravating factors in the code and that it is not unheard of for the criminal law to be amended to codify the common law. This is certainly an avenue the committee is free to explore.

Frank Caputo: Certainly, and I think that if this is already permissible.... I know constitutionality was raised, but if the reasoning and the logic that are currently permitting the judges or the Parole Board to use this have not been challenged as unconstitutional, anybody raising a constitutionality argument is on very weak ground because that issue hasn't already been raised. In other words, that logic is already being relied upon, so why would we be raising a constitutionality argument when it hasn't been raised?

Do you have any comments on that?

The Chair: Answer very quickly, please.

Joanna Wells: I have no comments on that. Thank you, Mr. Chair.

The Chair: We will go to MP Sodhi for five minutes, with the possibility of sharing the time.

Amandeep Sodhi (Brampton Centre, Lib.): Thank you, Mr. Chair.

Before we begin, I'd like to let you know that I will be sharing my time with Madame Dandurand.

I also want to thank the witnesses for being here today. Most importantly, I want to thank Mr. Lloyd for all of his hard work on his private member's bill and for his attention to this matter.

Ms. Wells, I would like to begin with you.

Families deserve to know that an offender's refusal to disclose the location of a loved one's remains is taken seriously by our justice system. Can you please explain how a judge can account for an offender's refusal to provide this information when determining a sentence under the existing Criminal Code? As a follow-up, is there a demonstrated gap in the current framework that would require the statutory creation of a new aggravating factor?

Joanna Wells: The sentencing principles in the Criminal Code are found in section 718. I believe those provisions were mentioned by previous witnesses.

The fundamental purpose of sentencing is similar to the fundamental purpose of parole, which is to contribute to a just and safe society. We do this in several ways. I'll pull up my notes to make sure I get the language right for you.

That's the fundamental purpose. The fundamental principle of sentencing is that any sentence must be proportionate to both the degree of blameworthiness of the offender and the seriousness of the offence.

In determining a proportionate sentence, judges are directed to look at a number of factors, including aggravating and mitigating factors. The Criminal Code, as has been noted by other members of the committee, has codified several aggravating factors, but courts are not limited by those codified aggravating factors. They can look at the entirety of the offence.

Sentencing in the criminal law, it's trite to say, is a very individualized process. You are sentencing the individual before you for the offence that they committed and the circumstances in which they committed it. It's individualized, but courts do draw from generalized principles in the code.

We do have reported case law that indicates that when an offender hides a body during the commission of an offence in order to impede an investigation, it has a very negative effect on the victims, and that is considered to be an aggravating factor in sentencing. It is not codified in the criminal law, but it is something that courts take into account.

Amandeep Sodhi: Thank you. I will give the rest of my time to my colleague.

[*Translation*]

Marianne Dandurand: Thank you very much for being with us today, Ms. Wells. I'm going to continue the discussion with you.

You mentioned documents you could share with the committee. I believe it was information relating to cases where the criminal's refusal to disclose the location of the body had been taken into account. If you do have such information, could you please provide it to us?

● (1255)

[*English*]

Joanna Wells: If you're referring to the list of cases that we have, I haven't translated it because I didn't bring it for the express purpose of sharing, but we can certainly undertake to provide the committee with examples of judgments in which courts have considered this.

[*Translation*]

Marianne Dandurand: Thank you. That would be helpful.

Do you know the percentage of cases in which the judge or Parole Board takes into consideration the fact that the criminal will not or cannot disclose the whereabouts of the body?

[*English*]

Joanna Wells: It would be difficult to provide a proportion, because that would.... When we did the case law research, we were looking specifically for cases in which it was considered. It would be difficult to imagine a case in which it wasn't considered, considering the strength of the case law in terms of what this conduct is.

We have lists of cases only in which it was considered and not those in which it wasn't, so a proportion is a difficult question. Thankfully, these cases are fairly rare in the criminal justice system; however, this means there isn't a vast body of case law on which to draw.

[*Translation*]

Marianne Dandurand: Certainly, it's absolutely horrific what loved ones go through when they don't know where the victim's body is.

If we want to make the situation better, do you think Bill C-236 is a good way to do that?

What further improvements can we make to get better answers for the families?

[*English*]

Joanna Wells: I don't think I'm in a position to explain how to improve the situation for victims within the criminal justice system. You heard from the federal ombudsperson, whose very role is to do that. I have colleagues who work very closely with him, but that is not something I can speak to in the context of this private member's bill.

In the context of the private member's bill, I would reiterate that, at least from a Criminal Code sentencing perspective, courts already have broad discretion to consider this, and my colleagues from the Parole Board and CSC have indicated that there is already broad discretion to consider this.

It will be up to the committee to determine whether more should be done and whether to codify those considerations into law.

[*Translation*]

The Chair: Thank you, Ms. Dandurand.

Mrs. DeBellefeuille, you may go ahead for two and a half minutes.

Claude DeBellefeuille: Ms. Wells, you told us earlier that you weren't quite sure when it came to studies in Australia showing that the legislation had led to more bodies being recovered. I find that surprising, since various iterations of the bill have existed since 2017 or so.

Don't you have that information available? Doesn't your department know the results of similar legislation in any other G7 or Five Eyes country? Don't you have any such documentation?

Joanna Wells: Sorry, but I need a little clarification.

[*English*]

Did you refer to Bill C-236 as being around since 2017?

[*Translation*]

Claude DeBellefeuille: You were asked earlier whether you had data from the other countries that were referred to. You said you thought that there was a study in Australia, but that you weren't quite sure and that the findings weren't conclusive. I find that hard to believe, because I figured that, after all these years, the justice department would have documented the situations in England, the U.S. states and Australia. You don't seem very knowledgeable. I'm surprised.

Do you have an answer for me?

[*English*]

Joanna Wells: What I confirmed for Mr. Ramsay in responding to his previous question was that I am not aware of more than he had. We are aware of one study in Australia, and this indicated specifically that no bodies have been found as a result of this law.

● (1300)

[*Translation*]

Claude DeBellefeuille: That's what surprises me, Ms. Wells. This isn't the first time your department has had to provide input on such a bill. As you know, Bill C-424 is a previous iteration, and there were others before it.

How is it that you don't have more information on the countries mentioned earlier, in preparation for this study on Bill C-236? It seems to me it's your job, your duty, to document this information.

How do you explain that lack of information?

[*English*]

Joanna Wells: I can't speak to the availability of data in other countries. I can tell you what we found in the work that we have done in supporting the minister and the government in making a decision on whether to support Bill C-236. I have shared with you what I know at the moment.

[*Translation*]

Claude DeBellefeuille: As you know, we like to draw comparisons with other Five Eyes and G7 countries. Here you are, though, being asked for data from those other jurisdictions, and you're telling me you can't answer. I'm genuinely very disappointed that you don't have the information on hand today for our study of Bill C-236.

The Chair: Thank you very much, Mrs. DeBellefeuille.

That concludes our time with the witnesses.

On behalf of all committee members, I want to say how grateful we are to the witnesses for the work they've done and the time they spent preparing for the meeting. Have a good day everyone.

Go ahead, Mr. Lloyd.

[*English*]

Dane Lloyd: Thank you.

I also want to thank the witnesses and the chair. It really is an honour to serve on this committee with all parliamentarians.

With that, I'd like to move a motion. I move:

> That, pursuant to Standing Order 97.1, the committee request an extension of thirty sitting days to consider Bill C-236, An Act to amend the Criminal Code, the Corrections and Conditional Release Act and the Prisons and Reformatories Act, referred to committee on March 26, 2026.

The Chair: Thank you, MP Lloyd.

This is in order because of the topic of the meeting, so there is no need to have unanimous support for the tabling of the motion.

Are there any comments or reactions to the motion itself?

(Motion agreed to)

[*Translation*]

The Chair: Thank you, Mr. Lloyd.

Did you want to comment as well, Mr. Caputo?

[*English*]

Frank Caputo: Yes. I'll say it in French.

[*Translation*]

I too have a motion, Mr. Chair.

[*English*]

I'm not going to read this into the record, because I think everybody has it. This is about associate members and access to documents. If anybody wants me to read it into the record, I will, but I believe that this has been discussed among all the parties and there's unanimous consent for this.

The Chair: Thank you.

The motion was indeed shared with all members of the committee earlier today.

[*Translation*]

Does anyone wish to comment or respond to the motion?

(Motion agreed to [*See Minutes of Proceedings*])

The Chair: On that note, I hope you have a great rest of the day. Thank you for your work.

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